IC 8

TITLE 8. UTILITIES AND TRANSPORTATION

IC 8-1

ARTICLE 1. UTILITIES GENERALLY

IC 8-1-1

Chapter 1. Utility Regulatory Commission

IC 8-1-1-1

"Commission" defined; references to public service commission

Sec. 1. (a) As used in this article, "commission" refers to the Indiana utility regulatory commission.

(b) After June 30, 1987, any reference to the public service commission of Indiana shall be construed as a reference to the commission.

(Formerly: Acts 1941, c.101, s.1.) As amended by P.L.59-1984, SEC.1; P.L.23-1988, SEC.12; P.L.220-2011, SEC.183.

IC 8-1-1-2

Creation of commission; membership; term of office; chairman

Sec. 2. (a) There is created the Indiana utility regulatory commission which shall consist of five (5) members, at least one (1) of whom shall be an attorney qualified to practice law before the supreme court of Indiana and not more than three (3) of whom belong to the same political party.

(b) The members of the commission and all vacancies occurring therein shall be appointed by the governor from among persons nominated by the nominating committee in accordance with the provisions of IC 8-1-1.5.

(c) The members may be removed at any time by the governor for cause.

(d) The governor shall appoint one (1) member as chairman.

(e) The members of the commission shall be appointed for a term of four (4) years, except when a member is appointed to fill a vacancy, in which case such appointment shall be for such unexpired term only. All members of said commission shall serve as such until their successors are duly appointed and qualified, and while so serving shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out their duties as commissioners.

(f) A member of the commission or any person appointed to any position or employed in any capacity to serve the commission, may not have any official or professional relationship or connection with, or hold any stock or securities or have any pecuniary interest in any public utility operating in Indiana.

(g) Each member appointed to the Indiana utility regulatory commission shall take and subscribe to an oath in writing that he will faithfully perform the duties of his office, and support and defend to the best of his ability the Constitution and laws of the state of Indiana and of the United States of America, and such oath shall be filed with the secretary of state.

(h) The chairman of the commission shall assign cases to the various members of the commission or to administrative law judges for hearings.

(Formerly: Acts 1941, c.101, s.2; Acts 1945, c.46, s.1; Acts 1963, c.326, s.1.) As amended by Acts 1981, P.L.104, SEC.1; P.L.43-1983, SEC.3; P.L.113-1987, SEC.1; P.L.78-1988, SEC.1.

IC 8-1-1-3

Organization of commission; administrative law judges; investigation and hearing; bond; powers and duties

Sec. 3. (a) The members of the commission shall meet and organize the commission. The commission may, subject to the approval of the governor, appoint a secretary of the commission.

(b) The salaries of the members and secretary of the commission shall be fixed by the governor, subject to the approval of the budget agency; however, the salaries of the chairman and the members shall not be less than the following annual minimum amounts:

(1) For the chairman, sixty-five thousand dollars ($65,000).

(2) For the members, sixty thousand dollars ($60,000) each.

(c) The commission may appoint one (1) or more administrative law judges who shall be responsible to and serve at the will and pleasure of the commission. While serving, the administrative law judges shall devote full time to the duties of the commission and shall not be actively engaged in any other occupation, profession, or business that constitutes a conflict of interest or otherwise interferes with carrying out their duties as administrative law judges. The salary of each administrative law judge shall be fixed by the commission subject to the approval of the budget agency but may not be less than the following annual amounts:

(1) For the chief administrative law judge, forty-five thousand dollars ($45,000).

(2) For all other administrative law judges, forty thousand dollars ($40,000).

(d) A majority of the commission members shall constitute a quorum.

(e) On order of the commission any one (1) member of the commission, or an administrative law judge, may conduct a hearing, or investigation, and take evidence therein, and report the same to the commission for its consideration and action; however, a hearing concerning a request for a general increase in the basic rates and charges of a utility in an amount exceeding twenty million dollars ($20,000,000) may only be conducted by one (1) or more

commission members.

(f) Each member of the commission shall give bond in the sum of ten thousand dollars ($10,000) for the faithful performance of his duties. Such bond shall be filed with the secretary of state.

(g) The commission shall formulate rules necessary or appropriate to carry out the provisions of this chapter, and shall perform the duties imposed by law upon them.

(h) The commission may:

(1) employ, with the approval of the governor and the state budget agency, sufficient professional staff, including but not limited to specialists, technicians, and analysts, who are exempt from the job classifications and compensation schedules established under IC 4-15; and

(2) purchase, lease, or otherwise acquire for its internal use sufficient technical equipment necessary for the commission to carry out its statutory duties.

(Formerly: Acts 1941, c.101, s.3; Acts 1943, c.211, s.1; Acts 1963, c.326, s.2.) As amended by Acts 1979, P.L.84, SEC.1; P.L.43-1983, SEC.4; P.L.23-1988, SEC.13; P.L.92-1993, SEC.1.

IC 8-1-1-4
Repealed

(Repealed by Acts 1981, P.L.104, SEC.7.)

IC 8-1-1-4.1
Payment of expenses

Sec. 4.1. Any expense incurred by the commission, either upon complaint against any public utility, or upon petition of any public utility shall be charged and paid in the manner provided in IC 8-1-2-70 or IC 8-1-6, whichever is appropriate under the circumstances.

As added by Acts 1981, P.L.104, SEC.2.

IC 8-1-1-5
Impartiality of commission; evidence; record; utility consumer counselor; ex parte communications; executive sessions; violations

Sec. 5. (a) The commission shall in all controversial proceedings heard by it be an impartial fact-finding body and shall make its orders in such cases upon the facts impartially found by it. The commission shall in no such proceeding, during the hearing, act in the role either of a proponent or opponent on any issue to be decided by it. All evidence given in any such proceeding shall be offered on behalf of the respective parties to, or appearing in, the proceeding and not in the name or behalf of the commission itself.

(b) Any report, audit, examination, or analysis prepared by the commission staff at the request or direction of the commission may be made a part of the record of the proceeding, subject to cross-examination by any party of the person who performed or

directed the preparation of the report, audit, examination, or analysis.

(c) If in any such proceeding the public interest is not otherwise adequately represented by counsel, in the opinion of the commission, it shall be the duty of the utility consumer counselor, if requested by the commission, to make adequate preparation for the presentation of the interests of the public in such proceeding and the utility consumer counselor shall at the hearing represent the public interests therein involved.

(d) However, nothing in this section prevents the commission from instituting, prosecuting, hearing, or determining any investigation or proceeding which it is authorized to do, or make, on its own motion by any law with the administration of which it is charged.

(e) Except as otherwise provided in this chapter, no member or employee of the commission assigned to make findings of fact and conclusions of law in a formally docketed evidentiary proceeding may communicate in connection with any issue of fact or law disputed in that proceeding with any party or any party's representative, except on notice and with opportunity for all parties to participate.

(f) In addition to holding an executive session in the instances described in IC 5-14-1.5-6.1(b), the commission may hold an executive session to deliberate on a proposed order if all the following are satisfied:

(1) All evidence on the matter has been received by the commission.

(2) The deliberations are preparatory to taking final action on an order subject to judicial review.

(3) Only the following are permitted to participate in the executive session:

(A) Commission members.

(B) Commission employees who are formally assigned to advise or assist in preparing the order, including the commission's technical staff and attorneys.

IC 5-14-1.5-5, IC 5-14-1.5-6.1, and IC 5-14-1.5-7 apply to an executive session held under this subsection.

(g) A person who violates this section commits a Class C infraction.

(Formerly: Acts 1941, c.101, s.5.) As amended by Acts 1978, P.L.55, SEC.1; P.L.43-1983, SEC.5; P.L.23-1988, SEC.14; P.L.30-2006, SEC.1.

IC 8-1-1-6
Repealed

(Repealed by Acts 1978, P.L.6, SEC.36.)

IC 8-1-1-7
Survival, actions, or appeals pending before abolished commission

Sec. 7. Where in any statute or rule provision is made for an appeal from, or action against, the public service commission, or an appeal from, or action against, the public service commission of Indiana, such appeals or actions may be taken from or brought against the Indiana utility regulatory commission. Wherever in any statute or rule in force after July 1, 1987, there appears in any provision the name "public service commission" or the name "public service commission of Indiana" the name "Indiana utility regulatory commission" is in each case substituted in its place.
(Formerly: Acts 1941, c.101, s.7.) As amended by P.L.59-1984, SEC.2; P.L.113-1987, SEC.2; P.L.23-1988, SEC.15.

IC 8-1-1-8
Hearings; publication of notice

Sec. 8. (a) Notwithstanding any other statute relative to the publication of notice of hearings to be held by the utility regulatory commission, publication of notice of hearings to be held by the commission shall be made only in accordance with this chapter.

(b) Whenever the utility regulatory commission shall order a hearing in any proceeding instituted by or against any public utility, notice of the hearing shall be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in two (2) newspapers of general circulation published in one (1) county wherein reside patrons or customers of the public utility who might be affected by an order made by the commission pursuant to the hearing. If two (2) newspapers of general circulation are not published in the county, then one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in one (1) newspaper of general circulation published in the county shall be sufficient. If no newspaper of general circulation is published in the county, then the commission shall cause notice of the hearing to be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in two (2) newspapers of general circulation published in a county adjoining the county wherein reside patrons or customers of the public utility who might be affected by the order.

(c) Whenever the department of state revenue orders a hearing in any proceeding instituted by or against a motor vehicle carrier, notice of such hearing shall be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for such hearing in two (2) newspapers of general circulation published in the county where such motor vehicle carrier has its principal office or place of business. If two (2) newspapers of general circulation are not published in such county, then one (1) publication appearing not less than ten (10) days prior to the date fixed for such hearing in one (1) newspaper of general circulation published in such county shall be sufficient. If no newspaper of general circulation is published in the county, the department of state revenue shall cause notice of such

hearing to be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for such hearing in two (2) newspapers of general circulation published in a county adjoining the county where such motor vehicle carrier has its principal office or place of business. If the motor vehicle carrier has no office or place of business in Indiana, then such notice shall be given by one (1) publication appearing not less than ten (10) days prior to the date fixed for the hearing in two (2) newspapers of general circulation published in Marion County.

(d) In addition to the published notice, the commission shall mail notice of the hearing and notice of the filing of applications or proceedings to persons, firms, limited liability companies, or corporations having competitive interests involved and to the representatives of any city or town affected by the hearing, application, or proceeding. Failure to mail the notices shall not be deemed to be jurisdictional, but may be ground for rehearing.

(Formerly: Acts 1941, c.101, s.8; Acts 1943, c.244, s.1.) As amended by P.L.59-1984, SEC.3; P.L.384-1987(ss), SEC.1; P.L.99-1989, SEC.2; P.L.8-1993, SEC.104.

IC 8-1-1-9

Suggested orders; filing exceptions

Sec. 9. In every case where any law to be administered by the commission created by this chapter provides that a party to a proceeding before the commission shall have a time in which to file written exceptions to a suggested order before the same may become the final order of the commission, it shall be the duty of the commission to promptly mail to each party having such right a copy of such suggested order, and the time for filing such exceptions as provided by law shall in each case commence to run on the day of mailing of such copy of such suggested order.

(Formerly: Acts 1941, c.101, s.9.) As amended by P.L.59-1984, SEC.4.

IC 8-1-1-10

Survival, actions, or proceedings pending before former commission

Sec. 10. Section 7 of this chapter shall not affect actions on or proceedings pending on June 30, 1987, brought by or against the people of the state of Indiana or the public service commission of Indiana or by any other person, firm, or corporation, under the provisions of the statutes establishing or conferring power upon the public service commission of Indiana, but the same may be prosecuted and defended with the same effect as though the name of the commission had not been changed, except the same shall be continued and carried on by the Indiana utility regulatory commission.

(Formerly: Acts 1941, c.101, s.10.) As amended by P.L.59-1984,

SEC.5; P.L.23-1988, SEC.16.

IC 8-1-1-11
Staff of commission

Sec. 11. The commission is authorized to employ such counsel or attorneys, engineers, administrative law judges, experts, clerks, accountants and other assistants as it may deem necessary, at such rates of compensation as it may determine upon, subject, however, to the approval of the governor.

(Formerly: Acts 1941, c.101, s.11; Acts 1945, c.46, s.3.) As amended by Acts 1979, P.L.84, SEC.2.

IC 8-1-1-12
Repealed

(Repealed by P.L.99-1989, SEC.37 and P.L.3-1989, SEC.44.)

IC 8-1-1-13
Repealed

(Repealed by P.L.4-1988, SEC.7.)

IC 8-1-1-14
Annual report

Sec. 14. (a) The chairman of the commission shall prepare an annual report and file it with the governor and the chairman of the legislative council before October 1 of each year. A report filed under this subsection with the chairman of the legislative council must be in an electronic format under IC 5-14-6. The chairman shall include in the report information for the fiscal year ending June 30 of the year in which the report is due.

(b) The annual report required under subsection (a) must include the following:

(1) A statement of the commission's revenues by source and expenditures by purpose.

(2) Statistics relevant to the workload and operations of the commission.

(3) A description of the commission's goals, legal responsibilities, and accomplishments.

(4) Comments on the state of the commission and the various kinds of utilities that it regulates.

(5) Suggestions for new legislation and the rationale for any proposals.

(6) Any other matters that the chairman wishes to bring to the attention of the governor and the general assembly.

(7) Any comments or proposals that any member of the commission gives to the chairman for inclusion in the annual report.

As added by P.L.33-1988, SEC.2. Amended by P.L.28-2004, SEC.69.

IC 8-1-1-15
Implementing rules; duration

Sec. 15. A rule that the commission adopts under section 3(g) of this chapter that is necessary to implement a state or federal statute, rule, or regulation is void sixty-one (61) days after the expiration of that statute, rule, or regulation, unless the commission makes a written finding prior to the sixty-first day that it is necessary to retain the rule.

As added by P.L.37-1989, SEC.2.

IC 8-1-1.1

Chapter 1.1. Office of the Utility Consumer Counselor

IC 8-1-1.1-1

Definitions

Sec. 1. As used in this chapter:

"Council" means the advisory council to the office of utility consumer counselor created under section 7 of this chapter.

"Counselor" means the consumer counselor established under section 2 of this chapter.

"Deputy consumer counselor" means the deputy consumer counselor for Washington affairs that may be established under section 9.1 of this chapter.

"Utility" means any public utility, municipally owned utility or subscriber owned utility under the jurisdiction of the commission.

As added by Acts 1981, P.L.104, SEC.3. Amended by P.L.43-1983, SEC.6; P.L.23-1988, SEC.18; P.L.1-1990, SEC.91.

IC 8-1-1.1-2

Creation; administration

Sec. 2. There is created the office of utility consumer counselor. The office shall be administered by the consumer counselor appointed under section 3 of this chapter.

As added by Acts 1981, P.L.104, SEC.3.

IC 8-1-1.1-3

Consumer counselor

Sec. 3. The governor shall appoint a consumer counselor, for a term of four (4) years at a salary to be fixed by the governor. The counselor shall serve at the will and pleasure of the governor. The counselor shall be a practicing attorney, and qualified by knowledge and experience to practice in utility regulatory agency proceedings. The counselor shall apply the counselor's full efforts to the duties of the office and may not engage in any occupation, practice, profession or business that would conflict with the duties of the office.

As added by Acts 1981, P.L.104, SEC.3. Amended by P.L.27-2006, SEC.2.

IC 8-1-1.1-4

Repealed

(Repealed by P.L.1-1990, SEC.92.)

IC 8-1-1.1-4.1

Powers and duties

Sec. 4.1. (a) The consumer counselor may appear on behalf of ratepayers, consumers, and the public in:

(1) hearings before the commission, the department of state revenue, or the Indiana department of transportation;

(2) appeals from the orders of the commission, the department of state revenue, or the Indiana department of transportation; and

(3) suits and actions in a court that may involve rates for service, services, extensions, and contracts for service, valuations of utilities, applications of utilities for authority to issue securities, applications for mergers and sales, and in all other proceedings, including proceedings before federal agencies, and suits and actions in which the subject matter of the action affects the consumers of a utility, motor carrier, or railroad doing business in Indiana.

(b) The counselor shall decide whether to appeal an order of the commission, the department of state revenue, or the Indiana department of transportation and may on the counselor's own motion initiate an appeal.

As added by P.L.1-1990, SEC.93.

IC 8-1-1.1-5
Repealed

(Repealed by P.L.1-1990, SEC.94.)

IC 8-1-1.1-5.1
Proceedings before commission, department, or court; powers and duties of consumer counselor

Sec. 5.1. (a) The commission, the department of state revenue, or the Indiana department of transportation shall immediately notify the counselor of the institution of any proceeding before the commission, the department of state revenue, or the Indiana department of transportation in which the counselor is authorized to appear and shall transmit to the counselor a copy of the petition or complaint filed.

(b) The commission, the department of state revenue, or the Indiana department of transportation may not proceed to hear a petition, complaint, or proceeding in which the counselor is entitled to appear until the counselor has been given at least ten (10) days notice, unless the counselor waived the notice.

(c) The consumer counselor may call the counselor's own witnesses to testify before a proceeding or hearing in which the counselor makes an appearance, and may require the production for examination of books and papers relating to a matter under investigation and in question before the commission, another agency, or a court.

(d) The consumer counselor has the right, with the consent of the petitioners or complainants, whenever a petition is filed on behalf of the ratepayers, consumers, or the public, to make amendments to the petition or complaint that the counselor considers advisable.

(e) In all proceedings before the commission, the department of state revenue, or the Indiana department of transportation and in a

court in which the consumer counselor shall appear, the consumer counselor shall have charge of the interests of the ratepayers and consumers of the utility, motor carrier, or railroad involved. The counselor may give notice of the hearings to all municipalities, corporations, or organizations and persons that are parties to the proceedings, suit, or action other than the utility, motor carrier, or railroad.
As added by P.L.1-1990, SEC.95.

IC 8-1-1.1-6
Repealed
(Repealed by P.L.1-1990, SEC.96.)

IC 8-1-1.1-6.1
Professional and other employees; additional staff for particular cases; charge and payment of expenses; technical equipment; costs and duties under TDSIC statute

Sec. 6.1. (a) The consumer counselor may employ and fix the compensation of, with the approval of the governor and the budget agency, accountants, utility economists, engineers, attorneys, stenographers, or other assistance necessary to carry out the duties of the office. The compensation of the consumer counselor and the counselor's staff shall be paid from an appropriation made for that purpose by the general assembly, or with the approval of the governor and the budget agency, from a contingency fund established under IC 8-1-6-1.

(b) The consumer counselor may make use of engineers, experts, and accountants employed by the commission or the Indiana department of transportation and direct them to make appraisals and audits in the performance of the consumer counselor's duties under this chapter and IC 8-1-1 and IC 8-1-2. In so doing, the consumer counselor shall have access to the records and files of the commission or the Indiana department of transportation.

(c) The consumer counselor may employ, with the approval of the governor and the budget agency, additional stenographers, examiners, experts, engineers, assistant counselors, accountants, and consulting firms with expertise in utility, motor carrier, or railroad economics or management or both, at salaries and compensation and for a length of time as the governor and the budget agency may approve for a particular case or investigation. The compensation for the additional personnel together with the cost of transportation, hotel, telegram, and telephone bills while traveling on public business shall be paid from the expert witness fee account, or, with the approval of the governor and the budget agency, from a contingency fund established under IC 8-1-6-1 on warrants drawn by the auditor of state, sworn to by the parties who incurred the expenses.

(d) Expenses incurred by the regular staff of the office and

approved by the consumer counselor, or an expense incurred by the commission or the Indiana department of transportation under subsection (b), shall be charged and paid in the manner provided in IC 8-1-2-70 or IC 8-1-6, whichever is appropriate under the circumstances.

(e) Nothing in this chapter may be construed to prevent a party interested in a proceeding, suit, or action from appearing in person or from being represented by counsel.

(f) Persons hired by the consumer counselor as provided by this section are exempt from the job classifications and compensation schedules established under IC 4-15.

(g) The consumer counselor may purchase, lease, or otherwise acquire sufficient technical equipment necessary for the consumer counselor to carry out the consumer counselor's statutory duties.

(h) The consumer counselor may submit to the budget agency a request for funds sufficient to carry out any new duties or responsibilities created under IC 8-1-39-12(b). The consumer counselor shall include in its annual report to the interim study committee on energy, utilities, and telecommunications:

(1) a description of its activities under IC 8-1-39-12(b); and

(2) a summary of the costs associated with those activities.

As added by P.L.1-1990, SEC.97. Amended by P.L.133-2013, SEC.2; P.L.149-2016, SEC.33.

IC 8-1-1.1-7

Advisory council

Sec. 7. (a) There is created the advisory council to the office of the utility consumer counselor. The council consists of nine (9) members. Each Indiana congressional district must be represented by at least one (1) individual appointed under this section who is a resident of that congressional district. However, the reduction in membership of the council from ten (10) members to nine (9) shall be accomplished as the terms of members end and new members are appointed. Until the expiration of the term of a member who is serving on the council on January 1, 2014, and resides in the same congressional district as another member, the council consists of ten (10) members.

(b) Members of the council, including those filling vacancies occurring in the council membership, shall be appointed by the governor. All members shall be appointed to a term of four (4) years, except those who have been appointed to fill a vacancy in the council whose term will be the unexpired portion of the term. All members shall serve until their successor has been duly appointed and qualified.

(c) The membership shall be representative of the various sectors of Indiana economy, including, but not limited to: agriculture, business and industry, labor, and local government.

(d) The members shall annually elect of themselves a chairman.

(e) Members are entitled to receive per diem and travel expense reimbursement at the standard rates provided for state employees for expenses they incur in the performance of their duties under this chapter subject to the approval of the consumer counselor.
As added by Acts 1981, P.L.104, SEC.3. Amended by Acts 1982, P.L.1, SEC.23; P.L.170-2002, SEC.56; P.L.53-2014, SEC.74.

IC 8-1-1.1-8
Repealed
(Repealed by P.L.1-1990, SEC.98.)

IC 8-1-1.1-8.1
Meetings; duties
Sec. 8.1. (a) The council shall meet at the call of the chairman or the consumer counselor.
(b) The council shall receive, review, and advise the consumer counselor with respect to problems and concerns of ratepayers and consumers arising from the regulation of utilities, motor carriers, or railroads in Indiana. The office of consumer counselor shall provide necessary clerical and staff assistance for the council.
As added by P.L.1-1990, SEC.99.

IC 8-1-1.1-9
Repealed
(Repealed by P.L.1-1990, SEC.100.)

IC 8-1-1.1-9.1
Deputy consumer counselor for Washington affairs
Sec. 9.1. (a) The governor may appoint a deputy consumer counselor for Washington affairs. The utility consumer counselor may advise the governor in the appointment of a deputy consumer counselor for Washington affairs.
(b) The deputy consumer counselor shall serve for a term of four (4) years at a salary to be fixed by the governor. The deputy shall serve at the pleasure of the governor. The deputy consumer counselor shall be a practicing attorney, and qualified by knowledge and experience to practice in utility regulatory agency proceedings. The deputy consumer counselor shall apply full efforts to the duties of the office and may not be actively engaged in any other occupation, practice, profession, or business.
(c) The deputy consumer counselor may appear on behalf of ratepayers, consumers, and the public in:
(1) hearings before the federal energy regulatory commission;
(2) appeals from the orders of the federal energy regulatory commission; and
(3) all other proceedings, including proceedings before federal agencies, and suits and actions in which the subject matter of the action affects the consumers of a utility, motor carrier, or

railroad doing business in Indiana.

(d) The deputy consumer counselor may establish and maintain an office in Washington, D.C. The deputy consumer counselor may, with the approval of the consumer counselor, the governor, and the budget agency employ and fix the compensation of accountants, utility economists, engineers, attorneys, stenographers, or other assistance necessary to carry out the duties of the office of the deputy consumer counselor. The compensation of the deputy consumer counselor and the staff shall be paid from an appropriation made for that purpose by the general assembly, or with the approval of the governor and the budget agency, from the contingency fund established under IC 8-1-6-1.

(e) The deputy consumer counselor may employ, with the approval of the consumer counselor, the governor, and the budget agency, additional stenographers, examiners, experts, engineers, assistant counselors, accountants, and consulting firms with expertise in utility, motor carrier, or railroad economics or management or both, at salaries and compensation and for a length of time as the consumer counselor, the governor, and the budget agency may approve for a particular case or investigation. The compensation for additional personnel together with the cost of transportation, hotel, telegram, and telephone bills while traveling on public business shall be paid from the expert witness fee account, or, with the approval of the governor and the budget agency, from the contingency fund established under IC 8-1-6-1 on warrants drawn by the auditor of state, sworn to by the parties who incurred the expenses.

(f) Any expenses incurred by the regular staff of the office of the deputy consumer counselor and approved by the deputy consumer counselor shall be charged and paid from the contingency fund established under IC 8-1-6-1.

As added by P.L.1-1990, SEC.101.

IC 8-1-1.5

Chapter 1.5. Utility Regulatory Commission Nominating Committee

IC 8-1-1.5-0.3

Validation of certain actions taken before March 5, 1985

Sec. 0.3. Any action taken before March 5, 1985, that would have been valid if taken under this chapter, as amended by P.L.87-1985, is validated.

As added by P.L.220-2011, SEC.184.

IC 8-1-1.5-1

Purpose; intent

Sec. 1. The purpose and intent of this chapter is to provide for the establishment, operation, and organization of a nominating committee to submit to the governor nominations of candidates to fill vacancies on the commission.

As added by P.L.43-1983, SEC.8. Amended by P.L.23-1988, SEC.19.

IC 8-1-1.5-2

Definitions

Sec. 2. As used in this chapter:

"Nominating committee" or "committee" means the nominating committee established by section 3 of this chapter.

"Vacancy" means an opening on the membership of the commission or nominating committee which occurs by reason of death, retirement, resignation, removal, expiration of term without reappointment.

As added by P.L.43-1983, SEC.8. Amended by P.L.23-1988, SEC.20.

IC 8-1-1.5-3

Establishment; members; terms; vacancies; notice

Sec. 3. (a) There is established a nominating committee for the purpose of submitting to the governor nominations of candidates to fill vacancies on the commission. The committee consists of seven (7) members, not more than four (4) of whom shall belong to the same political party and none of whom may be a member of the general assembly.

(b) The governor shall appoint three (3) members of the nominating committee and designate one (1) as chairman. The speaker of the house of representatives, the president pro tempore of the senate, the minority leader of the senate, and the minority leader of the house of representatives shall each appoint one (1) member of the nominating committee. Each appointment shall be certified to the secretary of state within ten (10) days of the appointment.

(c) Each member of the nominating committee shall be appointed for a term of four (4) years.

(d) Whenever a vacancy occurs on the nominating committee, the

chairman of the committee shall promptly notify the official who appointed the member whose position is vacant. That official shall appoint a new member within sixty (60) days after receiving notice of the vacancy. The term of the member so appointed shall be for the unexpired term of the member whose vacancy he has filled. An appointment to fill a vacancy shall be certified to the secretary of state within ten (10) days of the appointment.

(e) After the names of members appointed to the nominating committee have been certified to the secretary of state, the secretary of state shall, by regular mail, notify the members of the committee of their appointment.

As added by P.L.43-1983, SEC.8. Amended by P.L.87-1985, SEC.1.

IC 8-1-1.5-4

Term of office; reappointment

Sec. 4. A member of the nominating committee serves until his successor is appointed. No committee member is eligible for successive reappointment, unless he has been appointed to fill a vacancy on the committee for less than three (3) years in which case he is eligible, upon the expiration of that term, for a succeeding term.

As added by P.L.43-1983, SEC.8.

IC 8-1-1.5-5

Vacancy on public service commission; notice; meeting; nomination of candidates; appointment

Sec. 5. (a) When a vacancy occurs on the commission, the governor shall promptly notify the chairman of the nominating committee of the vacancy. The chairman shall call a meeting of the committee within ten (10) days after the notice. The nominating committee shall submit its nominations of three (3) candidates for each vacancy and certify them to the governor no later than forty (40) days from the time the vacancy occurs. When it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the governor shall notify the nominating committee immediately thereof, and the committee may, within sixty (60) days of the notice of the vacancy, make its nominations and submit to the governor the names of three (3) persons nominated for the forthcoming vacancy.

(b) The governor may appoint to the commission one (1) of the three (3) persons nominated by the nominating committee for a vacancy, or the governor may reject all of such nominees. If the governor rejects all of such nominees, he shall so notify the chairman of the nominating committee, and the committee shall certify the nominations of three (3) additional candidates to the governor not later than forty (40) days after receipt of such notice. The governor shall fill the vacancy on the commission from one (1) of such additional nominees.

As added by P.L.43-1983, SEC.8.

IC 8-1-1.5-6
Candidates; evaluation; list of nominees for commission vacancy; number

Sec. 6. (a) It is the intent of this chapter that the nominating committee shall submit to the governor, from among those names the committee considers for a vacancy on the commission, the names of only the three (3) most highly qualified candidates. In determining which candidates are most highly qualified, each committee member shall evaluate each candidate on the following considerations:

(1) Education and academic honors and awards achieved.

(2) Professional experience and reputation.

(3) Financial interests, including any such interest which might conflict with the performance of commission responsibilities.

(4) Activities in public service.

(5) Any other pertinent information which the committee believes is important in selecting the most highly qualified individuals for commission membership.

(b) The nominating committee shall not make an investigation to determine these considerations until the individual states in writing that he desires to be appointed to fill an existing or forthcoming commission vacancy.

(c) The nominating committee shall submit with the list of three (3) nominees to the governor their written evaluation of each such nominee, based on those considerations stated in subsection (a) of this section. The list of names submitted to the governor may be publicly disclosed by the committee. The evaluations of candidates whose names have been submitted to the governor shall remain confidential.

As added by P.L.43-1983, SEC.8.

IC 8-1-1.5-7
Meetings; rules

Sec. 7. (a) The nominating committee shall meet from time to time as may be necessary to discharge its responsibilities under this chapter. Meetings of the committee shall be called by its chairman, or in the event of his failure to call a meeting when a meeting may be necessary, upon the call of any four (4) members of the committee. The chairman, whenever he deems a meeting necessary or upon the request of any four (4) members of the committee for a meeting, shall give each member of the committee at least five (5) days written notice by mail of the time and place of every meeting, unless the committee at its previous meeting designated the time and place of its next meeting.

(b) Meetings of the nominating committee are to be held at such a place in Indiana as the chairman of the committee may arrange.

(c) The nominating committee shall act only at a meeting and may act only on the concurrence of a majority of its members attending a meeting. Four (4) members shall constitute a quorum. The

committee has the power to adopt rules under IC 4-22-2 for the conduct of its proceedings and the discharge of its duties. These rules shall include procedures by which eligible candidates for a vacancy on the commission may submit their names to the nominating committee.
As added by P.L.43-1983, SEC.8.

IC 8-1-1.5-8
Death or withdrawal of nominee; renomination of replacement

Sec. 8. (a) If any nominee dies or requests in writing that his name be withdrawn, the nominating committee shall nominate another person to replace him from the list of candidates previously considered for that vacancy.

(b) Whenever there are existing at the same time two (2) or more vacancies, the committee shall submit to the governor a single list of the names of those persons nominated for the vacancies. The number of names that the nominating committee shall include on the list equals three (3) times the number of vacancies. The rights provided and duties assigned to the governor and the nominating committee by section 5(b) of this chapter also apply to a list of names submitted by the nominating committee to the governor under this subsection.
As added by P.L.43-1983, SEC.8. Amended by P.L.87-1985, SEC.2.

IC 8-1-1.5-9
Investigators and experts; aid of governor's staff; appropriation

Sec. 9. (a) The nominating committee shall have the authority to employ investigators and such experts as the committee in its discretion determines to be necessary to carry out its functions and purposes.

(b) The office and staff of the governor shall also serve the nominating committee in performing its functions under this chapter.

(c) There is annually appropriated to the nominating committee the sum of five thousand dollars ($5,000) from the state general fund for the purpose of defraying any and all expenses which may be incurred in the administration of this chapter.
As added by P.L.43-1983, SEC.8. Amended by P.L.87-1985, SEC.3.

IC 8-1-1.5-10
Compensation; expenses

Sec. 10. Each member of the nominating committee is entitled to receive the minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing his duties. Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with his duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.
As added by P.L.43-1983, SEC.8. Amended by P.L.87-1985, SEC.4.

IC 8-1-2

Chapter 2. Utility Regulation

IC 8-1-2-0.3

Effective date of certain amendments made to section 103 of this chapter

Sec. 0.3. Notwithstanding the amendments made to section 103 of this chapter by P.L.93-1993, in the case of a public utility that is described in section 103(c) of this chapter, as amended by P.L.93-1993, the effective date for the implementation of the amendments made to section 103 of this chapter by P.L.93-1993, is July 1, 1993.

As added by P.L.220-2011, SEC.185.

IC 8-1-2-0.5

State policy to promote utility investment in infrastructure while protecting affordability of utility service

Sec. 0.5. The general assembly declares that it is the continuing policy of the state, in cooperation with local governments and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to create and maintain conditions under which utilities plan for and invest in infrastructure necessary for operation and maintenance while protecting the affordability of utility services for present and future generations of Indiana citizens.

As added by P.L.104-2016, SEC.1.

IC 8-1-2-1

Definitions

Sec. 1. (a) Except as provided in section 1.1 of this chapter, "public utility", as used in this chapter, means every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the:

(1) conveyance of telegraph or telephone messages;

(2) production, transmission, delivery, or furnishing of heat, light, water, or power; or

(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate any of the foregoing facilities.

(b) "Municipal council", as used in this chapter, means the legislative body of any town or city in Indiana wherein the property of the public utility or any part thereof is located.

(c) "Municipality", as used in this chapter, means any city or town of Indiana.

(d) "Rate", as used in this chapter, means every individual or joint rate, fare, toll, charge, rental, or other compensation of any utility or any two (2) or more such individual or joint rates, fares, tolls, charges, rentals, or other compensation of any utility or any schedule or tariff thereof, but nothing in this subsection shall give the commission any control, jurisdiction, or authority over the rate charged by a municipally owned utility except as in this chapter expressly provided.

(e) "Service" is used in this chapter in its broadest and most inclusive sense and includes not only the use or accommodation afforded consumers or patrons but also any product or commodity furnished by any public or other utility and the plant, equipment, apparatus, appliances, property, and facility employed by any public or other utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public or other utility is engaged and to the use and accommodation of the public.

(f) "Commission", as used in this chapter, means the commission created by IC 8-1-1-2.

(g) "Utility", as used in this chapter, means every plant or equipment within the state used for:

(1) the conveyance of telegraph and telephone messages;

(2) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public; or

(3) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

The term does not include a municipality that may acquire, own, or operate facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste. A warehouse owned or operated by any person, firm, limited liability company, or corporation engaged in the business of operating a warehouse business for the storage of used household goods is not a public utility within the meaning of this chapter.

(h) "Municipally owned utility", as used in this chapter, includes every utility owned or operated by a municipality.

(i) "Indeterminate permit", as used in this chapter, means every grant, directly or indirectly from the state, to any corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by a court, of power, right, or privilege to own, operate, manage, or control any plant or equipment, or any part of a plant or equipment, within this state, for the:

(1) production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to or for the public;

(2) collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste; or

(3) furnishing of facilities for the transmission of intelligence by electricity between points within this state;

which shall continue in force until such time as the municipality shall exercise its right to purchase, condemn, or otherwise acquire the property of such public utility, as provided in this chapter, or until it shall be otherwise terminated according to law.

(j) "Communications service provider", as used in this chapter, has the meaning set forth in IC 8-1-2.6-13.

(Formerly: Acts 1913, c.76, s.1a; Acts 1955, c.37, s.1; Acts 1957, c.313, s.1.) As amended by P.L.59-1984, SEC.8; P.L.384-1987(ss), SEC.5; P.L.8-1989, SEC.38; P.L.8-1993, SEC.105; P.L.91-1995, SEC.2; P.L.27-2006, SEC.3; P.L.145-2015, SEC.1.

IC 8-1-2-1.1

Transmitting communications through Internet Protocol enabled retail services; regulatory status

Sec. 1.1. A person or an entity that:

(1) transmits communications through Internet Protocol enabled retail services, including:

(A) voice;

(B) data;

(C) video; or

(D) any combination of voice, data, and video communications; or

(2) provides the necessary software, hardware, transmission service, or transmission path for communications described in subdivision (1);

is not a public utility solely by reason of engaging in any activity described in subdivisions (1) through (2).

As added by P.L.27-2006, SEC.4.

IC 8-1-2-1.2

Landlord distributing water or sewage disposal service; requirements for exemption from treatment as a public utility; allowed charges; disclosure; complaints

Sec. 1.2. (a) As used in this section, "landlord" refers to a landlord or a person acting on a landlord's behalf.

(b) A landlord that distributes water or sewage disposal service from a public utility or a municipally owned utility to one (1) or more dwelling units is not a public utility solely by reason of engaging in this activity if the landlord complies with all of the following:

(1) The landlord bills tenants, separately from rent, for:

(A) the water or sewage disposal service distributed; and

(B) any costs permitted by subsection (c).

(2) The total charge for the services described in subdivision (1)(A) is not more than what the landlord paid the utility for the same services, less the landlord's own use.

(3) The landlord makes a disclosure to the tenant that satisfies subsection (d). A disclosure required by this subdivision must be in:

(A) the lease;

(B) the tenant's first bill; or

(C) a writing separate from the lease signed by the tenant before entering into the lease.

(c) A landlord may charge only the following costs under subsection (b)(1)(B):

(1) A reasonable initial set-up fee.

(2) A reasonable administrative fee that may not exceed four dollars ($4) per month.

(3) A reasonable fee for the return for insufficient funds of an instrument in payment of charges.

(d) A disclosure required by subsection (b)(3) must:

(1) be printed using a font that is not smaller than the largest font used in the lease; and

(2) include the following:

(A) A description of the water or sewage disposal services to be provided.

(B) An itemized statement of the fees that will be charged as permitted under subsection (c).

(C) The following statement: "If you believe you are being charged in violation of this disclosure or if you believe you are being billed in excess of the utility services provided to you as described in this disclosure, you have a right under Indiana law to file a complaint with the Indiana Utility Regulatory Commission. You may contact the Commission at (insert phone number for the tenant to contact the Commission).".

(e) If a complaint is filed under section 34.5 or 54 of this chapter alleging that a landlord may be acting as a public utility in violation of this section, the commission shall:

(1) consider the issue; and

(2) if the commission considers necessary, enter an order requiring that billing be adjusted to comply with this section.

As added by P.L.103-2008, SEC.1. Amended by P.L.1-2009, SEC.64.

IC 8-1-2-2

Legal counsel for commission

Sec. 2. The attorney-general shall be the legal counsel for the commission and shall prosecute all cases in which the commission may be interested. He shall advise the commission in legal matters arising in the discharge of their duties and shall represent the commission in all suits to which the commission is a party. The

attorney-general shall have the right to call upon the prosecuting attorney of any county or the legal officers of any city to assist in the prosecution or defense of any case in their county or city to which the commission may be a party, and it shall be the duty of such prosecuting attorney or legal officer to give such assistance as may be required by the attorney general.
(Formerly: Acts 1913, c.76, s.3; Acts 1917, c.16, s.1.)

IC 8-1-2-3
Repealed
(Repealed by P.L.89-1985, SEC.14.)

IC 8-1-2-4
Services to public; rates and charges
Sec. 4. Every public utility is required to furnish reasonably adequate service and facilities. The charge made by any public utility for any service rendered or to be rendered either directly or in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. The commission, in order to expedite the determination of rate questions, or to avoid unnecessary and unreasonable expense, or to avoid discrimination in rates between classes of customers, or, whenever in the judgment of the commission public interest so requires, may, for ratemaking and accounting purposes, or either of them, consider a single municipality and/or two (2) or more municipalities and/or the adjacent and/or intervening rural territory as a regional unit where the same utility serves such region, and may within such region prescribe uniform rates for consumers or patrons of the same class. Nothing in this chapter contained shall authorize any public utility during the remainder of the term of any grant or franchise under which it may be acting on May 1, 1913, to charge for any service, in such grant or franchise contracted, exceeding the maximum rate or rates therefor, if any, that may be fixed in such grant or franchise.
(Formerly: Acts 1913, c.76, s.7; Acts 1933, c.190, s.2.) As amended by P.L.59-1984, SEC.10.

IC 8-1-2-5
Joint use of facilities; failure of parties to agree; resolution by commission
Sec. 5. (a) Every public utility, every communications service provider, every municipality, and every person, association, limited liability company, or corporation having tracks, conduits, subways, poles, or other equipment on, over, or under any street or highway shall for a reasonable compensation, permit the use of the same by any other public utility or communications service provider or by a municipality owning or operating a utility, whenever public convenience and necessity require such use, and such use will not

result in irreparable injury to the owner or other users of such equipment, nor in any substantial detriment to the service to be rendered by such owners or other users. If any prospective consumers or patrons of any public utility for the production, transmission, delivery, or furnishing of light or power, living in territory outside of cities and towns, and within not to exceed one-half (1/2) mile of the transmission line of such utility, shall agree to and shall construct and install the necessary equipment, in compliance with plans and specifications prescribed by such utility, such public utility shall permit the necessary physical connection or connections to be made and service to be furnished to the person or persons who have constructed and installed such equipment.

(b) In case of failure to agree upon such use or the terms and conditions or compensations for such use, any public utility, any communications service provider, or any person, association, limited liability company, or corporation interested may apply to the commission and if after investigation the commission shall ascertain that public convenience and necessity require such use, and that such use would not result in irreparable injury to the owner or other users of such equipment or the facilities of such public utilities, nor in any substantial detriment to the service to be rendered by such owner or other public utilities or other users of such equipment or facilities, it shall by order direct that such use be permitted and prescribe reasonable conditions and compensations for such joint use.

(c) Such use so ordered shall be permitted, and such conditions and compensation so prescribed for such use shall be lawful conditions and compensations for such use, to be observed, followed, and paid, subject to recourse to the courts upon the complaint of any interested party as provided in sections 73 and 74 of this chapter and IC 8-1-3, and such statute so far as applicable shall apply to any action arising on such complaint so made. Any such order of the commission may be from time to time revised by the commission upon application of any interested party or upon its own motion.

(d) This section does not affect the commission's authority under IC 8-1-2.6.

(Formerly: Acts 1913, c.76, s.8; Acts 1933, c.190, s.3; Acts 1935, c.293, s.2.) As amended by P.L.59-1984, SEC.11; P.L.8-1993, SEC.106; P.L.145-2015, SEC.2.

IC 8-1-2-6

Valuation of property

Sec. 6. (a) The commission shall value all property of every public utility actually used and useful for the convenience of the public at its fair value, giving such consideration as it deems appropriate in each case to all bases of valuation which may be presented or which the commission is authorized to consider by the following provisions of this section. As one of the elements in such valuation the commission shall give weight to the reasonable cost of

bringing the property to its then state of efficiency. In making such valuation, the commission may avail itself of any information in possession of the department of local government finance or of any local authorities. The commission may accept any valuation of the physical property made by the interstate commerce commission of any public utility subject to the provisions of this act.

(b) The lands of such public utility shall not be valued at a greater amount than the assessed value of said lands exclusive of improvements as valued for taxation. In making such valuation no account shall be taken of presumptive value resting on natural resources independent of any structures in relation thereto, the natural resource itself shall be viewed as the public's property. No account shall be taken of good will for presumptive values growing out of the operation of any utility as a going concern, all such values to rest with the municipality by reason of the special and exclusive grants given such utility enterprises. Except in a proceeding under IC 8-1-30, and except as provided in IC 8-1-30.3-5 and IC 8-1.5-2-6.1, no account shall be taken of construction costs unless such costs were actually incurred and paid as part of the cost entering into the construction of the utility. Except in a proceeding under IC 8-1-30, and except as provided in IC 8-1-30.3-5 and IC 8-1.5-2-6.1, all public utility valuations shall be based upon tangible property, that is, such property as has value by reason of construction costs, either in materials purchased or in assembling of materials into structures by the labor or (of) workers and the services of superintendents, including engineers, legal and court costs, accounting systems and transportation costs, and also including insurance and interest charges on capital accounts during the construction period. As an element in determining value the commission may also take into account reproduction costs at current prices, less depreciation, based on the items set forth in the last sentence hereof and shall not include good will, going value, or natural resources.

(c) In determining the amount of allowable operating expenses of a utility, the commission may not take into consideration or approve any expense for institutional or image building advertising, charitable contributions, or political contributions.

(Formerly: Acts 1913, c.76, s.9; Acts 1933, c.190, s.4; Acts 1947, c.307, s.1.) As amended by Acts 1979, P.L.85, SEC.1; P.L.90-2002, SEC.309; P.L.98-2016, SEC.1.

IC 8-1-2-6.1

Indiana coal and clean coal technology; research, development, and preconstruction expenses

Sec. 6.1. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur

or nitrogen based pollutants associated with the combustion or use of coal; and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

(1) research and development designed to increase use of Indiana coal; and

(2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

As added by P.L.88-1985, SEC.1. Amended by P.L.105-1989, SEC.1.

IC 8-1-2-6.6

Valuation of property; qualified pollution control property constructed before March 31, 2002

Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with combustion or use of coal; and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of

January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

"Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

"Qualified pollution control property" means an air pollution control device on a coal burning electric generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission, that meets applicable state or federal requirements, and that is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

"Utility" refers to any electric generating utility allowed by law to earn a return on its investment.

(b) Upon the request of a utility that began construction after October 1, 1985, and before March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

(1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or

(2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some non-Indiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

As added by P.L.88-1985, SEC.2. Amended by P.L.23-1988, SEC.21; P.L.105-1989, SEC.2; P.L.159-2002, SEC.3.

IC 8-1-2-6.7

Depreciation of clean coal technology

Sec. 6.7. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with the combustion or use of coal; and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal

Technology program and is finally approved for such funding on or after January 1, 1989.

(b) The commission shall allow a public or municipally owned electric utility that incorporates clean coal technology to depreciate that technology over a period of not less than ten (10) years or the useful economic life of the technology, whichever is less and not more than twenty (20) years if it finds that the facility where the clean coal technology is employed:

(1) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(2) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

As added by P.L.105-1989, SEC.3.

IC 8-1-2-6.8

Valuation of property; qualified pollution control property constructed after March 31, 2002

Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the

value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

As added by P.L.159-2002, SEC.4.

IC 8-1-2-7

Valuation of property; hearings

Sec. 7. Before final determination of such value, the commission shall, after notice to the public utility, hold a public hearing as to such valuation in the manner prescribed for a hearing in sections 54 through 67 of this chapter, and the provisions of such sections so far as applicable shall apply to such hearing.

(Formerly: Acts 1913, c.76, s.10.) As amended by P.L.59-1984, SEC.12.

IC 8-1-2-8

Valuation of property; expenses; orders

Sec. 8. (a) The commission, within five (5) days after any such valuation is determined, shall deliver a written statement thereof to the public utility interested and a copy thereof to the clerk of each municipality in which any part of the plant or equipment of such utility is located. In such statement, the commission shall declare and fix the reasonable and necessary expenses incurred by it in making such valuation, and, within twenty (20) days thereafter, the utility shall pay into the treasury of the state the amount of the expenses so declared and fixed.

(b) The commission shall not make any order, based on any such valuation, increasing any rate of any public utility until such expenses have been paid. All such moneys paid into the treasury of the state are hereby appropriated to the commission until and including September 30, 1925, to defray its expenses until said date and thereafter shall be paid into the general fund of the state.

(Formerly: Acts 1913, c.76, s.11; Acts 1925, c.63, s.1.) As amended by P.L.23-1988, SEC.22.

IC 8-1-2-9

Valuation of property; revaluation

Sec. 9. The commission may, at any time, on its own initiative, make a revaluation of such property.

(Formerly: Acts 1913, c.76, s.12.)

IC 8-1-2-10

Accounting systems

Sec. 10. Every public utility shall keep and render to the commission, in the manner and form prescribed by the commission, uniform accounts of all business transacted. In formulating a system of accounting for any class of public utilities, the commission shall consider any system of accounting established by any federal law,

commission or department and any system authorized by a national association of such utilities.
(Formerly: Acts 1913, c.76, s.13.)

IC 8-1-2-11
Accounts and accounting; other subsidiary business

Sec. 11. Every public utility engaged, directly or indirectly, in any other or subsidiary business shall, if ordered by the commission, keep and render separately to the commission, in like manner and form, the accounts of all such business, in which case all the provisions of this chapter shall apply with like force and effect to the books, accounts, papers, and records of such other business; provided, every public utility may, with consent of the commission and the proper local authorities, furnish to all patrons or persons applying therefor any service, product, or commodity which it creates as a necessary incident and subsidiary to its main or primary business. No such consent shall be granted except as provided in section 86 of this chapter, and every such subsidiary business shall be subject to all the provisions of this chapter.
(Formerly: Acts 1913, c.76, s.14.) As amended by P.L.59-1984, SEC.13.

IC 8-1-2-12
Books, accounts, papers, and records

Sec. 12. The commission shall prescribe the forms of all books, accounts, papers and records required to be kept, and every public utility is required to keep and render its books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission and to comply with all directions of the commission relating to such books, accounts, papers and records.
(Formerly: Acts 1913, c.76, s.15.)

IC 8-1-2-13
Forms; conduct of business

Sec. 13. The commission shall cause to be prepared suitable blanks for carrying out the purpose of this chapter and shall, when necessary, furnish such blanks to each public utility.
(Formerly: Acts 1913, c.76, s.16.) As amended by P.L.59-1984, SEC.14.

IC 8-1-2-14
Books, accounts, papers, or records; approval of system

Sec. 14. No public utility shall keep any other books, accounts, papers or records of the business transacted than those prescribed or approved by the commission, unless required by other public authority.
(Formerly: Acts 1913, c.76, s.17.)

IC 8-1-2-15
Books, accounts, papers, or records; removal from state; directors; residence

Sec. 15. Each public utility shall have an office in one (1) of the towns or cities in this state in which its property or some part thereof is located, and shall keep in said office all books, accounts, papers, and records as shall be required by the commission to be kept within the state. No books, accounts, papers, or records required by the commission to be kept within the state shall be at any time removed from this state, except upon such conditions as may be prescribed by the commission. A majority in number of the board of directors of each and every company or association organized under Indiana statutes and coming under the provisions of this chapter shall be bona fide residents and citizens of the state of Indiana while acting as such directors.

(Formerly: Acts 1913, c.76, s.18; Acts 1915, c.110, s.1.) As amended by P.L.59-1984, SEC.15.

IC 8-1-2-16
Accounts; closing date; filing with commission

Sec. 16. The accounts shall be closed annually on the thirty-first day of December, and a balance sheet of that date promptly taken therefrom. On or before the thirtieth day of April following, such balance sheet, together with such other information as the commission shall prescribe, verified by an officer of the public utility, shall be filed with the commission.

(Formerly: Acts 1913, c.76, s.19; Acts 1917, c.150, s.1.) As amended by Acts 1979, P.L.84, SEC.3; P.L.103-1983, SEC.2.

IC 8-1-2-17
Accounts; examination and audit

Sec. 17. The commission shall provide for the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the commission.

(Formerly: Acts 1913, c.76, s.20.)

IC 8-1-2-18
Books, accounts, papers, records, and memoranda; inspection and examination

Sec. 18. The agents, accountants or examiners employed by the commission shall have authority, under the direction of the commission, to inspect and examine any and all books, accounts, papers, records and memoranda kept by such public utility.

(Formerly: Acts 1913, c.76, s.21.)

IC 8-1-2-19
Depreciation account

Sec. 19. Every public utility shall carry a separate, proper and

adequate depreciation account whenever the commission, after investigation, shall determine that such depreciation account reasonably can be required. The commission, from time to time, shall ascertain and determine the proper and adequate rates of depreciation of the several classes of property of each public utility. The rates, tolls and charges shall be such as will provide the amounts required over and above the reasonable and necessary operating expenses, to maintain such property in an operating state of efficiency corresponding to the progress of the industry. Each public utility shall conform its depreciation accounts to such rates, so ascertained and determined by the commission. The commission shall make changes in such rates of depreciation, from time to time, as it may find necessary.
(Formerly: Acts 1913, c.76, s.22; Acts 1925, c.64, s.1.)

IC 8-1-2-20
Depreciation account; rules, regulations, and forms
Sec. 20. The commission shall also prescribe rules, regulations and forms of accounts regarding such depreciation, which the public utility is required to carry into effect.
(Formerly: Acts 1913, c.76, s.23.)

IC 8-1-2-21
Depreciation; rates, tolls, and charges
Sec. 21. The commission shall provide for such depreciation in fixing the rates, tolls and charges to be paid by the public.
(Formerly: Acts 1913, c.76, s.24.)

IC 8-1-2-22
Depreciation fund; management
Sec. 22. All money thus provided shall be set aside out of the earnings and carried in a separate depreciation fund. The money in this fund shall be applied first to depreciation expenses. Any balance in the fund, not applied to depreciation expenses, may be invested by the public utility or expended temporarily by it for new construction, extensions or additions to its utility property. This fund shall be used for no other purpose. If invested, the income from the investment shall be carried into and become a part of the depreciation fund. Any balance, not applied to depreciation expenses, shall always remain a part of the depreciation fund. In no event shall moneys, temporarily expended from this fund for new construction, extensions or additions to the property, be carried into or considered a part of the capital account of such public utility. Upon the sale of any public utility property, to continue in operation as such, the balance in the depreciation fund, unexpended for depreciation expenses, shall be transferred to the purchaser and by the purchaser shall be held, administered and used as herein authorized and required.
(Formerly: Acts 1913, c.76, s.25; Acts 1925, c.64, s.2.)

IC 8-1-2-23

Construction accounts; additions or extension; approval by commission

Sec. 23. The commission shall keep itself informed of all new construction, extensions and additions to the property of such public utility and shall prescribe the necessary forms, regulations and instructions to the officers and employees of such public utility for the keeping of construction accounts which shall clearly distinguish all operating expenses and new construction. Unless a public utility shall obtain the approval by the commission of any expenditure exceeding ten thousand dollars ($10,000) for an extension, construction, addition or improvement of its plant and equipment, the commission shall not, in any proceeding involving the rates of such utility, consider the property acquired by such expenditures as a part of the rate base, unless in such proceeding the utility shall show that such property is in fact used and useful in the public service; Provided, That the commission in its discretion may authorize the expenditure for such purpose of a less amount than shown in such estimate.

(Formerly: Acts 1913, c.76, s.26; Acts 1933, c.190, s.5.)

IC 8-1-2-24

Arrangement for distribution of profits or sliding scale of charges; temporary discount to demand component of electricity rates and charges

Sec. 24. (a) Nothing in this chapter shall be taken to prohibit a public utility from entering into any reasonable arrangement with its customers or consumers, or with its employees, or with any municipality in which any of its property is located, for the division or distribution of its surplus profits, or providing for a sliding scale of charges or other financial device that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by the commission, after investigation, to be reasonable and just and not inconsistent with the purpose of this chapter. Such arrangement shall be under the supervision and regulation of the commission.

(b) A customer of an electricity supplier (as defined in IC 8-1-2.3-2) that is a public utility that is under the jurisdiction of the commission for the approval of rates and charges may apply to the commission for a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable standard tariff for service to a single facility of the customer that is located in Indiana if the customer:

(1) has or will have a maximum demand for electricity of at least five (5) megawatts at the facility;

(2) employs or will employ more than fifty (50) full-time employees at the facility;

(3) demonstrates that the temporary discount is necessary and

essential for the customer to locate a facility in Indiana or to attract or create additional jobs or retain existing jobs at the facility;

(4) demonstrates that the customer's demand for electricity at the facility will:

(A) for an existing customer, increase by at least one (1) megawatt as a result of the jobs created or retained under subdivision (3); or

(B) for a prospective customer, equal at least five (5) megawatts as a result of locating the facility in Indiana; and

(5) has applied for and received from the Indiana economic development corporation approval for the requested temporary discount amount.

(c) Upon receiving an application from a customer of an electricity supplier under subsection (b), the commission may approve a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable standard tariff if the commission finds that the discount is just and reasonable and consistent with the circumstances described by the customer under subsection (b), as follows:

(1) For circumstances not described in subdivision (2) or (3), a discount up to ten percent (10%).

(2) For circumstances involving a redevelopment project in which the customer is involved, a discount up to fifteen percent (15%).

(3) For circumstances involving a brownfield project in which the customer is involved, a discount up to twenty percent (20%).

(d) A temporary discount authorized under subsection (c) expires three (3) years after the effective date of the discount. The cost of the temporary discount shall be included by the commission in the cost of service for the electricity supplier and shall be deferred for ratemaking purposes by the electricity supplier for subsequent recovery in connection with the electricity supplier's next general retail electric rate case.

(e) A customer that receives a temporary discount under this section for service to a facility may not:

(1) enter into a contract with the customer's electricity supplier for electric utility service to the facility that provides for rates, terms, or conditions that differ from the rates, terms, and conditions contained in the electricity supplier's applicable standard tariff; or

(2) take electric utility service to the facility under a commission-approved economic development tariff offered by the electricity supplier.

(f) A temporary discount authorized under subsection (c) applies as follows:

(1) For an existing customer, only to the demand component of

the customer's rates and charges related to the increase in the customer's load described in subsection (b)(4)(A). However, the commission may authorize the application of the applicable temporary discount under subsection (c) to all or part of the demand component of the customer's rates and charges related to the entire facility if the commission determines that a broader application is beneficial to all customers of the electricity supplier.

(2) For a prospective customer, to the demand components of the customer's rates and charges related to the entire load described in subsection (b)(4)(B).

(g) As used in this section, and except where otherwise indicated, "customer" includes a prospective customer of an electricity supplier.
(Formerly: Acts 1913, c.76, s.27.) As amended by P.L.59-1984, SEC.16; P.L.133-2013, SEC.3; P.L.222-2014, SEC.1.

IC 8-1-2-25
Rates and charges; rules and regulations involving changes

Sec. 25. The commission shall ascertain, determine and order such rates, charges and regulations as may be necessary to give effect to such arrangement, but the right and power to make such other and further changes in rates, charges and regulations as the commission may ascertain and determine to be necessary and reasonable, and the right to revoke its approval and amend or rescind all orders relative thereto, is reserved and vested in the commission, notwithstanding any such arrangement and mutual agreement.
(Formerly: Acts 1913, c.76, s.28.)

IC 8-1-2-26
Financial statements and accounts

Sec. 26. Each public utility shall furnish to the commission in such form and at such time as the commission shall require, such accounts, reports, and information as will show in itemized detail:

(1) the depreciation per unit;
(2) the salaries and wages separately per unit;
(3) legal expenses per unit;
(4) taxes and rentals separately per unit;
(5) the quantity and value of material used per unit;
(6) the receipts from residuals, byproducts, services or other sales, separately per unit;
(7) the total and net cost per unit;
(8) the gross and net profit per unit;
(9) the dividends and interest per unit;
(10) surplus or reserve per unit;
(11) the prices per unit paid by consumer;
(12) names of, and amount of fees paid to, legal counsel who are not employees;
(13) names of, and amount of fees paid to, other consultants;

and

(14) such other items, whether of a nature similar to those hereinbefore enumerated or otherwise, as the commission may prescribe, in order to show completely and in detail the entire operation of the public utility in furnishing the unit of its product or service for the public.

(Formerly: Acts 1913, c.76, s.29.) As amended by P.L.103-1983, SEC.1.

IC 8-1-2-27
Repealed

(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 8-1-2-28
Repealed

(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 8-1-2-29
Public inspection of commission reports, files, and records; access of parties to relevant rate information

Sec. 29. (a) All facts and information in the possession of the commission and all reports, records, files, books, accounts, papers, and memoranda of every nature whatsoever in its possession shall be open to inspection by the public at all reasonable times subject to IC 5-14-3.

(b) Nothing in this section shall be construed to limit the access of parties to rate and finance proceedings before the commission to information in the possession of another party that is relevant to the issues in the proceeding.

(Formerly: Acts 1913, c.76, s.32.) As amended by P.L.59-1984, SEC.17; P.L.88-1985, SEC.3; P.L.114-1987, SEC.1.

IC 8-1-2-30
Repealed

(Repealed by P.L.12-1984, SEC.6.)

IC 8-1-2-31
Repealed

(Repealed by P.L.114-1987, SEC.2.)

IC 8-1-2-32
Standard commercial units of product or service

Sec. 32. The commission shall ascertain and prescribe for each kind of public utility suitable and convenient standard commercial units of product or service. These shall be lawful units for the purpose of this chapter.

(Formerly: Acts 1913, c.76, s.35.) As amended by P.L.59-1984, SEC.18.

IC 8-1-2-33
Standard measurements for units of product or service

Sec. 33. The commission shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage, or other conditions pertaining to the supply of the product or service rendered by any public utility and prescribe reasonable regulations for examinations and testing of such product or service and for the measurement thereof.
(Formerly: Acts 1913, c.76, s.36.)

IC 8-1-2-34
Meters and measuring appliances; specifications and standards

Sec. 34. The commission shall establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the commission relative thereto. Nothing contained in this section shall limit in any manner any powers or authority vested in municipal corporations as provided in section 101 of this chapter.
(Formerly: Acts 1913, c.76, s.37.) As amended by P.L.59-1984, SEC.19.

IC 8-1-2-34.5
Customer service; determination of complaints

Sec. 34.5. (a) The Commission shall establish reasonable rules and regulations to govern the relations between public utilities and any or all classes of their customers. Those rules and regulations shall cover the following subjects:

(1) extension of service;
(2) extension of credit;
(3) deposits, including interest thereon;
(4) billing procedures;
(5) termination of service;
(6) complaints; and
(7) information and notice to customers of their rights under the rules.

(b) Notwithstanding IC 8-1-2-54, the commission may investigate and enter orders on complaints filed by individual customers arising under this section. The commission may establish an appeals division to act on its own behalf regarding individual customer complaints. The decision of the division shall be binding on all parties to the complaint. The commission shall review decisions of the appeals division upon timely request by an affected party.

(c) This section does not invalidate any rule or regulation adopted by the commission before July 1, 1979, to govern the relations between public utilities and their consumers if the rule or regulation is consistent with this section.
As added by Acts 1979, P.L.85, SEC.2.

IC 8-1-2-35
Meters and measuring appliances; testing

Sec. 35. The commission shall provide for the examination and testing of any and all appliances used for the measuring of any product or service of a public utility. Any consumer or user may have any such appliance tested upon payment of the fees fixed by the commission. The commission shall declare and establish reasonable fees to be paid for testing such appliances on the request of the consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the appliance or rate be found unreasonably defective or incorrect to the disadvantage of the consumer or user.
(Formerly: Acts 1913, c.76, s.38.)

IC 8-1-2-36
Meters and measuring instruments; purchase by commission for examinations and tests

Sec. 36. The commission may purchase such material, apparatus and standard measuring instruments for such examinations and tests as it may deem necessary.
(Formerly: Acts 1913, c.76, s.39.)

IC 8-1-2-36.5
Installation of submetering equipment for individual units; adoption of rules

Sec. 36.5. (a) As used in this section, "building" means any building containing more than one (1) residential unit, including trailer courts and similar multiple user installations, but does not include hotels, motels, or other similar transient lodging.

(b) Notwithstanding any other law, any owner, operator, or manager of a building in which:

(1) units of the building are separately rented or leased; and

(2) units of the building are not individually metered for electricity because the building is exempt from commission rules on master metering or for any other lawful reason;

may install kilowatt hour submetering equipment for each individual dwelling unit to fairly allocate the cost of each individual dwelling unit's electrical consumption and charge the tenant of the dwelling unit for that consumption.

(c) The submetering equipment shall be used to measure the number of kilowatt hours used by a tenant during a particular billing period. The amount that a tenant owes is equal to:

(1) the total number of kilowatt hours consumed by the tenant during a particular billing period; multiplied by

(2) a fraction, the numerator of which is the total electric bill for a master meter, and the denominator of which is the total kilowatt hours consumed on a master meter, all for the same billing period as in subdivision (1).

The total electric bill for a master meter, in addition to the rate per kilowatt hour, includes any sales tax, demand charges, energy component charges, and any other taxes or charges that are lawfully applied to the bill. The owner, operator, or manager of a building or buildings served by a master meter may not impose on the tenant any extra charges over and above the total electric bill for a master meter (which includes the rate per kilowatt hour and any lawful taxes or charges, but does not include a late payment charge) for a particular billing period than is charged to the owner, operator, or manager of a building or buildings served by a master meter.

(d) The commission shall adopt rules in accordance with IC 4-22-2 to govern the following:

(1) Maintenance of adequate records by the owner, operator, or manager of a building or buildings served by a master meter.

(2) Accuracy, testing, and recordkeeping associated with the submeters.

(3) Complaints of violations of this section, filed with and investigated by the consumer affairs department of the commission.

(4) Procedures for the installation of submetering equipment.

(5) Procedures for hearings on complaints filed under subdivision (3).

(6) Any other rules necessary to carry out this section.

(e) In the hearings on complaints under subsection (d)(5), the commission's authority is limited solely to a determination of whether a violation did in fact occur.

(f) The commission shall adopt rules in accordance with IC 4-22-2 to carry out this section.

As added by P.L.60-1984, SEC.1. Amended by P.L.7-1987, SEC.11; P.L.23-1988, SEC.23.

IC 8-1-2-37

Entry on property; testing meters and measuring instruments

Sec. 37. The commission, its agents, experts, or examiners shall have power to enter upon any premises occupied by any public utility for the purpose of making the examinations and tests provided in this chapter and to set up and use on such premises any apparatus and appliances and occupy reasonable space therefor.

(Formerly: Acts 1913, c.76, s.40.) As amended by P.L.59-1984, SEC.20.

IC 8-1-2-38

Filing schedule of rates and charges

Sec. 38. Every public utility shall file with the commission, within a time fixed by the commission, schedules, which shall be open to public inspection, showing all rates, tolls and charges which it has established and which are enforced at the time for any service performed by it within the state, or for any service in connection

therewith, or performed by any public utility controlled or operated by it. The rates, tolls and charges shown on such schedules shall not exceed, without the consent of the commission, the rates, tolls and charges in force January 1, 1913.
(Formerly: Acts 1913, c.76, s.41.)

IC 8-1-2-39
Filing schedule of rates and charges; rules and regulations to accompany

Sec. 39. Every public utility shall file, with and as a part of such schedule, all rules and regulations that in any manner affect the rates charged or to be charged for any service.
(Formerly: Acts 1913, c.76, s.42.)

IC 8-1-2-40
Copies of schedule; public inspection

Sec. 40. A copy of so much of said schedule as the commission shall deem necessary for the use of the public shall be printed in plain type, and kept on file in every station or office of such public utility where payments are made by the consumers or users, open to the public in such form and place as to be readily accessible to the public and as can be conveniently inspected.
(Formerly: Acts 1913, c.76, s.43.)

IC 8-1-2-41
Schedule of joint rates and charges; printing

Sec. 41. Where a schedule of joint rates or charges is or may be in force between two (2) or more public utilities, such schedules shall, in like manner, be printed and filed with the commission and so much thereof as the commission shall deem necessary for the use of the public shall be filed in every such station or office as provided in sections 38 and 40 of this chapter.
(Formerly: Acts 1913, c.76, s.44.) As amended by P.L.59-1984, SEC.21.

IC 8-1-2-42
Changes in schedules

Sec. 42. (a) No change shall be made in any schedule, including schedules of joint rates, except upon thirty (30) days notice to the commission, and approval by the commission, and all such changes shall be plainly indicated upon existing schedules or by filing new schedules in lieu thereof thirty (30) days prior to the time the same are to take effect. The commission may prescribe a shorter time within which a change may be made. A public, municipally owned, or cooperatively owned utility may not file a request for a general increase in its basic rates and charges within fifteen (15) months after the filing date of its most recent request for a general increase in its basic rates and charges, except that the commission may order a

more timely increase if:

(1) the requested increase relates to a different type of utility service;

(2) the commission finds that the utility's financial integrity or service reliability is threatened; or

(3) the increase is based on:

(A) a rate structure previously approved by the commission; or

(B) orders of federal courts or federal regulatory agencies having jurisdiction over the utility.

The phrase "general increase in basic rates and charges" does not include changes in rates related solely to the cost of fuel or to the cost of purchased gas or purchased electricity or adjustments in accordance with tracking provisions approved by the commission.

(b) No schedule of rates, tolls, and charges of a public, municipally owned, or cooperatively owned utility which includes or authorizes any changes in charges based upon costs is effective without the approval of the commission. Before the commission approves any changes in the schedule of rates, tolls, and charges of an electric utility, which generates and sells electricity, based upon the cost of fuel to generate electricity or upon the cost of fuel included in the cost of purchased electricity, the utility consumer counselor shall examine the books and records of the public, municipally owned, or cooperatively owned generating utility to determine the cost of fuel upon which the proposed charges are based. In addition, before such a fuel cost charge becomes effective, the commission shall hold a summary hearing on the sole issue of the fuel charge. The utility consumer counselor shall conduct his review and make a report to the commission within twenty (20) days after the utility's request for the fuel cost charge is filed. The commission shall hold the summary hearing and issue its order within twenty (20) days after it receives the utility consumer counselor's report. The provisions of this section and sections 39, 43, 54, 55, 56, 59, 60, and 61 of this chapter concerning the filing, printing, and changing of rate schedules and the time required for giving notice of hearing and requiring publication of notice do not apply to such a fuel cost charge or such a summary hearing.

(c) Regardless of the pendency of any request for a fuel cost charge by any electric utility, the books and records pertaining to the cost of fuel of all public, municipally owned, or cooperatively owned utilities that generate electricity shall be examined by the utility consumer counselor not less often than quarterly, and the books and records of all electric nongenerating public, municipally owned, or cooperatively owned utilities shall be examined by the utility consumer counselor not less often than annually. The utility consumer counselor shall provide the commission with a report as to the examination of said books and records within a reasonable time following said examination. The utility consumer counselor may, if

appropriate, request of the commission a reduction or elimination of the fuel cost charge. Upon such request, the commission shall hold a hearing forthwith in the manner provided in sections 58, 59, and 60 of this chapter.

(d) An electric generating utility may apply for a change in its fuel charge not more often than each three (3) months. When such application is filed the petitioning utility shall show to the commission its cost of fuel to generate electricity and the cost of fuel included in the cost of purchased electricity, for the period between its last order from the commission approving fuel costs in its basic rates and the latest month for which actual fuel costs are available. The petitioning utility shall also estimate its average fuel costs for the three (3) calendar months subsequent to the expiration of the twenty (20) day period allowed the commission in subsection (b). The commission shall conduct a formal hearing solely on the fuel cost charge requested in the petition subject to the notice requirements of IC 8-1-1-8 and shall grant the electric utility the requested fuel cost charge if it finds that:

(1) the electric utility has made every reasonable effort to acquire fuel and generate or purchase power or both so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible;

(2) the actual increases in fuel cost through the latest month for which actual fuel costs are available since the last order of the commission approving basic rates and charges of the electric utility have not been offset by actual decreases in other operating expenses;

(3) the fuel adjustment charge applied for will not result in the electric utility earning a return in excess of the return authorized by the commission in the last proceeding in which the basic rates and charges of the electric utility were approved. However, subject to section 42.3 of this chapter, if the fuel charge applied for will result in the electric utility earning a return in excess of the return authorized by the commission, in the last proceeding in which basic rates and charges of the electric utility were approved, the fuel charge applied for will be reduced to the point where no such excess of return will be earned; and

(4) the utility's estimate of its prospective average fuel costs for each such three (3) calendar months are reasonable after taking into consideration:

(A) the actual fuel costs experienced by the utility during the latest three (3) calendar months for which actual fuel costs are available; and

(B) the estimated fuel costs for the same latest three (3) calendar months for which actual fuel costs are available.

(e) Should the commission at any time determine that an emergency exists that could result in an abnormal change in fuel

costs, it may, in order to protect the public from the adverse effects of such change suspend the provisions of subsection (d) as to the utility or utilities affected by such an emergency and initiate such procedures as may be necessary to protect both the public and the utility from harm. The commission shall lift the suspension when it is satisfied the emergency no longer exists.

(f) Any change in the fuel cost charge granted by the commission under the provisions of this section shall be reflected in the rates charged by the utility in the same manner as any other changes in rates granted by the commission in a case approving the basic rates and charges of the utility. However, the utility may file the change as a separate amendment to its rate schedules with a reasonable reference therein that such charge is applicable to all of its filed rate schedules.

(g) No schedule of rates, tolls, and charges of a public, municipally owned, or cooperatively owned gas utility that includes or authorizes any changes in charges based upon gas costs is effective without the approval of the commission except those rates, tolls, and charges contained in schedules that contain specific provisions for changes in gas costs or the cost of gas that have previously been approved by the commission. Gas costs or cost of gas may include the gas utility's costs for gas purchased by it from pipeline suppliers, costs incurred for leased gas storage and related transportation, costs for supplemental and substitute gas supplies, costs incurred for exploration and development of its own sources of gas supplies and other expenses relating to gas costs as shall be approved by the commission. Changes in a gas utility's rates, tolls, and charges based upon changes in its gas costs shall be made in accordance with the following provisions:

(1) Before the commission approves any changes in the schedule of rates, tolls, and charges of a gas utility based upon the cost of the gas, the utility consumer counselor may examine the books and records of the public, municipally owned, or cooperatively owned gas utility to determine the cost of gas upon which the proposed changes are based. In addition, before such an adjustment to the gas cost charge becomes effective, the commission shall hold a summary hearing on the sole issue of the gas cost adjustment. The utility consumer counselor shall conduct his review and make a report to the commission within thirty (30) days after the utility's request for the gas cost adjustment is filed. The commission shall hold the summary hearing and issue its order within thirty (30) days after it receives the utility consumer counselor's report. The provisions of this section and sections 39, 43, 54, 55, 56, 59, 60, and 61 of this chapter concerning the filing, printing, and changing of rate schedules and the time required for giving notice of hearing and requiring publication of notice do not apply to such a gas cost adjustment or such a summary hearing.

(2) Regardless of the pendency of any request for a gas cost adjustment by any gas utility, the books and records pertaining to cost of gas of all public, municipally owned, or cooperatively owned gas utilities shall be examined by the utility consumer counselor not less often than annually. The utility consumer counselor shall provide the commission with a report as to the examination of said books and records within a reasonable time following said examination. The utility consumer counselor may, if appropriate, request of the commission a reduction or elimination of the gas cost adjustment. Upon such request, the commission shall hold a hearing forthwith in the manner provided in sections 58, 59, and 60 of this chapter.

(3) A gas utility may apply for a change in its gas cost charge not more often than each three (3) months. When such application is filed, the petitioning utility shall show to the commission its cost of gas for the period between its last order from the commission approving gas costs in its basic rates and the latest month for which actual gas costs are available. The petitioning utility shall also estimate its average gas costs for a recovery period of not less than the three (3) calendar months subsequent to the expiration of the thirty (30) day period allowed the commission in subdivision (1). The commission shall conduct a summary hearing solely on the gas cost adjustment requested in the petition subject to the notice requirements of IC 8-1-1-8 and may grant the gas utility the requested gas cost charge if it finds that:

(A) the gas utility has made every reasonable effort to acquire long term gas supplies so as to provide gas to its retail customers at the lowest gas cost reasonably possible;

(B) the pipeline supplier or suppliers of the gas utility has requested or has filed for a change in the costs of gas pursuant to the jurisdiction and procedures of a duly constituted regulatory authority;

(C) the gas cost adjustment applied for will not result, in the case of a public utility, in its earning a return in excess of the return authorized by the commission in the last proceeding in which the basic rates and charges of the public utility were approved; however, subject to section 42.3 of this chapter, if the gas cost adjustment applied for will result in the public utility earning a return in excess of the return authorized by the commission in the last proceeding in which basic rates and charges of the gas utility were approved, the gas cost adjustment applied for will be reduced to the point where no such excess of return will be earned; and

(D) the utility's estimate of its prospective average gas costs for each such future recovery period is reasonable and gives effect to:

(i) the actual gas costs experienced by the utility during the latest recovery period for which actual gas costs are available; and

(ii) the actual gas costs recovered by the adjustment of the same recovery period.

(4) Should the commission at any time determine that an emergency exists that could result in an abnormal change in gas costs, it may, in order to protect the public or the utility from the adverse effects of such change suspend the provisions of subdivision (3) as to the utility or utilities affected by such an emergency and initiate such procedures as may be necessary to protect both the public and the utility from harm. The commission shall lift the suspension when it is satisfied the emergency no longer exists.

(5) Any change in the gas cost charge granted by the commission under the provisions of this section shall be reflected in the rates charged by the utility in the same manner as any other changes in rates granted by the commission in a case approving the basic rates and charges of the utility. However, the utility may file the change as a separate amendment to its rate schedules with a reasonable reference therein that such charge is applicable to all of its filed rate schedules.

(Formerly: Acts 1913, c.76, s.45; Acts 1975, P.L.75, SEC.1.) As amended by Acts 1979, P.L.85, SEC.4; P.L.43-1983, SEC.9; P.L.115-1987, SEC.1; P.L.108-1995, SEC.1.

IC 8-1-2-42.1

Cost recovery; substitute natural gas contracts

Sec. 42.1. (a) As used in this section, "substitute natural gas" means pipeline quality gas produced by a facility that uses a gasification process to convert coal into a gas capable of being used:

(1) by a utility to supply gas utility service to end use consumers in Indiana; or

(2) as a fuel used by a utility to produce electric power to supply electric utility service to end use consumers in Indiana.

(b) As used in this section, "customer choice program" means a program under which residential and commercial consumers located in the service area of a gas or electric utility may:

(1) purchase their supply from a provider other than the utility in the service area; and

(2) receive transportation service from the utility in the service area for the delivery of the supply purchased under subdivision (1) to the consumer's premises.

(c) Subject to IC 8-1-8.9 and notwithstanding any other law, if the commission approves a contract for the purchase of substitute natural gas, or electricity generated in connection with the production of substitute natural gas, by a utility, the commission shall allow the

utility to recover the following costs on a timely basis throughout the term of the contract:

(1) All costs incurred in connection with and resulting from the utility's purchases under the contract, including the cost of the substitute natural gas and related costs for generation, transmission, transportation, and storage services.

(2) All costs the utility incurs in obtaining replacement gas if the seller fails to deliver substitute natural gas required to be delivered under the contract, including the price of the gas, and related transportation, storage, and hedging costs, to the extent those costs are not paid by the seller.

(3) Upon petition by the utility, any other costs the commission finds are reasonably necessary in association with the contract.

(d) Any costs recovered under subsection (c):

(1) are in addition to the recovery of other costs; and

(2) shall be made through an adjustment under section 42 of this chapter or another rate adjustment mechanism that allows for comparable timely cost recovery.

(e) If a customer choice program is implemented, expanded, or renewed for a utility during the term of a contract approved by order of the commission under subsection (c) that has the effect of reducing the utility's sales volumes, a condition of the authorization of that program must be the proportionate assignment of the gas or electric utility's substitute natural gas purchase obligation to the service providers in the customer choice program that meets the assignment requirements in the approved contract.

(f) Regardless of changes in market conditions or other circumstances, the commission may not take any action during the term of a contract approved under this section that adversely affects a utility's right to timely recover costs under this section or to otherwise fully recover such costs.

(g) With respect to utilities that are parties to a contract for the purchase of substitute natural gas approved by the commission under this section, the state covenants and agrees that as long as the contract is in effect the state will not limit, alter, or impair a utility's right to recover costs as provided in this section. Notwithstanding any other law, neither the commission nor any other state agency, political subdivision, or governmental unit may take any action that would have the effect of limiting, altering, or impairing a utility's right to recover costs as provided in this section.

As added by P.L.175-2007, SEC.9. Amended by P.L.52-2008, SEC.2.

IC 8-1-2-42.3

Calculation of relevant period; determination of reduction; exception

Sec. 42.3. (a) As used in this section, "relevant period" means the last month of the twelve (12) month test period considered in the current application before the commission under section 42(d)(3) and

42(g)(3)(c) of this chapter and extending through the longer of the:

(1) immediately preceding fifty-nine (59) months; or

(2) period beginning with the first full month following the last order issued by the commission in which the utility's basic rates and charges were approved.

(b) The commission shall order a reduction in the:

(1) fuel charge applied for under section 42(d)(3) of this chapter; or

(2) gas cost adjustment applied for under section 42(g)(3)(c) of this chapter;

only if the amount determined under subsection (c) is greater than zero.

(c) The commission shall calculate for the relevant period the sum of the differentials (both positive and negative) between the determined return and the authorized return for the respective twelve (12) month test period for each application for the relevant period, in each case as shown directly or indirectly by the commission's findings in each respective order issued under section 42(d) or 42(g) of this chapter.

(d) Consistent with subsection (b), the amount of reduction shall be determined by dividing the lesser of:

(1) the amount determined under subsection (c); or

(2) the amount by which the return in the current application before the commission was more than the authorized return;

by the total number of applications filed during the twelve (12) month test period considered in the current application before the commission.

(e) This section does not apply to a general district corporation within the meaning of IC 8-1-13-23(a).

As added by P.L.108-1995, SEC.2.

IC 8-1-2-42.5

Periodic review of rates and charges

Sec. 42.5. The commission shall by rule or order, consistent with the resources of the commission and the office of the utility consumer counselor, require that the basic rates and charges of all public, municipally owned, and cooperatively owned utilities (except those utilities described in IC 8-1-2-61.5) are subject to a regularly scheduled periodic review and revision by the commission. However, the commission shall conduct the periodic review at least once every four (4) years and may not authorize a filing for an increase in basic rates and charges more frequently than is permitted by operation of section 42(a) of this chapter.

As added by P.L.88-1985, SEC.4.

IC 8-1-2-42.7

Designation of test period; temporary implementation of rates and charges; extension of time; reconciliation of rates and charges

Sec. 42.7. (a) For purposes of this section,"average prime rate" means the arithmetic mean, to the nearest one-hundredth of one percent (0.01%), of the prime rate values published in the Federal Reserve Bulletin for the three (3) months preceding the first month of a calendar quarter.

(b) For purposes of this section, "case in chief" includes the following:

(1) Testimony, exhibits, and supporting work papers.

(2) Proposed test year and rate base cutoff dates.

(3) Proposed revenue requirements.

(4) Jurisdictional operating revenues and expenses, including taxes and depreciation.

(5) Balance sheet and income statements.

(6) Jurisdictional rate base.

(7) Proposed cost of capital and capital structure.

(8) Jurisdictional class cost of service study.

(9) Proposed rate design and pro forma tariff sheets.

(c) For purposes of this section, "utility" refers to the following:

(1) A public utility.

(2) A municipally owned utility.

(3) A cooperative owned utility.

(d) In a petition filed with the commission to change basic rates and charges, a utility may designate a test period for the commission to use. The utility must include with its petition the utility's complete case in chief. The commission shall approve a test period that is one (1) of the following:

(1) A forward looking test period determined on the basis of projected data for the twelve (12) month period beginning not later than twenty-four (24) months after the date on which the utility petitions the commission for a change in its basic rates and charges.

(2) A historic test period based on a twelve (12) month period that ends not more than two hundred seventy (270) days before the date on which the utility petitions the commission for a change in its basic rates and charges. The commission may adjust a historic test period for fixed, known, and measurable changes and appropriate normalizations and annualizations.

(3) A hybrid test period based on at least twelve (12) consecutive months of combined historic data and projected data. The commission may adjust the historic data as set forth in subdivision (2).

(e) This subsection does not apply to a proceeding in which a utility is seeking an increase in basic rates and charges and requesting initial relief under IC 8-1-2.5-5 or IC 8-1-2.5-6. If the commission does not issue an order on a petition filed by a utility under subsection (d) within three hundred (300) days after the utility files its case in chief in support of the proposed increase, the utility may temporarily implement fifty percent (50%) of the utility's

proposed permanent increase in basic rates and charges, subject to the commission's review and determination under subsection (f). The utility shall submit the proposed temporary rates and charges to the commission at least thirty (30) days before the date on which the utility seeks to implement the temporary rates and charges. The temporary rates and charges may reflect proposed or existing approved customer class allocations and rate designs. However, if the utility uses a forward looking test period described in subsection (d)(1) or a hybrid test period described in subsection (d)(3), the utility may not:

(1) implement the temporary increase before the date on which the projected data period begins; or

(2) object during a proceeding before the commission to a discovery request for historic data as described in subsection (d)(2) solely on the basis that the utility has designated a forward looking or hybrid test period.

(f) The commission shall review the temporary rates and charges to determine compliance with this section. The temporary rates and charges take effect on the latest of the following dates unless the commission determines that the temporary rates and charges are not properly designed in compliance with this section:

(1) The date proposed by the utility.

(2) Three hundred (300) days after the date on which the utility files its case in chief.

(3) The termination of any extension of the three hundred (300) day deadline authorized under subsection (g) or (h).

If the commission determines that the temporary rates and charges are not properly designed in compliance with this section, the utility may cure the defect and file the corrected temporary rates and charges with the commission within a reasonable period determined by the commission.

(g) If the commission grants a utility an extension of the procedural schedule, the commission may extend the three hundred (300) day deadline set forth in subsection (e) by the length of the extension.

(h) The commission may suspend the three hundred (300) day deadline set forth in subsection (e) one (1) time for good cause. The suspension may not exceed sixty (60) days.

(i) If a utility implements temporary rates and charges that differ from the permanent rates and charges approved by the commission in a final order on the petition filed under subsection (d), the utility shall perform a reconciliation and implement a refund, in the form of a credit rider, or a surcharge, as applicable, on customer bills rendered on or after the date the commission approves the credit or surcharge. The refund or surcharge shall be credited or added in equal amounts each month for six (6) months. The amount of the total refund or surcharge equals the amount by which the temporary rates and charges differ from the permanent rates and charges, plus,

for a refund only, interest at the applicable average prime rate for each calendar quarter during which the temporary rates and charges were in effect.
As added by P.L.133-2013, SEC.4.

IC 8-1-2-43
New schedules; filing
Sec. 43. Copies of all new schedules shall be filed as hereinbefore provided in every station or office of such public utility where payments are made by consumers or users ten (10) days prior to the time the same are to take effect, unless the commission shall prescribe a less time.
(Formerly: Acts 1913, c.76, s.46.)

IC 8-1-2-44
Overcharges and undercharges
Sec. 44. It shall be unlawful for any public utility to charge, demand, collect, or receive a greater or less compensation for any service performed by it within the state, or for any service in connection therewith, than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, or to demand, collect, or receive any rates, tolls, or charges not specified in such schedule. The rates, tolls, and charges named therein shall be the lawful rates, tolls, and charges unless the same are changed as provided in this chapter.
(Formerly: Acts 1913, c.76, s.47.) As amended by P.L.59-1984, SEC.22.

IC 8-1-2-45
Rate schedules; changes in form
Sec. 45. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.
(Formerly: Acts 1913, c.76, s.48.)

IC 8-1-2-46
Classification of services; rates and charges
Sec. 46. The commission shall provide for a comprehensive classification of such service for each public utility and such classification may take into account the quantity used, the time when used, the purpose for which used and other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls and charges to such classification.
(Formerly: Acts 1913, c.76, s.49.)

IC 8-1-2-46.1
Classification of service; rate for furnishing traction power
Sec. 46.1. In providing for a classification of service, the

commission shall approve a rate for furnishing traction power for a commuter transportation system (IC 8-5-15) that is equal to or lower than the rate approved for any industrial or commercial consumer of the public utility. The rate established under this section is subject to timely payments as negotiated between the utility and the district for furnishing the traction power.
As added by P.L.385-1987(ss), SEC.1.

IC 8-1-2-47
Inspections; tests; audits and investigations; rules and regulations

Sec. 47. The commission shall have power to adopt reasonable and proper rules and regulations relative to all inspections, tests, audits and investigations, and to adopt and publish reasonable and proper rules to govern its proceedings, and to regulate the mode and manner of all investigations of public utilities and other parties before it.

All hearings shall be open to the public.
(Formerly: Acts 1913, c.76, s.50.)

IC 8-1-2-48
Conduct of business; information; excessive wages; inquiry or audit of utility's power plant efficiency and system reliability

Sec. 48. (a) The commission shall inquire into the management of the business of all public utilities, and shall keep itself informed as to the manner and method in which the same is conducted and shall have the right to obtain from any public utility all necessary information to enable the commission to perform its duties. If, in its inquiry into the management of any public utility, the commission finds that the amount paid for the services of its officers, employees, or any of them, is excessive, or that the number of officers or persons employed by such utility is not justified by the actual needs of the utility, or that any other item of expense is being incurred by the utility which is either unnecessary or excessive, the commission shall designate such item or items, and such item or items so designated, or such parts thereof as the commission may deem unnecessary or excessive, shall not be taken into consideration in determining and fixing the rates which such utility is permitted to charge for the service which it renders.

(b) For purposes of IC 8-1-2, IC 8-1-8.5, IC 8-1-8.7, IC 8-1-8.8, and IC 8-1-27, wages paid to an independent contractor of a utility for construction or maintenance performed for the utility shall not be found to be excessive merely because the wages are those normally paid for work of the same type and quality in the labor market in which the work for the utility is being performed.

(c) In carrying out its duties and powers under subsection (a) with regard to any utility which sells or generates electricity, the commission may also inquire into or audit a utility's powerplant efficiency and system reliability.

(Formerly: Acts 1913, c.76, s.51; Acts 1927, c.146, s.1.) As amended by Acts 1981, P.L.104, SEC.4; P.L.53-1992, SEC.1; P.L.1-1993, SEC.47; P.L.159-2002, SEC.5.

IC 8-1-2-49
Inspection of books and records; affiliated interests; jurisdiction; annual reports

Sec. 49. (1) The commission or any commissioner when authorized by the commission or any person or persons employed by the commission for that purpose shall upon demand have the right to inspect the books, accounts, papers, records, and memoranda of any public utility and to examine, under oath, any officer, agent, or employee of such public utility in relation to its business and affairs. Any person other than one of said commissioners who shall make such demand shall produce his authority to make such inspection. The commission shall have jurisdiction over holders of the voting capital stock of all public utility companies under its jurisdiction to such extent as may be necessary to enable the commission to require the disclosure of the identity in respective interests of every owner of any substantial interest in such voting capital stock. One percent (1%) or more is a substantial interest, within the meaning of this section.

(2) Said commission shall have jurisdiction over affiliated interests having transactions, other than ownership of stock and receipt of dividends thereon, with utility corporations and other utility companies under the jurisdiction of the commission, to the extent of access to all accounts and records of joint or general expenses, any portion of which may be applicable to such transactions, and to the extent of authority to require such reports to be submitted by such affiliated interests, as the commission may prescribe. For the purpose of this section only, "affiliated interests" include the following:

(a) Every corporation and person owning or holding directly or indirectly ten percent (10%) or more of the voting capital stock of such utility corporation.

(b) Every corporation and person in any chain of successive ownership of ten percent (10%) or more of voting capital stock.

(c) Every corporation ten percent (10%) or more of whose voting capital stock is owned by any person or corporation owning ten percent (10%) or more of the voting capital stock of such utility corporation or by any person or corporation in any such chain of successive ownership of ten percent (10%) or more of voting capital stock.

(d) Every person who is an officer or director of such utility corporation or of any corporation in any chain of successive ownership of ten percent (10%) or more of voting capital stock.

(e) Every corporation which has one (1) or more officers or one (1) or more directors in common with such utility corporation.

(f) Every corporation or person which the commission may determine as a matter of fact after investigation and hearing is actually exercising any substantial influence over the policies and actions of such utility corporation even though such influence is not based upon stockholding, stockholders, directors, or officers to the extent specified in this section.

(g) Every person or corporation who or which the commission may determine as a matter of fact after investigation and hearing is actually exercising such substantial influence over the policies and actions of such utility corporation in conjunction with one (1) or more other corporations and/or persons with which or whom they are related by ownership and/or blood relationship or by action in concert that together they are affiliated with such utility corporation within the meaning of this section even though no one of them alone is so affiliated; provided, however, that no such person or corporation shall be considered as affiliated within the meaning of this section if such person or corporation is otherwise subject to the jurisdiction of the commission or such person or corporation shall not have had transactions or dealings other than the holding of stock and the receipt of dividends thereon with such utility corporation during the two (2) year period next preceding.

No management, construction, engineering, or similar contract, made after March 8, 1933, with any affiliated interest, as defined in this section, shall be effective unless it shall first have been filed with the commission. If it be found that any such contract is not in the public interest, the commission, after investigation and a hearing, is hereby authorized to disapprove such contract.

(3) Every annual report of any utility corporation reporting under this chapter to the commission shall contain, in addition to any other information required to be included by or pursuant to law, the following information:

(a) It shall state the name and address of, and the number of shares held by each holder of one percent (1%) or more of the voting capital stock of the reporting corporation, according to its records.

(b) Where one percent (1%) or more of the voting capital stock of the reporting corporation is held by a trustee or trustees, or other intermediate agency, for the beneficial interest of an owner or owners, other than the holder of record, or where one percent (1%) or more of the voting capital stock of the reporting corporation is held by another corporation, such annual report shall state, if the information is available from the records of the reporting corporation, the name and addresses and respective interests of such beneficial owners, and the names and addresses of the officers and directors of any such other corporation and the total number of shares of capital stock

thereof held by each, showing separately the number of shares of the voting capital stock, and the names and addresses and respective stockholdings of every stockholder of such other corporation holding one percent (1%) or more of its voting capital stock. Such report shall be accompanied by a certified copy of each trust agreement or other instrument under which any voting capital stock of the reporting corporation is held.

Where the information specified in subsection (3)(b) is not available from the records of the reporting corporation, any such holder, of record, of one percent (1%) or more of the voting capital stock of the reporting corporation, if ordered so to do by the commission, shall file with the commission, a sworn statement, in such form and to be filed within such time as the commission shall prescribe, setting forth whether or not any of such stock held by him or it is so held for the beneficial ownership of any person, firm, limited liability company, or corporation other than the record holder thereof, and, if stated to be so held, the names, addresses, and respective interests of such beneficial owners. If such stockholder is a trustee, he or it also shall file with such statement a certified copy of the trust agreement or other instrument under which such stock is held. A corporation which is the holder, of record, of one percent (1%) or more of the voting capital stock of the reporting corporation, if ordered so to do by the commission, and regardless of whether the information is or is not available or apparently available from the records of the reporting corporation, also shall file with the commission a sworn statement, in such form and to be filed within such time as the commission shall prescribe, or shall include in the sworn statement, if any, required to be filed by it pursuant to other provisions of this chapter a statement setting forth the names and addresses of its officers and directors and the total number of shares of its capital stock, held by each, showing separately the number of shares of the voting capital stock, and the names and addresses and respective stockholdings of each stockholder thereof holding one percent (1%) or more of its voting capital stock.

(4) If the annual report, or the sworn statements provided for in this section, do not furnish the information desired, because of any chain of successive ownership or of stockholdings, or because of an intermediate agency or agencies, or for any other reason, the commission, by order, may require similar sworn statements from any person or corporation who or which can give the necessary information, as the commission may have discovered from its investigations, to the end that the commission may obtain a complete disclosure of the natural persons, firms, limited liability companies, or corporations and their respective interests, who or which own or control directly or indirectly one percent (1%) or more of the voting capital stock of the reporting corporation.

(Formerly: Acts 1913, c.76, s.52; Acts 1933, c.190, s.6.) As amended by P.L.59-1984, SEC.23; P.L.8-1993, SEC.107.

IC 8-1-2-50
Compelling production of books, papers, and records; offenses

Sec. 50. The commission may require, by order or subpoena to be served on any public utility in the same manner that a summons is served in a civil action in the circuit court, the production, within the state, at such time and place as it may designate, of any books, accounts, papers, or records kept by said public utility in any office or place without the state of Indiana, or verified copies in lieu thereof, if the commission shall so order, in order that an examination thereof may be made by the commission or under its direction. Any public utility failing or refusing, after reasonable written notice, to comply with any such order or subpoena shall, for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00).

(Formerly: Acts 1913, c.76, s.53.)

IC 8-1-2-51
Investigations; commission

Sec. 51. For the purpose of making any investigation with regard to any public utility, the commission shall have power to appoint, by an order in writing, an agent, whose duties shall be prescribed in such order. In the discharge of his duties, such agent shall have every power whatsoever of an inquisitorial nature granted in this chapter to the commission. The commission may conduct any number of such investigations contemporaneously through different agents and may delegate to such agent the taking of all testimony bearing upon any investigation or hearing. The decision of the commission shall be based upon its examination of all the testimony and records. The recommendations made by such agents shall be advisory only, and shall not preclude the taking of further testimony, if the commission so orders, nor further investigation.

(Formerly: Acts 1913, c.76, s.54.) As amended by P.L.59-1984, SEC.24.

IC 8-1-2-52
Information; submission to commission

Sec. 52. Every public utility shall furnish to the commission all information required by it to carry into effect the provisions of this chapter and shall make specific answers to all questions submitted by the commission.

(Formerly: Acts 1913, c.76, s.55.) As amended by P.L.59-1984, SEC.25.

IC 8-1-2-53
Information; furnishing to commission

Sec. 53. Any public utility receiving from the commission any blanks, with directions to fill the same, shall cause the same to be

properly filled out so as to answer fully and correctly each question therein propounded, and, in case it is unable to answer any question, it shall give a good and sufficient reason for such failure, and said answers shall be verified under oath by the president, secretary, superintendent or general manager or person in charge of such public utility and returned to the commission at its office within the period fixed by the commission. Whenever required by the commission, every public utility shall deliver to the commission for examination any or all maps, profiles, contracts, reports of engineer and all documents, books, accounts, papers and records, or copies of any or all of the same, with a complete inventory of all its property in such form as the commission may direct.
(Formerly: Acts 1913, c.76, s.56.)

IC 8-1-2-54
Complaints against utilities; hearing

Sec. 54. Upon a complaint made against any public utility by any mercantile, agricultural or manufacturing society or by any body politic or municipal organization or by ten (10) persons, firms, limited liability companies, corporations, or associations, or ten (10) complainants of all or any of the aforementioned classes, or by any public utility, that any of the rates, tolls, charges or schedules or any joint rate or rates in which such petitioner is directly interested are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act whatsoever affecting or relating to the service of any public utility, or any service in connection therewith, is in any respect unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or can not be obtained, the commission shall proceed, with or without notice, to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practice or act, complained of, shall be entered by the commission without a formal public hearing.
(Formerly: Acts 1913, c.76, s.57.) As amended by P.L.8-1993, SEC.108.

IC 8-1-2-54.1
Actions for mandate to compel hearing or issuance of orders

Sec. 54.1. Notwithstanding any other law, if the commission fails to conduct a formal public hearing or to issue an order within a reasonable period of time upon a complaint that complies with sections 54 or 61 of this chapter, the complainant may bring an action for mandate under IC 34-27 to compel the commission to conduct the hearing or to issue the order. However, notwithstanding IC 34-27 or any other law or rule, the action for mandate may only be filed in the court of appeals. For the purposes of IC 1-1-1-8, if any part of this section is held invalid, the entire section is void.

As added by P.L.106-1989, SEC.1. Amended by P.L.1-1998, SEC.86.

IC 8-1-2-55
Complaints against utilities; notice to utilities

Sec. 55. The commission shall, prior to such formal hearing, notify the public utility complained of that a complaint has been made, and ten (10) days after such notice has been given, the commission may proceed to set a time and place for a hearing and an investigation as hereinafter provided.
(Formerly: Acts 1913, c.76, s.58.)

IC 8-1-2-56
Complaints; notice to public utility and complainant

Sec. 56. The commission shall give the public utility and the complainant, if any, ten (10) days' notice of the time and place when and where such hearing and investigation will be held and such matters considered and determined. Both the public utility and complainant shall be entitled to be heard and shall have process to enforce the attendance of witnesses.
(Formerly: Acts 1913, c.76, s.59.)

IC 8-1-2-57
Complaints against utilities; separate hearings

Sec. 57. The commission may, in its discretion, when complaint is made of more than one (1) rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately and at such times as it may prescribe. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.
(Formerly: Acts 1913, c.76, s.60.)

IC 8-1-2-58
Complaints against utilities; investigations

Sec. 58. Whenever the commission shall believe that any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate, or can not be obtained, or that an investigation of any matters relating to any public utility should for any reason be made, it may, on its motion, summarily investigate the same, with or without notice.
(Formerly: Acts 1913, c.76, s.61.)

IC 8-1-2-59
Complaints against utilities; investigations; hearing

Sec. 59. If, after making such investigation, the commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matter so investigated, it shall furnish such public utility interested a statement notifying the public utility of the matters under investigation. Ten (10) days after such notice

has been given, the commission may proceed to set a time and place for a hearing and an investigation, as hereinbefore provided.
(Formerly: Acts 1913, c.76, s.62.)

IC 8-1-2-60
Complaints against utilities; hearings; decision and order

Sec. 60. Notice of the time and place for such hearing shall be given to the public utility and to such other interested persons as the commission shall deem necessary, as provided in section 56 of this chapter, and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the commission relative to the matter investigated, and the same order or orders may be made in reference thereto as if such investigation had been made on complaint.
(Formerly: Acts 1913, c.76, s.63.) As amended by P.L.59-1984, SEC.26.

IC 8-1-2-61
Complaint by utility; contents; notice; summary orders in certain cases; public hearings

Sec. 61. (a) Any public utility may make complaint as to any matter affecting its own rates or service. The petition or complaint must include a statement as to whether the utility, if a not-for-profit water utility or municipal utility, has any outstanding indebtedness to the federal government. The public utility shall publish a notice of the filing of such petition or complaint in a newspaper of general circulation published in any county in which the public utility renders service. An order affecting rates or service may be entered by the commission without a formal public hearing, if:

(1) the utility is a not-for-profit water utility or a municipal utility; and

(2) the utility has obtained written consent to obtain an order affecting its rates from the commission without a formal hearing from any agency of the federal government with which the utility has outstanding evidence of indebtedness to the federal government.

The commission may, however, on its own motion require a formal public hearing, and shall, upon a motion filed by the utility consumer counselor, by any public or municipal corporation, or by ten (10) individuals, firms, corporations, limited liability companies, or associations, or ten (10) complainants of all or any of these classes, hold a formal public hearing with respect to any such petition or complaint.

(b) In any general rate proceeding under subsection (a) which requires a public hearing and in which an increase in revenues is sought which exceeds the sum of two million five hundred thousand dollars ($2,500,000), the commission shall conduct at least one (1) public hearing in the largest municipality located within such utility's

service area.
(Formerly: Acts 1913, c.76, s.64; Acts 1951, c.161, s.1; Acts 1963, c.187, s.1.) As amended by Acts 1979, P.L.85, SEC.3; P.L.103-1983, SEC.3; P.L.8-1993, SEC.109.

IC 8-1-2-61.5
Rate orders; formal public hearing; adoption of rules

Sec. 61.5. (a) An order affecting rates of service may be entered by the commission without a formal public hearing in the case of any public or municipally owned utility that:

(1) serves less than five thousand (5,000) customers;
(2) primarily provides retail service to customers; and
(3) does not serve extensively another utility.

(b) The commission may require a formal public hearing on any petition or complaint filed under this section concerning a rate change request by a utility upon its own motion or upon motion of any of the following:

(1) The utility consumer counselor.
(2) A public or municipal corporation.
(3) Ten (10) individuals, firms, limited liability companies, corporations, or associations.
(4) Ten (10) complainants of any class described in this subsection.

(c) A not-for-profit water utility or a not-for-profit sewer utility must include in its petition a statement as to whether it has an outstanding indebtedness to the federal government. When an indebtedness is shown to exist, the commission shall require a formal hearing, unless the utility also has included in its filing written consent from the agency of the federal government with which the utility has outstanding indebtedness for the utility to obtain an order affecting its rates from the commission without a formal hearing.

(d) Notwithstanding any other provision of this chapter, the commission may:

(1) on its own motion; or
(2) at the request of:
    (A) the utility consumer counselor;
    (B) a water or sewer utility described in subsection (a);
    (C) ten (10) individuals, firms, limited liability companies, corporations, or associations; or
    (D) ten (10) complainants of any class described in this subsection;

adopt a rule under IC 4-22-2, or issue an order in a specific proceeding, providing for the development, investigation, testing, and use of regulatory procedures or generic standards with respect to water or sewer utilities described in subsection (a) or their services.

(e) The commission may adopt a rule or enter an order under subsection (d) only if it finds, after notice and hearing, that the proposed regulatory procedures or standards are in the public interest

and promote at least one (1) of the following:

(1) Utility cost minimalization to the extent that a utility's quality of service or facilities are not diminished.

(2) A more accurate evaluation by the commission of a utility's physical or financial conditions or needs.

(3) A less costly regulatory procedure for a utility, its consumers, or the commission.

(4) Increased utility management efficiency that is beneficial to consumers.

As added by P.L.88-1985, SEC.5. Amended by P.L.116-1987, SEC.1; P.L.107-1989, SEC.1; P.L.8-1993, SEC.110; P.L.159-1999, SEC.1; P.L.226-2001, SEC.1.

IC 8-1-2-61.6

Water utilities with less than 5,000 customers; changes in wholesale rates; notice; rate relief

Sec. 61.6. (a) This section applies to water utilities that serve less than five thousand (5,000) customers.

(b) As used in this section, "purchaser" means a water utility that buys water from another water utility on a wholesale basis.

(c) As used in this section, "supplier" means a water utility that provides water to another water utility on a wholesale basis.

(d) As used in this section, "water utility" means:

(1) an investor owned water utility;

(2) a municipally owned water utility;

(3) a conservancy district (as described in IC 14-33); or

(4) a nonprofit water utility.

(e) Notwithstanding section 42 of this chapter, whenever a supplier petitions the commission for a change in rates or charges that affect its wholesale rates, the supplier shall notify each of its wholesale customers by United States registered mail. The notice must include the cause number assigned to the supplier's petition.

(f) Upon notification by the supplier, the purchaser of a wholesale water supply may notify the secretary of the commission of its intent to monitor its supplier's cause. The commission shall then provide a copy of the supplier's prehearing conference order upon its approval to the purchaser.

(g) If the purchaser requests simultaneous rate relief for its cost of water in conjunction with the relief requested by its supplier, the purchaser shall complete and file forms prescribed by the commission within fourteen (14) days of the supplier's case in chief.

(h) After the purchaser has filed the forms as described in subsection (g), the commission may provide rate relief to the purchaser simultaneously with an order approved for its supplier.

As added by P.L.107-1989, SEC.2. Amended by P.L.1-1995, SEC.54.

IC 8-1-2-61.7

Petition for review of rates and charges for wholesale sewage

service contracts

Sec. 61.7. (a) As used in this section, "utility" refers to a wastewater utility that:

(1) is owned or operated by a political subdivision (as defined in IC 36-1-2-13); and

(2) is not under the jurisdiction of the commission for the approval of rates and charges.

(b) As used in this section, "wholesale sewage service" means the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste provided by a utility to another utility.

(c) A utility that:

(1) either provides or receives wholesale sewage service; and

(2) negotiates to renew or enter into a new contract for wholesale sewage service on expiration of a contract for the same wholesale sewage service;

may file a petition for review of rates and charges for wholesale sewage service with the commission or the circuit or superior court with jurisdiction in the county where the utility has its principal office.

(d) If a utility files a petition under subsection (c), the following apply:

(1) The utility that provides the wholesale sewage service has the burden of proving that the rates and charges are just and reasonable.

(2) A petition concerning the same rates and charges may not be filed with both the commission and a court.

(3) If multiple petitions concerning the same rates and charges are filed, all petitions filed after the first petition filed must be:

(A) consolidated with the first petition filed; and

(B) heard in the forum in which the first petition was filed.

(4) The petition is not subject to IC 36-9-23 or IC 36-9-25. However, the petition may be subject to IC 8-1.5-6.

(5) If the petition is heard by a court, the court shall hear the petition de novo.

(e) After notice and hearing, the commission may issue an order determining whether the rates and charges that are the subject of a petition filed with the commission under subsection (c) are just and reasonable. The order of the commission is a final order for purposes of IC 8-1-3.

(f) This section does not:

(1) authorize the commission to revise rates and charges of a utility for any other purpose other than as stated in this section; or

(2) otherwise return or subject a utility to the jurisdiction of the commission.

(g) The commission may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.251-2013, SEC.1. Amended by P.L.213-2014, SEC.1.

IC 8-1-2-61.8
"Rental unit community"

Sec. 61.8. (a) As used in this section, "rental unit community" has the meaning set forth in IC 36-1-20-1.5.

(b) As used in this section, "utility" refers to a wastewater utility, whether or not the utility is under the jurisdiction of the commission for the approval of rates and charges.

(c) If a utility charges different rates for different classes of property based at least partially on consumption, the utility must charge a rental unit community a rate based at least partially on consumption.

(d) A rate for a rental unit community required by subsection (c) takes effect as follows:

(1) If the utility is not under the jurisdiction of the commission for the approval of rates and charges, the first date after June 30, 2016, that a change in the utility's rate structure becomes effective.

(2) If the utility is under the jurisdiction of the commission for the approval of rates and charges, the first date that a change in the utility's rate structure becomes effective after either of the following has occurred:

(A) The commission began review of the utility's rates after June 30, 2016.

(B) The utility sought a change in the utility's rates after June 30, 2016.

As added by P.L.107-2016, SEC.1.

IC 8-1-2-62
Evidence; compelling production; witnesses; compelling attendance

Sec. 62. Each of the commissioners and every agent provided for in this chapter shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and compel the production of books, accounts, papers, records, documents and testimony. In case of disobedience on the part of any person or persons to comply with any order of the commission or any commissioner or any subpoena, or on the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated before the commission, or its authorized agent, it shall be the duty of the circuit or superior court of any county, on application of a commissioner, to compel the obedience to the requirements of a subpoena issued from such court or a refusal to testify therein.

(Formerly: Acts 1913, c.76, s.65.) As amended by P.L.59-1984, SEC.27.

IC 8-1-2-63
Witnesses; expenses

Sec. 63. Each witness who shall appear before the commission or its agent by its order, shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in courts of record which shall be audited and paid by the state, in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission. No witnesses subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance or travel unless the commission shall certify that his testimony was material to the matter investigated; Provided, That the commission shall have power to pass upon, approve and limit the expenditures of a public utility in connection with a rate case which are to be charged against the rate base and to be amortized over a period of years as determined by the commission; it being the intent and purpose to prevent excessive expenditures by the utilities for expert witnesses, legal and stenographic expenses in rate hearings and appraisals.
(Formerly: Acts 1913, c.76, s.66; Acts 1933, c.190, s.7.)

IC 8-1-2-64
Witnesses; depositions

Sec. 64. The commission, or any party, may, in any investigation, cause the depositions of witnesses residing without the state to be taken in the manner prescribed by law for like depositions in civil actions in circuit courts.
(Formerly: Acts 1913, c.76, s.67.)

IC 8-1-2-65
Record of investigations

Sec. 65. A record shall be kept of all proceedings had before the commission or its agent or any formal investigation had and all testimony shall be taken down by the stenographer appointed by the commission.
(Formerly: Acts 1913, c.76, s.68.)

IC 8-1-2-66
Investigations; transcript of evidence; admissibility

Sec. 66. A transcript copy of the evidence and proceedings, or any specific part thereof, on any investigation, taken by the stenographer appointed by the commission, being certified under oath by such stenographer to be a true and correct transcript of all the testimony on the investigation, of a particular witness or of other specific part thereof, carefully prepared by him from his original notes, and to be a correct statement of the evidence and proceedings had on such investigations so purporting to be taken and transcribed, shall be received in evidence with the same effect as if such reporter were

present and testified to the fact so certified.
(Formerly: Acts 1913, c.76, s.70.)

IC 8-1-2-67
Investigations; transcript of evidence; copy

Sec. 67. A copy of such transcript shall be furnished on terms fixed by the commission to any party to such investigation.
(Formerly: Acts 1913, c.76, s.71.)

IC 8-1-2-68
Rates and charges; order fixing

Sec. 68. Whenever, upon an investigation, the commission shall find any rates, tolls, charges, schedules, or joint rate or rates to be unjust, unreasonable, insufficient, or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions of this chapter, the commission shall determine and by order fix just and reasonable rates, tolls, charges, schedules, or joint rates to be imposed, observed, and followed in the future in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory or preferential or otherwise in violation of any of the provisions of this chapter.
(Formerly: Acts 1913, c.76, s.72.) As amended by P.L.59-1984, SEC.28.

IC 8-1-2-69
Complaints against utilities; orders of commission

Sec. 69. Whenever, upon the investigation made under the provisions of this chapter, the commission shall find any regulations, measurements, practices, acts, or service to be unjust, unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, or otherwise in violation of any of the provisions of this chapter, or shall find that any service is inadequate or that any service which can be reasonably demanded can not be obtained, the commission shall determine and declare and by order fix just and reasonable measurements, regulations, acts, practices, or service to be furnished, imposed, observed, and followed in the future in lieu of those found to be unjust, unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, inadequate, or otherwise in violation of this chapter, as the case may be, and shall make such other order respecting such measurement, regulation, act, practice, or service as shall be just and reasonable.
(Formerly: Acts 1913, c.76, s.73.) As amended by P.L.59-1984, SEC.29.

IC 8-1-2-70
Expenses of investigations

Sec. 70. In its order upon any investigation made under the provisions of this chapter, IC 8-1.5-3, or IC 8-1.5-6, either upon

complaint against any municipal utility, upon the petition of any such municipal utility, or upon the initiation of the commission, the commission shall ascertain and declare the expenses incurred by it upon such investigation, and the municipal utility affected thereby shall pay into the commission public utility fund account described in IC 8-1-6-2 the amount of the expenses, so ascertained and declared, within a time to be fixed in the order, not exceeding twenty (20) days from the date thereof. The commission shall cause a certified copy of all such orders to be delivered to an officer or agent of the municipal utility affected thereby, and all such orders shall, of their own force, take effect and become operative twenty (20) days after service thereof unless a different time be provided in said order. Any order of the commission as may increase any rate of such municipal utility shall not take effect until such expenses are paid into the commission public utility fund account described in IC 8-1-6-2.
(Formerly: Acts 1913, c.76, s.74; Acts 1925, c.60, s.1; Acts 1963, c.187, s.2; Acts 1969, c.260, s.1.) As amended by P.L.59-1984, SEC.30; P.L.384-1987(ss), SEC.6; P.L.251-2013, SEC.2; P.L.213-2014, SEC.2.

IC 8-1-2-71
Rate schedules; changes
Sec. 71. All public utilities to which the order applies shall make such changes in their schedule on file as may be necessary to make the same conform to said order, and no change shall thereafter be made by any public utility in any such rates, tolls, or charges, or any joint rate or rates, without the approval of the commission. Certified copies of all other orders of the commission shall be delivered to the public utility affected thereby in like manner and the same shall take effect within such time thereafter as the commission shall prescribe.
(Formerly: Acts 1913, c.76, s.75.)

IC 8-1-2-72
Orders; rescission; modification
Sec. 72. The commission may, at any time, upon notice to the public utility and after opportunity to be heard as provided in sections 54 through 67 of this chapter, rescind, alter, or amend any order fixing any rate or rates, tolls, charges, or schedules, or any other order made by the commission, and certified copies of the same shall be served and take effect as provided in this chapter for original orders.
(Formerly: Acts 1913, c.76, s.76.) As amended by P.L.59-1984, SEC.31.

IC 8-1-2-73
Burden of proof; proceedings against utilities
Sec. 73. In all trials, actions, and proceedings arising under the

provisions of this chapter or growing out of the exercise of the authority and powers granted in this chapter to the commission, the burden of proof shall be upon the party adverse to such commission or seeking to set aside any determination, requirement, direction, or order of said commission to show that the determination, requirement, direction, or order of the commission complained of is unreasonable or unlawful, as the case may be.
(Formerly: Acts 1913, c.76, s.84.) As amended by P.L.59-1984, SEC.32.

IC 8-1-2-74
Investigations; self-incrimination

Sec. 74. No person shall be excused from testifying or from producing books, accounts, and papers in any proceeding based upon or growing out of any violation of the provisions of this chapter on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him would incriminate him or subject him to penalty or forfeiture; but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may have testified or produced any documentary evidence; provided, that no person testifying shall be exempted from prosecution or punishment for perjury in so testifying.
(Formerly: Acts 1913, c.76, s.86.) As amended by P.L.59-1984, SEC.33.

IC 8-1-2-75
Orders of commission; distribution of copies

Sec. 75. Upon application of any person, the commission shall furnish certified copies, under the seal of the commission, of any order made by it, which shall be prima facie evidence of the facts stated therein.
(Formerly: Acts 1913, c.76, s.87.)

IC 8-1-2-75.5
Telegraph utility stocks, bonds, commercial paper, and other evidences of indebtedness; authority to issue

Sec. 75.5. Any public utility within this state organized for the conveyance of messages by telegraph may issue stocks, bonds, commercial paper, or other evidences of indebtedness without the approval of the commission. Such a public utility is exempt from the provisions of sections 76, 77, 78, 79, and 80 of this chapter.
As added by Acts 1980, P.L.66, SEC.1.

IC 8-1-2-76
Stocks, bonds, commercial paper, and other evidences of indebtedness; limitations upon authority to issue

Sec. 76. No public utility shall hereafter issue for any purposes

connected with or relating to any part of its business, any stocks, certificates of stock, bonds, notes or other evidences of indebtedness, payable at periods of more than twelve (12) months, to an amount exceeding that which may from time to time be reasonably necessary, determined as herein provided, for the purpose for which issue of stock, certificates of stock, bonds, notes or other evidences of indebtedness may be authorized.
(Formerly: Acts 1913, c.76, s.88.)

IC 8-1-2-77
Stock; consideration; discount or premium

Sec. 77. No public utility shall issue any stock or certificate of stock, except in consideration of money or of labor or property at its current fair cash value as found and determined by the commission actually received by it. No stock or certificate of stock shall be sold at a discount or premium without the approval of the commission and if sold at a discount, the commission shall make a record thereof and give such publicity of the facts as it may deem necessary at the expense of the utility. No public utility shall issue any bonds, notes, or other evidences of indebtedness except for money or labor or property estimated at its current fair cash value as found and determined by the commission actually received by it equal to a sum to be approved by the commission not less than seventy-five (75) per cent of the face value thereof. The amount of bonds, notes, and other evidences of indebtedness which any public utility may issue shall be reasonable in aggregate amount, due consideration being given to the nature of the business in which the corporation is engaged, its credit, future prospects, and earnings, and the effect which such issue may have upon the management and efficient operation of the public utility.
(Formerly: Acts 1913, c.76, s.89; Acts 1933, c.190, s.7a; Acts 1939, c.19, s.1; Acts 1941, c.37, s.1.)

IC 8-1-2-78
Stocks, bonds, commercial paper, and other evidences of indebtedness; authority to issue

Sec. 78. A public utility, as defined in section 1 of this chapter, may, with the approval of the commission, issue stock, certificates of stock, bonds, notes, or other evidence of indebtedness payable at periods of more than twelve (12) months after the date thereof, for the purpose of and to the extent required for obtaining funds sufficient for:

(a) the acquisition of property, material, or working capital;
(b) the construction, completion, extension, or improvement of its facilities, plant, or distributing system;
(c) the improvement of its service;
(d) the discharge or lawful refunding of its obligations; or
(e) the reimbursement of its treasury for money actually

expended from income, or from any other money in the treasury of the public utility, for such purposes, not secured or obtained from the issue of stock, bonds, notes, or other evidence of indebtedness of such public utility, where the applicant shall have kept its accounts and vouchers of such expenditures in such manner as to enable the commission to ascertain the amount of money so expended and the purpose for which such expenditure was made.

(Formerly: Acts 1913, c.76, s.90; Acts 1939, c.19, s.2; Acts 1941, c.37, s.2.) As amended by P.L.59-1984, SEC.34.

IC 8-1-2-79

Securities; issuance; approval; fraud; offense

Sec. 79. (a) Whenever a public utility desires to issue bonds, notes, or other evidences of indebtedness, payable more than one (1) year from the execution thereof, or preferred or common stock, it shall file with the commission a petition verified by its president or vice-president, and secretary or assistant secretary, or by two (2) of its incorporators, if it has no such officers, setting forth:

(1) the principal amount of bonds, notes, or other evidences of indebtedness, and the par value or number of shares of preferred and common stock;

(2) the minimum price for which said securities are to be disposed of or sold;

(3) the purposes for which said securities are to be disposed of or sold;

(4) the description, cost, or value of any property acquired or to be acquired from the proceeds of the disposal or sale of said securities;

(5) a balance sheet and income account; and

(6) all other information that may be relevant or that may be required by the commission.

For the purpose of enabling it to determine whether the proposed issue is in the public interest, in accordance with laws touching the issuance of securities by public utilities, and reasonably necessary in the operation and management of the business of the utility in order that the utility may provide adequate service and facilities, the commission also may consider the total outstanding capitalization of the utility, including the proposed issue, in relation to the total value of or investment in the property of the utility, including the property to be acquired by the proposed issue, as shown by the balance sheet, accounts, or reports of the utility, the records of the commission, or other evidence, and the character and proportionate amount of each kind of security, including the proposed issue, and the unamortized discount suffered by the utility in the sale of the outstanding securities. The commission shall make such further inquiry or investigation, hold such hearing or hearings, and examine such witnesses, books, papers, documents, or contracts as it may deem of

importance in enabling it to reach a decision.

(b) An owner, officer, or agent of any public utility who knowingly violates this section, or knowingly makes any material misrepresentation or misstatements in connection with this section, commits a Level 6 felony.

(Formerly: Acts 1913, c.76, s.91; Acts 1933, c.190, s.8.) As amended by Acts 1978, P.L.2, SEC.801; P.L.158-2013, SEC.130.

IC 8-1-2-80

Stocks, bonds, commercial paper, and evidences of indebtedness; certificate of authority for issuance

Sec. 80. If the commission shall determine that such proposed issue complies with the provisions of this chapter, such authority shall thereupon be granted, and it shall issue to the public utility a certificate of authority stating:

(a) the amount of such stocks, certificates of stock, bonds, notes, or other evidences of indebtedness, reasonably necessary for the purposes for which they are to be issued and the character of the same; and

(b) the purposes for which they are to be issued and the property or services to be acquired thereby valued in detail.

Such public utility shall not apply the proceeds of such stock, bonds, notes, or other evidences of indebtedness as aforesaid to any purposes not specified in such certificate, nor issue such stock, bonds, notes, or other evidences of indebtedness in greater amounts than specified in such certificate. Nothing contained in this section shall prohibit the commission from giving its consent to the issue of bonds, notes, or other evidences of indebtedness for the reimbursement of moneys actually expended before May 1, 1913, from income for any of the purposes specified in section 78 of this chapter if, in the judgment of the commission, such consent should be granted, provided, application for such consent shall be made prior to January 1, 1915. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents, or contracts as it may deem of importance in enabling it to reach a determination. The commission shall have power to impose such conditions upon a public utility in issuing of securities as it may deem reasonable. Such public utilities shall not, without the consent of the commission, apply said issue or any proceeds thereof to any purpose not specified in such order. Provided, however, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation, or to authorize the capitalization of any franchise or the right to own, operate, or enjoy any franchise whatsoever, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to any political subdivision thereof as the consideration for the grant of such franchise or right. The capitalization of a corporation formed

by the merger or consolidation of two (2) or more corporations shall be subject to the approval of the commission, but in no event shall such capitalization exceed the sum of the corporations so consolidated, at the par value thereof, or such sums and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation after May 1, 1913, issue any bonds against or as a lien upon any contract for consolidation or merger.

(Formerly: Acts 1913, c.76, s.92; Acts 1967, c.64, s.1.) As amended by P.L.59-1984, SEC.35.

IC 8-1-2-81

Stocks, bonds, commercial paper, or other evidences of indebtedness; state not obligated to pay or guarantee

Sec. 81. No provision of this chapter, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Indiana to pay or guarantee in any manner whatsoever any stock or stock certificate or bond, note, or other evidence of indebtedness authorized, issued, or executed under the provisions of this chapter.

(Formerly: Acts 1913, c.76, s.93.) As amended by P.L.59-1984, SEC.36.

IC 8-1-2-82

Franchise; sale; transfer; assignment or encumbrance

Sec. 82. Any person or association of persons other than an existing public service corporation, which shall have, or may have hereafter become the owner or assignee of the rights, powers, privileges and franchises of any public utility created or organized by or under the law of this state, by purchase under a mortgage sale, sale in bankrupt proceedings, or sale under any judgment, order, decree or proceedings of any court in this state, including the courts of the United States sitting herein, shall within sixty (60) days after such purchase or assignment, organize anew by filing articles of incorporation as provided by law, and thereupon shall have the rights, privileges and franchises which such utility had, or was entitled to have, at the time of such purchase and sale. The new corporation may issue stock, certificates of stock, bonds, notes or other evidences of indebtedness for the property of the former corporation thus acquired, in an amount not to exceed the true value of such property, as found and determined by the commission, in accordance with the provisions hereof.

(Formerly: Acts 1913, c.76, s.94.)

IC 8-1-2-83

Franchises; sale; transfer; assignment or encumbrance; special rate contracts

Sec. 83. (a) No public utility, as defined in section 1 of this chapter, shall sell, assign, transfer, lease, or encumber its franchise, works, or system to any other person, partnership, limited liability company, or corporation, or contract for the operation of any part of its works or system by any other person, partnership, limited liability company, or corporation, without the approval of the commission after hearing. And no such public utility, except temporarily or in case of emergency and for a period of not exceeding thirty (30) days, shall make any special contract at rates other than those prescribed in its schedule of rates theretofore filed with the commission, and in force, with any other utility for rendering any service to or procuring any service from such other utility, without the approval of the commission. It shall be lawful, however, for any utility to make a contract for service to or from another utility at rates previously filed with and approved by the commission and in force.

(b) The approval of the commission of the sale, assignment, transfer, lease, or encumbrance of a franchise or any part thereof under this section shall not revive or validate any lapsed or invalid franchise, or enlarge or add to the powers and privileges contained in the grant of any franchise or waive any forfeiture. No such public utility shall directly or indirectly purchase, acquire, or become the owner of any of the property, stock, or bonds of any other public utility authorized to engage or engaged in the same or a similar business, or operating or purporting to operate under a franchise from the same or any other municipality or under an indeterminate permit unless authorized so to do by the commission.

(c) Nothing contained in this section shall prevent the holding of stock lawfully acquired before May 1, 1913, or prohibit, upon the surrender or exchange of said stock pursuant to a reorganization plan, the purchase, acquisition, taking, or holding by the owner of a proportionate amount of the stock of any new corporation organized to take over at foreclosure or other sale, the property of the corporation whose stock has been thus surrendered or exchanged.

(d) Every contract by any public utility for the purchase, acquisition, assignment, or transfer to it of any of the stock of any other public utility by or through any person, partnership, limited liability company, or corporation without the approval of the commission shall be void and of no effect, and no such transfer or assignment of such stock upon the books of the corporation pursuant to any such contract shall be effective for any purpose.

(Formerly: Acts 1913, c.76, s.95; Acts 1925, c.54, s.1.) As amended by P.L.59-1984, SEC.37; P.L.23-1988, SEC.24; P.L.8-1993, SEC.111.

IC 8-1-2-84

Merger or consolidation; acquisition, lease, sale, or encumbrance of property

Sec. 84. (a) With the consent and approval of the commission and

with the authority of their stockholders as provided in this chapter, but not otherwise, any two (2) or more public utilities furnishing a like service or product and doing business in the same municipality or locality within Indiana, or any two (2) or more public utilities whose lines intersect or parallel each other within Indiana, may be merged and may enter into contracts with each other which will enable such public utilities to operate their plants or lines in connection with each other. Before any merger shall become effective there shall be filed with the commission proof that the voting stockholders have authorized or consented to such merger. If the law under which the company is incorporated or reorganized so provides, then the authorization and consent of the holders of the majority of the voting stock shall be shown. In all other cases the consent of the holders of three-fourths (3/4) of the outstanding voting stock of the company shall be shown. Such authority and consent may be shown by filing with the commission a certified copy of the minutes of a stockholders' meeting or by filing with the commission a written consent of such holders or both. In case of such merger, union, or consolidation, dissenting stockholders shall apply to the commission within sixty (60) days after approval by the commission to have the value of their stock assessed and determined. Stockholders not so applying shall be held to have assented. Upon the determination of the value of the stock of such dissenting stockholder, the corporation in which they are stockholders may within sixty (60) days pay the dissenting stockholders for their stock the appraised value thereof, or may elect to abandon the merger, union, or consolidation by filing with the commission notice of such election.

(b) It shall not be necessary for any public utility merging, uniting, or consolidating to comply with such provisions of any law governing the procedure in the merger, union, or consolidation of corporations as are in conflict with the provisions of this chapter. This chapter shall not create any new right of merger or enlarge any such right but is intended only to prescribe and simplify the proceedings in mergers which are authorized by other statutes.

(c) Any such public utility may purchase or lease the used and useful property, plant, or business, or any part thereof, of any other such public utility at a price and on terms approved by the commission. Whenever, in the case of any such purchase, the amount to be paid by the purchaser for the property, plant, or business to be purchased shall be an amount in excess of five percent (5%) of the book cost to the purchaser of all the properties, plants, and business owned by it at the time application is made to the commission for approval of such purchase, or whenever, in the case of any such lease, the book cost to the lessor of the property, plant, or business to be leased shall be an amount in excess of five percent (5%) of the book cost to the lessee of all the properties, plants, and business owned by the lessee at the time application is made to the

commission for approval of such lease, there shall be obtained from the holders of three-fourths (3/4) of the voting stock of such purchaser or lessee their consent, authority, and approval to such purchase or lease.

(d) Any such public utility may purchase or lease the used and useful property, plant, or business, or any part thereof, of a municipally owned utility, as used in this chapter, owned or operated by a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), with the approval of the commission at a price or rental and on terms approved by the commission.

(e) Any such public utility may sell or lease its used or useful property, plant, or business, or any part thereof, to any other such public utility at a price and on terms approved by the commission. Whenever in the case of any such sale or lease the book cost to the seller or lessor of such property, plant, or business to be sold or leased shall be an amount in excess of five percent (5%) of the book cost to such seller or lessor of all the properties, plants, and business owned by it at the time application is made to the commission for approval of such sale or lease, there shall be obtained from the holders of three-fourths (3/4) of the voting stock of such seller or lessor their consent, authority, and approval to such sale or lease. Whenever in the case of any such sale or lease the book cost to the seller or lessor of such property, plant, or business to be sold or leased shall be an amount in excess of twenty percent (20%) of the book cost to such seller or lessor of all the properties, plants, and business owned by it at the time application is made to the commission for approval of such sale or lease, dissenting stockholders of such seller or lessor shall, if the sale or lease is consummated, be paid for their stock the appraised value thereof as determined by the commission. Dissenting stockholders in such a case shall, within sixty (60) days after publication of notice of the approval by the commission of such sale or lease, apply to the commission to have the value of their stock assessed and determined. Stockholders not so applying shall be held to have assented. Such publication of notice shall be given by the seller or lessor to its stockholders by publishing such notice once each week for three (3) successive weeks in a newspaper of general circulation printed in the English language and published in Marion County, Indiana. Upon determination of the value of the stock of such dissenting stockholders such seller or lessor may within sixty (60) days either pay the dissenting stockholders for their stock the appraised value thereof or elect to abandon the sale or lease by filing with the commission notice of its election to abandon.

(f) No such public utility shall encumber its used and useful property or business or any part thereof without the approval of the commission and the consent, authority, and approval of the owners of three-fourths (3/4) of its voting stock.

(g) Any public utility corporation upon the order of a majority of its board of directors and with the approval of the commission may acquire, purchase or lease any real or personal estate or other property of any other public utility not used and useful in the public service of such other public utility.

(h) Any public utility corporation, upon the order of a majority of its board of directors and with the approval of the commission, may sell and convey or lease to any other public utility corporation any of its real or personal estate or other property not used and useful in its public service.

(Formerly: Acts 1913, c.76, s.95.5; Acts 1925, c.54, s.2; Acts 1939, c.19, s.3; Acts 1973, P.L.61, SEC.1.) As amended by P.L.23-1988, SEC.25; P.L.1-1989, SEC.15; P.L.12-1992, SEC.57.

IC 8-1-2-85

Municipally owned utilities; securities; fee for issuance

Sec. 85. The commission shall charge every municipality receiving permission from it to issue any bonds, notes, or other securities an amount equal to twenty-five cents ($.25) for each one hundred dollars ($100) for such bonds, notes, or other securities, but in no case shall the fee be less than one hundred dollars ($100). All of such fees assessed hereunder shall be paid to the secretary of the commission within thirty (30) days of the receipt of the bond proceeds by the municipality and only if the bonds, notes, or other securities are issued. The fees collected by the secretary shall be paid into the state treasury and deposited in the commission public utility fund account established under IC 8-1-6, as if they were fees collected under IC 8-1-6.

(Formerly: Acts 1913, c.76, s.96; Acts 1925, c.71, s.1; Acts 1947, c.317, s.1; Acts 1969, c.260, s.2.) As amended by Acts 1982, P.L.74, SEC.2; P.L.23-1988, SEC.26.

IC 8-1-2-86

Second utility serving same area; declaration of public convenience and necessity

Sec. 86. (a) No license, permit, or franchise shall be granted to any person, copartnership, or corporation to own, operate, manage, or control any plant or equipment of any public utility in any municipality where there is in operation a public utility engaged in similar service under a license, franchise, or permit without first securing from the commission a declaration, after a public hearing, of all parties interested, that public convenience and necessity require such second public utility; provided, that any municipality may purchase, condemn, and operate, or construct and operate, a utility in such municipality for the purpose of transportation, production, transmission, delivery, sale, and furnishing of heat, light, water, and/or power to such municipality, and/or the public in and within six (6) miles of the limits of such municipality, without the

consent of said commission, although there is operating in said municipality a public utility engaged in a similar service under a license, franchise, or indeterminate permit.

(b) Any permit, license, or franchise in existence on May 1, 1913, which shall contain any term whatsoever interfering with the existence of a second public utility is hereby declared to be against public policy and is hereby amended in such manner as to permit a municipality to grant a license, franchise, or permit for the operation of such second public utility pursuant to the provisions of this chapter.

(Formerly: Acts 1913, c.76, s.97; Acts 1933, c.190, s.9.) As amended by P.L.59-1984, SEC.38.

IC 8-1-2-86.5
Repealed

(As added by P.L.79-1988, SEC.1. Amended by P.L.175-2007, SEC.10. Repealed by P.L.213-2014, SEC.3.)

IC 8-1-2-87
Gas utilities; necessity certificates; requirements

Sec. 87. (a) When used in this section, unless the context otherwise requires:

(1) The term "gas" means natural gas, artificial or manufactured gas, and mixed gas.

(2) The term "necessity certificate" means a certificate of public convenience and necessity issued by the commission pursuant to the provisions of this section, which certificate shall be deemed an indeterminate permit.

(3) The term "rural area" means territory within the state of Indiana that is outside the corporate limits of a municipality.

(4) The term "gas utility" means and includes any public utility selling or proposing to sell or furnish gas directly to any consumer or consumers within the state of Indiana for his, its or their domestic, commercial, or industrial use.

(5) The term "gas distribution service" means the furnishing or sale of gas directly to any consumer within the state of Indiana for his or its domestic, commercial, or industrial use.

(b) It is hereby declared that in order adequately to protect the public interest in the distribution of gas to consumers within the state of Indiana, it is necessary and desirable that to the extent provided in this section the holding of necessity certificates should be required as a condition precedent to the rendering of gas distribution service in rural areas of the state of Indiana.

(c) After February 26, 1945, no gas utility shall commence the rendering of gas distribution service in any rural area in the state of Indiana in which it is not actually rendering gas distribution service on February 26, 1945, without first obtaining from the commission a necessity certificate authorizing such gas distribution service,

defining and limiting specifically the rural area covered thereby, and stating that public convenience and necessity require such gas distribution service within such rural area by such gas utility; and no gas utility required by this section to hold a necessity certificate for any rural area shall render gas distribution service within such a rural area to any extent greater than that authorized by such necessity certificate or shall continue to render gas distribution service within such a rural area if and after such necessity certificate has been revoked or transferred as in this section provided.

(d) Whenever any gas utility proposes to commence the rendering of gas distribution service in any rural area in which it is not actually rendering such service on February 26, 1945, it shall file with the commission a verified application for a necessity certificate covering such service by it. The commission shall, by regulations, prescribe the form of application and such application shall conform to such prescribed form. Within a reasonable time after the filing of any such application, the commission shall fix a time and place for a public hearing thereon. Notice of such hearing shall be given in such manner and to such persons as is from time to time required by law or by the regulations of the commission. Such hearing shall be held in the manner prescribed for a hearing in sections 54 through 67 of this chapter, and the provisions of such sections so far as applicable shall apply to such hearing. Any person interested in such proceedings, including without limiting the generality of the foregoing any gas utility rendering gas distribution service within the general service area (including territory within and without municipalities) of which the rural area covered by the application may reasonably be deemed a part, shall be permitted to appear either in person or by attorney and offer evidence in support of or opposition to the application. The applicant shall, at all times, have the burden of proving by evidence each of the matters specified in this subsection as necessary to be found by the commission before a necessity certificate shall be issued by it. If the commission shall find from the evidence, including such evidence, if any, as the commission may cause to be introduced as a result of any investigation which it may have made relative to the matter, that the applicant therefor has lawful power and authority to obtain such necessity certificate and to render the proposed gas distribution service if it obtains such certificate, that he or it has the financial ability to provide the proposed gas distribution service, that public conveyance and necessity require the rendering of the proposed gas distribution service, and that the public interest will be served by the issuance of the necessity certificate to him or it, the application shall be granted, subject to such terms, restrictions, and limitations as the commission shall determine to be necessary and desirable in the public interest; otherwise the application shall be denied.

(e) Upon approval by the commission given after notice and public hearing given and held in the manner provided for in

subsection (d) in cases of applications for necessity certificates, but not otherwise, any necessity certificate may:

(1) be sold, assigned, leased, or transferred by the holder thereof to any person, firm, or corporation to whom a necessity certificate might be lawfully issued; or

(2) be included in the property and rights encumbered under any indenture of mortgage or deed of trust of such holder.

(f) Any necessity certificate may, upon application by the holder to the commission, be revoked by the commission, in whole or in part, after notice given and hearing held in the manner provided for in subsection (d). Any necessity certificate may, after notice given and hearing held in the manner provided for in subsection (d), be revoked by the commission, in whole or in part, for the failure of the holder to comply with any applicable order, rule, or regulation prescribed by the commission in the exercise of its powers under this chapter, or with any term, condition, or limitation of such necessity certificate.

(Formerly: Acts 1913, c.76, s.97a; Acts 1945, c.53, s.1.) As amended by P.L.59-1984, SEC.39; P.L.8-1993, SEC.112.

IC 8-1-2-87.5

Transportation of gas; necessity certificate; application; public hearing; grounds for granting certificate; revocation

Sec. 87.5. (a) For purposes of this section, "transportation of gas" means physical transmission, exchange, backhaul, displacement, or any other means of transporting gas, including gathering.

(b) Any person, corporation, or other entity that:

(1) is engaged in the transportation of gas from outside Indiana for direct sale or delivery to any end use consumer or consumers within this state;

(2) is engaged in the transportation of gas solely within this state on behalf of any end use consumer or consumers; or

(3) is an end use consumer engaged in the transportation within this state of gas owned or acquired by such end use consumer for use in this state, other than transportation on the premises where the gas is consumed;

is a public utility as defined in section 1 of this chapter and must obtain a necessity certificate from the commission before it may engage in any activities described in this subsection. This subsection does not apply to a gas utility operating pursuant to an indeterminate permit or necessity certificate issued under section 87 of this chapter, nor to the production, sale, and gathering of natural gas produced in Indiana.

(c) As a condition for receiving the necessity certificate, such person, corporation, or entity desiring to engage in the activities described in subsection (b) shall file an application with the commission. The commission shall hold a public hearing on the application and provide notice in accordance with IC 8-1-1-8. The

commission shall prescribe the form of the application, the procedure for the hearing, and the parties to whom notice is to be sent.

(d) Any interested person, including any gas utility authorized to render gas distribution service within the service area covered by the application, may appear either in person or by attorney and offer evidence in support of or in opposition to the application. The applicant has the burden of proving each of the matters specified in this section. The commission may conduct an investigation and introduce any evidence obtained as a result of the investigation at the hearing.

(e) The commission shall grant the necessity certificate only if the commission has found from the evidence that:

(1) the applicant has the power and authority to obtain the certificate and render the requested service;

(2) the applicant has the financial ability to provide the requested service;

(3) public convenience and necessity require the providing of the requested service giving consideration to the availability of gas service from any gas utility authorized to serve end use customers within the geographic area covered by the application; and

(4) the public interest will be served by the issuance of the necessity certificate.

(f) The commission may revoke a necessity certificate in whole or in part after a public hearing is held if:

(1) the holder fails to comply with any applicable order or rule prescribed by the commission;

(2) the holder fails to comply with any term, condition, or limitation of the necessity certificate; or

(3) the holder requests the commission to revoke the necessity certificate.

(g) An end use consumer determined to be a public utility under subsection (b) may not exercise the power of eminent domain granted under IC 8-1-8. The limitations contained in sections 76 through 81 of this chapter do not apply to issues of stock or certificates of stock, bonds, notes, or other evidence of indebtedness issued by an end use consumer determined to be a public utility under subsection (b).

(h) This section applies to sales or transportation of natural gas to end users under contracts or agreements entered into after May 31, 1985. It does not apply to sales or transportation of natural gas to end users under contracts or agreements entered into before June 1, 1985, or any renewals or extensions of those contracts or agreements.

As added by P.L.89-1985, SEC.1.

IC 8-1-2-87.6

Exemption of Indiana produced natural gas; petition and hearing on rates for purchase or transport

Sec. 87.6. (a) Except as provided in this section, the production, gathering, sale, or transportation of Indiana produced natural gas is exempt from this chapter.

(b) Any person, corporation, or other entity engaged in the production, gathering, sale, or transportation of natural gas produced in Indiana may petition the commission to:

(1) require a gas utility certified under section 86 or 87 of this chapter to purchase or transport Indiana produced natural gas owned by the petitioning entity; and

(2) set the rates for the purchase or transportation of that gas.

(c) Upon receiving a petition under subsection (b), the commission may order the gas utility to transport or purchase the gas, and shall conduct a public hearing to set the purchase or transportation rates. The commission may only require the purchase or transportation of Indiana produced natural gas that:

(1) is of pipeline quality and reliability; and

(2) is to be delivered to a facility of the transporting or purchasing local distribution company that has adequate capacity to accept and transport the volume of gas involved.

The commission shall provide notice of the hearing in accordance with IC 8-1-1-8. The commission shall prescribe the form of the petition, the procedures for the hearing, and the parties to whom notice is to be sent.

(d) If the sale of Indiana produced natural gas to an end use consumer for consumption in the franchise territory of a gas utility with less than five thousand (5,000) customers detrimentally affects the other end use consumers in the utility's franchise territory, the utility may petition the commission to require the seller to instead sell the gas to that utility at a rate and under terms and conditions set by the commission.

(e) Any interested party may appear at a hearing conducted under subsections (c) and (d) either in person or by attorney and offer evidence in support of or in opposition to the petition. The commission may conduct an investigation and introduce any evidence obtained as a result of the investigation at the hearing.

(f) The commission may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.81-1986, SEC.1.

IC 8-1-2-87.7

Gas utilities; tariffs; reasonableness factors

Sec. 87.7. (a) The commission may, on its own motion or upon petition of any customer, and after appropriate notice and hearing, order any gas utility subject to its jurisdiction to file or change one (1) or more gas transportation tariffs to better meet the needs of the utility's customers.

(b) The commission shall determine and set reasonable rates, terms, and conditions in the tariffs. In determining what is

reasonable, the commission may consider the following:

(1) The cost of providing the transportation service according to generally accepted cost of service principles.

(2) The effects of the service on the consumers to whom it would be available.

(3) The effects of the service on the industrial development of the state.

(4) The effects of the transportation rate upon current customers of the utility.

(5) The extent to which a transportation rate will aid the utility in retaining its existing load or create opportunities to lower the cost of gas supplies purchased on behalf of all ratepayers.

(6) Whether or not the proposed tariff is a negotiated tariff between the utility and its customers.

(7) The extent to which the availability of transportation services under the proposed tariff is restricted.

(8) Any other factors bearing upon the tariff resulting from decisions of the Federal Energy Regulatory Commission, other rulings of the commission, or applicable case law.

(9) The effect of contract obligations on the utility relating to unavoidable gas costs for which the utility will be responsible.

(10) Whether or not the amount of transportation offered under the proposed tariff is limited other than for reasons necessitated by operational constraints.

(11) Any other factors the commission considers appropriate.

As added by P.L.117-1987, SEC.1.

IC 8-1-2-88
Repealed

(Formerly: Acts 1913, c.76, s.97b; Acts 1951, c.158, s.1; Acts 1971, P.L.82, SEC.1. As amended by P.L.118-1987, SEC.1; P.L.8-1993, SEC.113. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-2-88.5
Repealed

(As added by P.L.80-1988, SEC.1. Amended by P.L.77-1996, SEC.1; P.L.78-1997, SEC.1. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-2-88.6
Access charges for interconnection to local exchange facilities

Sec. 88.6. (a) As used in this section, "telephone company" means any individual, firm, partnership, cooperative organization, unincorporated association, or corporation engaged in the business of furnishing telecommunications service.

(b) Access charges paid by an interexchange carrier for interconnection to local exchange facilities must be reasonable as determined by the commission. A local exchange provider may not make or grant any undue preference or advantage concerning its

pricing and provision of access to any telephone company providing interexchange telecommunications service.
As added by P.L.81-1988, SEC.1.

IC 8-1-2-88.7
Telephone companies that are REA borrowers; rates sufficient to repay financial assistance

Sec. 88.7. (a) As used in this section, "financial assistance" means:

(1) a loan or loan guarantee; or

(2) a lien accommodation provided to secure a loan made by another lender;

that is made by the Rural Electrification Administration of the United States Department of Agriculture (REA) or by the Rural Telephone Bank.

(b) As used in this section, "REA borrower" means a telephone company subject to this chapter that is the recipient of financial assistance.

(c) An REA borrower shall charge rates sufficient to enable the REA borrower to:

(1) satisfy its reasonable expenses and obligations; and

(2) earn a rate of return on the property sufficient to cover the REA borrower's cost of capital, including any financial assistance and the interest thereon.

(d) So long as there remains any unpaid portion of any financial assistance associated with the property of an REA borrower, the rates of the REA borrower shall be set at a level sufficient to repay the financial assistance regardless of any change in the status of the property, including the full or partial retirement of the property or any other change in the status of the property.
As added by P.L.74-1991, SEC.1. Amended by P.L.27-2006, SEC.5.

IC 8-1-2-89
Sewers and sewer systems; certificate of territorial authority; municipal or county acquisition and operation

Sec. 89. (a) As used in this section, unless the context otherwise requires, the following terms have the following meanings:

(1) "Sewage disposal service" means any public utility service whereby liquid and solid waste, sewage, night soil, and industrial waste of any single territorial area is collected, treated, purified, and disposed of in a sanitary manner, and includes all sewage treatment plant or plants, main sewers, submain sewers, local and lateral sewers, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and all other equipment and appurtenances necessary or useful and convenient for the rendition of such service.

(2) "Sewage disposal company" means any natural person, firm, association, corporation, or partnership owning, leasing, or

operating any sewage disposal service within the rural areas of this state, and all provisions of this chapter pertaining to a public utility shall apply with equal force and effect to a sewage disposal company, except insofar as said provisions may be inconsistent with specific provisions of this section.

(3) "Rural area" means territory lying within the state of Indiana and lying outside the corporate limits of a municipality.

(4) "Certificate of territorial authority" means a certificate of convenience and necessity issued by the commission pursuant to this section, which said certificate shall be deemed an indeterminate permit, unless expressly conditioned otherwise by the commission when issued.

(5) "Notice of hearing" means notice of the time, place, and purpose of a hearing, given by publication in at least one (1) newspaper of general circulation in each of the counties in which the particular sewage disposal company operates or proposes to operate and given also in writing by United States registered mail:

(A) to each other sewage disposal company operating in territory contiguous to the territory in which the particular sewage disposal company operates or proposes to operate;

(B) to each municipality in territory contiguous and nearest to the territory in which the particular sewage disposal company operates or proposes to operate; and

(C) to such other persons or entities which the commission may from time to time require by its rules and forms;

all such notices shall be so mailed as to be received by the recipients at least ten (10) days prior to any hearing, or as otherwise required by the commission.

(b) It is hereby declared to be in the public interest to provide for the orderly development and rendering of sewage disposal service in rural areas within the state of Indiana, and such public interest makes it necessary and desirable that to the extent provided herein the holding of a certificate of territorial authority should be required as a condition precedent to the rendering of such service, and that such operation be under the control, regulation, and supervision of the commission, and such sewage disposal companies shall not be subject to regulation by any municipality or county government or metropolitan regulatory body, or any branch or subdivisions thereof or substitute therefor in the form of special service districts, with the exception that said sewage disposal company shall be subject to the comprehensive plan, zoning, and subdivision requirements and regulations of the governmental units having jurisdiction in the area. However, all functions, powers, and duties of the state department of health and the environmental rules board shall remain unaffected by this section.

(c) No sewage disposal company shall commence the rendering of sewage disposal service in any rural area in the state of Indiana in

which it is not actually rendering sewage disposal service, without first obtaining from the commission a certificate of territorial authority authorizing such sewage disposal service, finding that public convenience and necessity require such sewage disposal service within such rural area by such sewage disposal company, and defining and limiting specifically the rural area covered thereby. No sewage disposal company hereby required to hold such a certificate shall render any additional sewage disposal service within such rural area to any extent greater than that authorized by such certificate or shall continue to render sewage disposal service within such rural area if and after such certificate of territorial authority has been revoked or transferred as in this section provided, unless in such order of revocation or transfer the commission shall require continued service until a new sewage disposal company or municipality actually takes over such service. The commission shall not have the power to require extension of such service by any sewage disposal company into any additional territory than that defined and limited in such a certificate without the consent of such sewage disposal company.

(d) Whenever any sewage disposal company proposes to commence the rendering of sewage disposal service in any rural area, it shall file with the commission a verified application for a certificate of territorial authority to cover the proposed service. The commission shall by rule prescribe the form of the application and the information to be contained therein, and such application by any such company shall conform to such prescribed form. The commission shall set the matter for hearing and notice of such hearing shall be given to the parties and in the manner defined in this section. Any city may, and upon petition to the commission shall, be made a party to any service proposal if its territorial limits lie within five (5) miles of the area to be serviced under this section.

(e) If, after notice of hearing and hearing on any application for a certificate of territorial authority, the commission shall find from the evidence introduced at such hearing, including any evidence which the commission shall have caused to be introduced as a result of any investigation which it may have made into the matter, that the applicant has proved:

(1) lawful power and authority to apply for said certificate and to operate said proposed service;

(2) financial ability to install, commence, and maintain said proposed service; and

(3) public convenience and necessity require the rendering of the proposed service in the proposed rural area by this particular sewage disposal company; however, in the event the service is proposed for a proposed rural real estate addition, division, or development, or any part thereof, the reasonably expected sewage disposal service requirements of the anticipated residents may be found to constitute such public convenience

and necessity;

then the certificate of territorial authority, defining and limiting the rural area to be covered thereby, shall be granted to the applicant, subject to such terms, restrictions, limitations, and conditions, including but not limited to a reasonable time in which to commence operations, as the commission shall determine to be necessary and desirable in the public interest.

(f) In cases of applications filed by two (2) or more sewage disposal companies seeking the issuance of a certificate of territorial authority for the same area or areas or any conflicting portions thereof, the commission may either consider such applications separately or by consolidation of two (2) or more or all within a single hearing at its discretion and shall have the power to issue its certificate after notice of hearing and hearing to any single qualified sewage disposal company for a particular rural area, or, in the event that the commission determines and finds that two (2) or more or all applicants seeking the same area or areas or any conflicting portions thereof are both or all qualified, then the commission shall have the power to determine which is the better or best qualified, or whether the same area or areas or any conflicting portions thereof shall be divided between or among such qualified applicants. However, in no event shall such area or areas or portions thereof be greater than that for which the particular applicant applied, unless such sewage disposal company shall consent and agree in writing to such modification of its application and the issuance of such modified certificate.

(g) After the issuance of such certificate, no other sewage disposal company shall render sewage disposal service in the area or areas so determined and so defined in any certificate of territorial authority issued by the commission, except after notice of hearing and hearing, and the determination and finding by the commission that public convenience and necessity require that sewage disposal service in said same area or areas be also rendered or offered by an additional or another company, and the issuance of a certificate duly granted by the commission as provided in this section.

(h) A sewage disposal company shall be required to furnish reasonable adequate sewage disposal services and facilities for which said service and facilities it shall be entitled to charge reasonable, nondiscriminatory rates, subject to the jurisdiction of the commission for the purpose of fixing said rates to be charged to patrons of such sewage disposal company for sewage disposal service, and for such purpose the commission is given jurisdiction to proceed in the same manner and with like power as is provided by this chapter in the case of public utilities.

(i) To encourage the installation of sewage treatment plants, and sewers, mains, stations, and all other equipment and appurtenances for rendering sewage disposal service in rural areas in close proximity to municipalities, and to ensure that a sewage disposal

company which had made such installation in such area can recover the cost of its investment, in the event that the area or areas or any part thereof included within the territory granted under a certificate of territorial authority shall be annexed by any municipality at any time within twelve (12) years from the date that such certificate was granted, a sewage disposal company operating under such certificate shall continue to operate under such certificate of territorial authority, subject to the exclusive jurisdiction and regulation of the commission, for the unexpired portion of such period of twelve (12) years from the date of granting such certificate, or, in the case of a determinate permit specifying a term shorter than twelve (12) years, then for the unexpired portion of such lesser period as specified by such permit from the date of granting such permit. However, the foregoing provisions in regard to continued operation within the corporate limits of a municipality after annexation shall not affect the right of the sewage disposal company to cease its operation of providing sewage disposal service within such annexed territory prior to the termination of said twelve (12) year or lesser determinate permit period, upon thirty (30) days written notice to the commission, the municipality, and all patrons.

(j) Upon approval by the commission given after notice of hearing and hearing, but not otherwise, any certificate of territorial authority may:

(1) be sold, assigned, leased, or transferred by the holder thereof to any sewage disposal company to which a territorial certificate might be lawfully issued; or

(2) be included in the property and rights encumbered under any indenture of mortgage or deed of trust of such holder;

or any sewage treatment plant or plants, sewers, mains, stations, and equipment and appurtenances for the rendering of sewage disposal service, or any part thereof, may be sold, assigned, leased, or transferred by the holder thereof to any municipality if these assets lie within an area which shall have been annexed by such municipality or lie within the given radius of miles from the corporate limits of such municipality into which it is authorized to render such services, if such municipality is prepared to render a comparable sewage disposal service without loss of continuity of service, and if the terms of such sale, assignment, lease, or transfer are reasonable. However, once the commission has given its approval to such transaction and the transaction itself is actually consummated, the commission shall have no control over the sewage disposal service henceforth rendered by such municipality as a municipally owned utility (as defined in this chapter).

(k) Any certificate of territorial authority may, after notice of hearing and hearing, be revoked by the commission, in whole or in part, for the failure of the holder thereof to furnish reasonably adequate sewage disposal service within the area or areas determined and defined in such certificate of territorial authority, or for the

failure of the holder thereof to comply with any applicable order or rule prescribed by the commission in the exercise of its powers under this chapter, or for failure to comply with any term, condition, or limitation of such certificate of territorial authority.

(l) After the commission revokes any certificate of territorial authority under subsection (k) or after the county board of health determines the existence of a serious health problem related to the sewage disposal facility, the county commissioners of the county in which the sewage disposal facility is located may acquire the facility, subject to the approval of the acquisition by the county council, except that the county commissioners may not acquire any facility already acquired by any city or town. The county commissioners shall acquire the sewage disposal facility by:

(1) gift, grant, purchase, or condemnation that is funded in the same manner that cities and towns fund sewage treatment acquisitions under IC 36-9; or

(2) a lease arrangement that is funded in the same manner that cities and towns fund leases of sewage disposal facilities under IC 36-9.

After acquisition, the county commissioners shall repair, operate, and maintain the sewage disposal facility and charge user fees for these services.

(Formerly: Acts 1913, c.76, s.97c; Acts 1957, c.313, s.2.) As amended by Acts 1976, P.L.25, SEC.1; Acts 1981, P.L.11, SEC.41; P.L.143-1985, SEC.186; P.L.23-1988, SEC.27; P.L.2-1992, SEC.76; P.L.113-2014, SEC.15.

IC 8-1-2-90
Repealed

(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-91
Grant of licenses, permits, or franchises; state corporations or citizens

Sec. 91. No license, permit or franchise to own, operate, manage or control any plant or equipment of any public utility shall be hereafter granted or transferred except to a corporation duly organized under the laws of the state of Indiana or to a citizen of such state.

(Formerly: Acts 1913, c.76, s.99.)

IC 8-1-2-92
Indeterminate licenses, permits, or franchises; purchase or condemnation by municipality

Sec. 92. (a) Every license, permit, or franchise granted after April 30, 1913, to any public utility shall have the effect of an indeterminate permit subject to the provisions of this chapter, and subject to the provisions that:

(1) the license, franchise, or permit may be revoked by the commission for cause; or

(2) except as provided in IC 8-1-30-6, the municipality may purchase or condemn the property as provided in IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable.

A municipality that is authorized to purchase property and a public utility that is required to sell the property under subdivision (2) shall do so at the value and according to the terms and conditions as provided in IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable.

(b) If this chapter should be repealed or annulled, then all such indeterminate franchises, permits, or grants shall cease and become inoperative, and in place thereof such utility shall be reinstated in the possession and enjoyment of the license, permit, or franchise surrendered by such utility at the time of the issue of the indeterminate franchise, permit, or grant; but in no event shall such reinstated license, permit, or franchise be terminated within a less period than five (5) years from the date of the repeal or annulment of this chapter.

(Formerly: Acts 1913, c.76, s.100; Acts 1933, c.190, s.11.) As amended by P.L.59-1984, SEC.40; P.L.172-2009, SEC.1; P.L.270-2013, SEC.1.

IC 8-1-2-93

Acceptance of indeterminate licenses, permits, or franchises; effect

Sec. 93. (a) This section does not apply to a public utility that provides water or sewer utility service unless:

(1) the commission makes a finding under IC 8-1-30-4; and

(2) the procedures and requirements of IC 8-1-30 have been complied with and satisfied.

(b) Notwithstanding subsection (a), this section does apply to the following:

(1) A public utility to the extent that the public utility provides water or sewer utility service in or contiguous to a municipality that, as of July 1, 2012, had established and operated a water utility.

(2) An action brought under:

(A) section 92 of this chapter;

(B) this section; or

(C) IC 8-1.5-2;

before March 1, 2013.

(c) Any public utility accepting or operating under any indeterminate license, permit, or franchise granted after April 30, 1913, shall by acceptance of any such indeterminate license, permit, or franchise be deemed to have consented to a future purchase or condemnation of its property including property located in contiguous territory within six (6) miles of the corporate limits of such municipality by the municipality in which such utility is located, at the value and under the terms and conditions as provided

in IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable, and shall thereby be deemed to have waived the right of requiring the necessity of such taking to be established by the judgment of a court, and to have waived all other remedies and rights relative to condemnation, except such rights and remedies as are provided in IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable, and shall have been deemed to have consented to the revocation of its license, permit, or franchise by the commission for cause.
(Formerly: Acts 1913, c.76, s.102; Acts 1933, c.190, s.12.) As amended by P.L.59-1984, SEC.41; P.L.172-2009, SEC.2; P.L.270-2013, SEC.2.

IC 8-1-2-94
Repealed
(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-94.1
Repealed
(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-95
Repealed
(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-95.1
Electric utilities; eminent domain against electric utility property prohibited
Sec. 95.1. Notwithstanding any other provision of this chapter, after February 29, 1980, a municipality, public utility, or corporation organized under IC 8-1-13 may not bring any action in the circuit or superior court of any county against any corporation organized under IC 8-1-13 or any public utility as defendant for the condemnation of its electric utility property for the use of the property in providing electric utility service.
As added by Acts 1980, P.L.69, SEC.2.

IC 8-1-2-96
Repealed
(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-97
Repealed
(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-98
(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-99

Repealed

(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-100

Repealed

(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-101

Municipal regulations; county executive's power; relocation of facilities

Sec. 101. (a) Every municipal council or county executive shall have power:

(1) To determine by ordinance the provisions, not inconsistent with this chapter or IC 8-1-11.1, upon which a public utility or department of public utilities created under IC 8-1-11.1 occupies the areas along, under, upon, and across the streets, highways, or other public property within such municipality or county, and such ordinance or other determination of such municipality or county executive shall be in force and prima facie reasonable. Upon complaint made by such public utility, department of public utilities, or by any qualified complainant, as provided in section 54 of this chapter, the commission shall set a hearing, as provided in sections 54 to 67 of this chapter, and if it shall find such ordinance or other determination to be unreasonable, such ordinance or other determination shall be void.

(2) To require of any public utility, by ordinance, such additions and extensions to its physical plant within said municipality or county as shall be reasonable and necessary in the interest of the public, and to designate the location and nature of all such additions and extensions, the time within which they must be completed, and all conditions under which they must be constructed, subject to review by the commission as provided in subdivision (1).

(3) To provide for a penalty for noncompliance with the provisions of any ordinance or resolution adopted pursuant to the provisions of this section.

(4) The power and authority granted in this section shall exist and be vested in said municipalities or county executives, anything in this chapter to the contrary notwithstanding.

Provided, however, whenever, after a request by petition in writing of any public utility, department of public utilities, the city, or other political subdivision or other body, having jurisdiction of the matter, shall refuse or fail, for a period of thirty (30) days, to give or grant to such public utility or department of public utilities permission and authority to construct, maintain, and operate any additional construction, equipment, or facility, reasonably necessary for the transaction of the business of such public utility or department of

public utilities and for the public convenience or interest, then such public utility or department of public utilities may file a petition with said commission for such right and permission, which petition shall state, with particularity, the construction, equipment, or other facility desired to be constructed and operated, and show a reasonable public necessity therefor, and also the failure or refusal of such city, political subdivision, or other body to give or grant such right or permission; and the commission shall thereupon give notice of the pendency of such petition, together with a copy thereof, to such city or other political subdivision or body, and of the time and place of hearing of the matter set forth in such petition; and such commission shall have power to hear and determine such matters and to give or grant such right and permission and to impose such conditions in relation thereto as the necessity of such public utility or department of public utilities and the public convenience and interest may reasonably require. Provided, further, that when the relocation by a public utility or department of public utilities of any of its construction, equipment, or facility located within the corporate limits of two (2) or more adjoining cities is reasonably necessary for the public convenience or interest, and any or either of said cities fail or refuse to give or grant to such public utility or department of public utilities permission and authority to relocate such construction, equipment, or facility, any municipality which has given or granted to such public utility or department of public utilities permission and authority to relocate such construction, equipment, and facility, the public utility or department of public utilities may file a petition with said commission for such right and permission to which petition the city or cities failing or refusing to give or grant the same shall be made a respondent, and such public utility or department of public utilities if not the petitioner shall also be made a respondent, and said commission shall have power to hear and determine such matter and to give or grant such right and permission and to impose such conditions in relation thereto as the public convenience and interest may reasonably require; and if said commission shall give or grant such right and permission, no further public authority to make such relocation as authorized or to go on any street, alley, road, or highway in said city or cities necessary to be used therefor shall be required of said public utility or department of public utilities. All orders entered before June 30, 1931, by the commission in cases within the provisions of this section are hereby declared legal and valid.

(b) Subject to the commission's authority under subsection (a)(1) with respect to an unreasonable ordinance or other determination, the municipality or county executive may operate and maintain the streets, highways, and other public property in the municipality or county for the safety of the traveling public, and a municipality or county executive may manage the public right-of-way or require by ordinance fair and reasonable compensation on a competitively

neutral and nondiscriminatory basis for occupation of the public right-of-way on a nondiscriminatory basis, including occupation by the municipality or county executive, if the compensation required is publicly disclosed by the municipality or county executive. Fair and reasonable compensation may not exceed the municipality's or county executive's direct, actual, and reasonably incurred costs of managing the public right-of-way caused by the public utility's or department of public utilities' occupancy. The management costs, which the municipality or county executive shall assign individually to the public utility or department of public utilities creating the management costs, must be limited to the direct, actual, and reasonably incurred costs a municipality or county incurs in managing the public right-of-way. As used in this section, the term "management costs" includes but is not limited to the costs to the municipality or county of the following:

(1) Registering occupants.

(2) Verifying public right-of-way occupation.

(3) Inspecting job sites and restoration projects.

(4) Restoring work inadequately performed after providing notice and the opportunity to correct the work.

(5) Administering a reasonable restoration ordinance that ensures that a public utility or department of public utilities adequately restores the right-of-way as near as is reasonably possible to the right-of-way's original condition.

(6) Management costs associated with the implementation of an ordinance adopted under this section.

However, as used in this section, direct, actual, and reasonably incurred management costs do not include rents, franchise fees, or any other payment by a public utility or department of public utilities for occupation of the public right-of-way. As used in this section, the term "public right-of-way" does not include the airwaves above the streets, highways, or other public property within the municipality or county as those airwaves are used for cellular or other nonwire telecommunications or broadcast service.

(c) A municipality or county executive may not unreasonably delay a public utility's or department of public utilities' access to or use of a street, highway, or other public property within the municipality or county. However, subsection (a)(1) and this subsection do not limit a municipality or county executive's right to advance notification of and review of a public utility's or department of public utilities' occupation of a street, highway, or other public property within the municipality or county to ensure and protect the safety of the public.

(d) Nothing in this section may be construed to affect franchise agreements between a cable company and a municipality or county. *(Formerly: Acts 1913, c.76, s.110; Acts 1931, c.126, s.1.) As amended by P.L.59-1984, SEC.42; P.L.127-1998, SEC.1.*

IC 8-1-2-102
Political influence or activities; free or reduced rates or charges for products or services; violations; offense

Sec. 102. (a) The definitions set forth in IC 3-5-2 apply to this section.

(b) No public utility, or any agent or officer thereof, or any agent or officer of a political subdivision constituting a public utility, as defined in this chapter, may offer or give, for any purpose, to any political committee or any member or employee thereof, candidate for, or incumbent of, any office or position under the constitution or laws of Indiana, or under any political subdivision or to any person, at the request, or for the advantage of, any of them, any frank, privilege, or property withheld from any person for any product or service produced, transmitted, delivered, furnished, or rendered, or to be produced, transmitted, delivered, furnished, or rendered by any public utility or any free product or service.

(c) No political committee, or member or employee thereof, or candidate for or incumbent of any office or position under the constitution or laws of Indiana or under any political subdivision may ask for or accept from any public utility, or any agent or officer thereof, or any agent or officer of any political subdivision constituting a public utility, as defined in this chapter, or use, in any matter or for any purpose, any frank or privilege withheld from any person for any product or service produced, transmitted, delivered, furnished, or rendered, or to be produced, transmitted, delivered, furnished, or rendered by any public utility.

(d) A person who knowingly violates this section commits a Level 6 felony.

(e) This chapter does not:

(1) prevent any public utility, carrier, or agent or officer thereof, from furnishing free or reduced service or transportation to any bona fide employee or officer thereof;

(2) prohibit any carrier from carrying free, or at reduced rates, agricultural experiment and demonstration cars or trains and the lecturers and necessary demonstrators accompanying such trains or cars; or

(3) prohibit any carrier from carrying free, or at reduced rates, its furloughed, pensioned, or superannuated employees, persons who have become disabled or infirm in its service, the remains of any person killed in its service, or the unremarried surviving spouses and dependent children under eighteen (18) years of age of persons who died in its service.

(Formerly: Acts 1913, c.76, s.111; Acts 1915, c.95, s.1; Acts 1973, P.L.63, SEC.1; Acts 1975, P.L.76, SEC.1.) As amended by Acts 1978, P.L.2, SEC.802; P.L.3-1997, SEC.424; P.L.158-2013, SEC.131.

IC 8-1-2-103
Rates and charges; discriminatory overcharges and undercharges;

offense; free service or special rate exceptions

Sec. 103. (a) No public utility, or agent or officer thereof, or officer of any municipality constituting a public utility, as defined in this chapter, may charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered, or for any service in connection therewith, than that prescribed in the published schedules or tariffs then in force or established as provided herein, or than it charges, demands, collects, or receives from any other person for a like and contemporaneous service. A person who recklessly violates this subsection commits a Class A misdemeanor.

(b) Notwithstanding subsection (a), if a city of less than twenty thousand (20,000) in population according to the most recent federal decennial census, constituting a public water utility, and acting as a public utility prior to May 1, 1913, either as such city, or by any commercial association, chamber of commerce, or committee with the consent of such city, entered into any agreement with any person engaged in manufacturing any articles of commerce to furnish free water for a certain limited time as an inducement to such person so engaged in manufacturing to locate the establishment or manufacturing plant of such person within such city, such city may carry out such agreement to furnish free water to such person for the period of time remaining, as stipulated in such contract. This chapter does not prohibit any public utility from supplying or furnishing free service or service at special rates to any municipality, or any institution or agency of such municipality, in cases where the supplying or furnishing of such free service or service at special rates is stipulated in any provision of the franchise under which such public utility was operating before May 16, 1919, or, in the event that such franchise shall have been surrendered, from supplying or furnishing such free service or service at special rates until such time as the franchise would have expired had it not been surrendered under this chapter; and it shall be the duty of any utility operating under any franchise, stipulating for free service or service at special rates to the municipality, or any institution or agency of such municipality, to furnish such free service or service at special rates.

(c) This subsection applies to a public utility that provides water for public fire protection services in both a county containing a consolidated city and in portions of counties that are adjacent to the county containing a consolidated city. This subsection applies throughout the territory served by the public utility. In the case of a public utility furnishing water and beginning on January 1, 1994, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of the customers of the public utility. However, the construction cost of any fire hydrant installed after December 31, 1993, at the request of a municipality, township, county, or other governmental unit shall be paid for by or on behalf

of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by this section shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

(1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed after December 31, 1993; and

(2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:

(A) the revenues lost from the elimination of such fire protection charges; divided by

(B) the current number of equivalent five-eighths (5/8) inch meters.

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the public utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective January 1, 1994.

(d) This subsection applies to a public utility or a municipally owned water utility that is not subject to subsection (c). Except as provided in subsection (e), in the case of a public utility or municipally owned water utility furnishing water, if the governing body of any municipality within the service area of the utility adopts an ordinance providing that costs shall be recovered under this subsection, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of all customers of the utility within the municipality. However, on or after a date specified in the ordinance, the construction cost of any fire hydrant installed at the request of a municipality, township, county, or other governmental unit that adopts an ordinance under this subsection shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by the ordinance shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

(1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed on and after the date specified in the ordinance; and

(2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:

(A) the revenues lost from the elimination of such fire protection charges; divided by

(B) the current number of equivalent five-eighths (5/8) inch

meters.

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective on a date specified in the ordinance.

(e) This subsection applies to a municipally owned water utility in a city having a population of more than fifty thousand (50,000) but less than fifty-one thousand (51,000). The city may adopt a plan to recover costs as described in subsection (d) without passing an ordinance, if the plan applies only to customers of the utility residing in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). If the city wishes to adopt such a plan, the city shall file a new schedule of rates with the commission, but is not subject to commission approval of the rates.

(f) In the case of a change in the method of recovering public fire protection costs under an ordinance adopted under subsection (d):

(1) on or after July 1, 1997, a customer of the utility located outside the limits of a municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) must be excluded from the increase in rates attributable to the change and must not be included in the number of equivalent five-eighths (5/8) inch meters for purposes of subsection (d)(2)(B); or

(2) before July 1, 1997, the commission may:

(A) in the context of a general rate proceeding initiated by the utility; or

(B) upon petition of:

(i) the utility;

(ii) the governmental unit that passed the ordinance; or

(iii) an affected customer;

prospectively exclude public fire protection costs from the rates charged to customers located outside the limits of any municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) if the commission authorizes a simultaneous increase in the rates of the utility's other customers to the extent necessary to prevent a loss of revenues to the utility.

An increase in the rates of the utility's other customers under subdivision (2) may not be construed to be a general increase in basic rates and charges of the utility and is not subject to the hearing requirements applicable to general rate proceedings. This subsection does not prohibit the commission from adopting different methods of public fire protection cost recovery for unincorporated areas after

notice and hearing within the context of a general rate proceeding or other appropriate proceeding.
(Formerly: Acts 1913, c.76, s.112; Acts 1915, c.137, s.1; Acts 1919, c.168, s.1.) As amended by Acts 1977, P.L.2, SEC.37; Acts 1978, P.L.2, SEC.803; Acts 1981, P.L.44, SEC.6; P.L.93-1993, SEC.1; P.L.79-1997, SEC.1; P.L.80-1997, SEC.1; P.L.2-1998, SEC.33; P.L.170-2002, SEC.57; P.L.176-2002, SEC.5; P.L.119-2012, SEC.82.

IC 8-1-2-104
Rates and charges; undercharges by furnishing facilities to utility prohibited; exception

Sec. 104. It shall be unlawful for any public utility or any municipally-owned utility to demand, charge, collect or receive from any person, firm, limited liability company, or corporation, less compensation for any service rendered or to be rendered by said public or municipally-owned utility in consideration of the furnishing by said person, firm, limited liability company, or corporation of any part of the facilities incident thereto. However, nothing herein shall be construed as prohibiting any such public utility or municipally-owned utility from renting any facilities incident to its business.
(Formerly: Acts 1913, c.76, s.113; Acts 1933, c.190, s.20.) As amended by P.L.8-1993, SEC.114.

IC 8-1-2-105
Rates and charges; discrimination; penalty; exceptions

Sec. 105. (a) No public utility may make or give any undue or unreasonable preference or advantage to any person, or subject any person to any undue or unreasonable prejudice or disadvantage in any respect. A person who violates this section commits a Class B infraction.

(b) Nothing in this chapter shall prevent any public utility from furnishing service free or at reduced rates to any of its employees and officers or retired employees and officers or from providing energy assistance to a heating assistance program administered under IC 4-4-33 to persons eligible for that assistance.
(Formerly: Acts 1913, c.76, s.114; Acts 1917, c.161, s.1; Acts 1967, c.2, s.1.) As amended by Acts 1978, P.L.2, SEC.804; Acts 1979, P.L.18, SEC.3; P.L.384-1987(ss), SEC.7; P.L.3-1989, SEC.50; P.L.2-1992, SEC.77; P.L.181-2006, SEC.47.

IC 8-1-2-106
Rates and charges; undercharges by rebates or concessions prohibited; offense

Sec. 106. It is a Class B infraction for a person knowingly to solicit, accept, or receive any rebate, concession, or discrimination in respect to any service in or affecting or relating to any public

utility or for any service in connection therewith, whereby any such service is rendered free or at a less rate than that named in the published schedules and tariffs in force as provided herein, or whereby any service or advantage is received other than is herein specified.
(Formerly: Acts 1913, c.76, s.115.) As amended by Acts 1978, P.L.2, SEC.805.

IC 8-1-2-107
Damages; loss or injury caused by violation

Sec. 107. If any public utility shall do, or cause to be done or permit to be done, any matter, act, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing required to be done by this chapter, such public utility shall be liable to the person, firm, limited liability company, or corporation injured thereby in the amount of damages sustained in consequence of such violation. Provided, that any recovery as in this section provided shall in no manner affect a recovery by the state of the penalty prescribed for such violation.
(Formerly: Acts 1913, c.76, s.116.) As amended by P.L.59-1984, SEC.43; P.L.8-1993, SEC.115.

IC 8-1-2-108
Officers and employees; violations; municipally owned utilities; annual reports

Sec. 108. (a) An officer, agent, or employee of any public utility, or a public utility (as defined in this chapter) who:

(1) fails to fill out and return any blanks as required by this chapter;
(2) fails to answer any question therein propounded;
(3) knowingly gives a false answer to any such question or evades the answer to any such question where the fact inquired of is within his knowledge;
(4) fails, upon proper demand, to exhibit to the commission, any commissioner, any administrative law judge, or any person authorized to examine the same, any book, paper, account, record, or memoranda of the public utility which is in his possession or under his control;
(5) fails to keep his system of accounting, or any part thereof, which is required by the commission; or
(6) refuses to do any act or thing in connection with the system of accounting when so directed by the commission or its authorized representative;

commits a Class B infraction.

(b) A municipally owned and operated utility under the jurisdiction of the commission for approval of rates and charges shall file with the commission, an annual report of the operation of said plant on forms to be furnished by the commission, which forms are

to be substantially the same as for reports filed annually with the commission by public utilities. Such annual reports shall remain in the office of said commission as a public record. Whenever in this chapter public utilities are required to make reports to the commission or are otherwise subject to the commission, municipally owned utilities are exempted from making such reports and are not under the jurisdiction of the commission, except as otherwise provided.

(Formerly: Acts 1913, c.76, s.117; Acts 1933, c.190, s.21.) As amended by Acts 1977, P.L.99, SEC.1; Acts 1978, P.L.2, SEC.806; Acts 1979, P.L.84, SEC.4; P.L.23-1988, SEC.28; P.L.68-1990, SEC.1.

IC 8-1-2-109

General penalty provision

Sec. 109. A public utility that violates this chapter, or fails to perform any duty enjoined upon it, for which a penalty is not otherwise provided, commits a Class B infraction.

(Formerly: Acts 1913, c.76, s.118.) As amended by Acts 1978, P.L.2, SEC.807.

IC 8-1-2-110

Repealed

(Repealed by Acts 1982, P.L.74, SEC.6.)

IC 8-1-2-111

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-1-2-112

Continuing acts as separate offenses

Sec. 112. Every day during which any public utility or any officer, agent, or employee thereof shall fail to observe and comply with any order or direction of the commission, or to perform any duty enjoined by this chapter, shall constitute a separate and distinct violation of such order or direction of this chapter, as the case may be.

(Formerly: Acts 1913, c.76, s.121.) As amended by P.L.59-1984, SEC.44.

IC 8-1-2-113

Emergency alteration, amendment, or suspension of rates or services

Sec. 113. (a) The commission may, when it considers necessary to prevent injury to the business or interests of the people or any public utility of this state in case of any emergency to be judged by the commission, temporarily alter, amend, or with the consent of the public utility concerned, suspend any existing rates, service,

practices, schedules, and order relating to or affecting any public utility or part of any public utility in this state. The alterations, amendments, or suspensions of the rates, service, schedules, or practices made by the commission shall apply to one (1) or more of the public utilities in this state or to any portion thereof, as directed by the commission, and shall take effect at the time and remain in force for the length of time prescribed by the commission.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 to carry out this section.

(Formerly: Acts 1913, c.76, s.122; Acts 1947, c.315, s.1.) As amended by P.L.37-1989, SEC.3; P.L.1-1990, SEC.102.

IC 8-1-2-114
Accidents, investigation, and report

Sec. 114. Every public utility shall, whenever an accident attended with loss of human life occurs within this state upon its premises, or directly or indirectly arising from or connected with its maintenance or operation, give immediate notice thereof to the commission. In the event of any such accident, the commission, if it deem the public interest requires it, shall cause an investigation to be made forthwith, which investigation shall be held in the locality of the accident unless, for greater convenience of those concerned, it shall order such investigation to be held at some other place; and said investigation may be adjourned from place to place as may be found necessary and convenient. The commission shall give due notice to the public utility of the time and place of the investigation.

(Formerly: Acts 1913, c.76, s.123.)

IC 8-1-2-115
Enforcement of law; recovery of forfeitures or penalties

Sec. 115. The commission shall inquire into any neglect or violation of the statutes of this state or the ordinances of any city or town by any public utility doing business therein, or by the officers, agents, or employees thereof, or by any person operating the plant of any public utility, and shall have the power, and it shall be its duty, to enforce the provisions of this chapter, as well as all other laws, relating to public utilities. Any forfeiture or penalty provided in this chapter shall be recovered and suit therein shall be brought in the name of the state of Indiana in the circuit or superior court where the public utility has its principal place of business. Complaint for the collection of any such forfeiture may be made by the commission or any member thereof, and, when so made, the action so commenced shall be prosecuted by the general counsel.

(Formerly: Acts 1913, c.76, s.124.) As amended by P.L.59-1984, SEC.45.

IC 8-1-2-116
Orders and decisions; compliance

Sec. 116. A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all the rules, orders, acts, and regulations of the commission, and they shall not be declared inoperative, illegal, or void for any omission of a technical nature in respect thereto.
(Formerly: Acts 1913, c.76, s.125.) As amended by P.L.59-1984, SEC.46.

IC 8-1-2-117
Rates, penalties, or forfeitures; recovery action
Sec. 117. This chapter shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty, or forfeiture which may have arisen before May 1, 1913, or which may arise under any statute of this state; and all penalties and forfeitures accruing under this chapter shall be cumulative and a suit for any recovery of one shall not be a bar to the recovery of any other penalty.
(Formerly: Acts 1913, c.76, s.126.) As amended by P.L.59-1984, SEC.47.

IC 8-1-2-118
Public service commission; traveling expenses and per diem
Sec. 118. The members of said commission, its secretary and clerk, and such other persons as it may appoint or employ, as provided in this chapter, shall be entitled to receive from the state their actual necessary traveling expenses, which shall include the cost of transportation, hotel, telegraph, and telephone bills while traveling on the business of the commission, which amount shall be paid by the treasurer of state, on warrant of the auditor of state, upon an itemized statement thereof, sworn to by the party who incurred such expense in traveling, and after the same shall have been approved by the commission.
(Formerly: Acts 1913, c.76, s.127.) As amended by P.L.59-1984, SEC.48.

IC 8-1-2-119
Repealed
(Repealed by Acts 1972, P.L.13, SEC.7.)

IC 8-1-2-120
Repealed
(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-1-2-121
Termination of residential electric or gas service
Sec. 121. (a) Notwithstanding any other provision of law, from December 1 through March 15 of any year, no electric or gas utility, including a municipally owned, privately owned, or cooperatively

owned utility, shall terminate residential electric or gas service for persons who are eligible for and have applied for assistance from a heating assistance program administered under IC 4-4-33. The commission shall implement procedures to ensure that electric or gas utility service is continued while eligibility for such persons is being determined.

(b) Any electric or gas utility, including a municipally owned, privately owned, or cooperatively owned utility, shall provide any residential customer whose account is delinquent an opportunity to enter into a reasonable amortization agreement with such company to pay the delinquent account. Such an amortization agreement must provide the customer with adequate opportunity to apply for and receive the benefits of any available public assistance program. An amortization agreement is subject to amendment on the customer's request if there is a change in the customer's financial circumstances.

(c) The commission may establish a reasonable rate of interest which a utility may charge on the unpaid balance of a customer's delinquent bill that may not exceed the rate established by the commission under section 34.5 of this chapter.

(d) The commission shall adopt rules under IC 4-22-2 to carry out the provisions of this section.

(e) This section does not prohibit an electric or gas utility from terminating residential utility service upon a request of a customer or under the following circumstances:

(1) If a condition dangerous or hazardous to life, physical safety, or property exists.

(2) Upon order by any court, the commission, or other duly authorized public authority.

(3) If fraudulent or unauthorized use of electricity or gas is detected and the utility has reasonable grounds to believe the affected customer is responsible for such use.

(4) If the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.

As added by P.L.43-1983, SEC.10. Amended by P.L.41-1987, SEC.6; P.L.2-1992, SEC.78; P.L.181-2006, SEC.48.

IC 8-1-2-122

Notice of termination of service; requisites

Sec. 122. (a) As used in this section:

"Dwelling" means an individual residence, including a mobile home or trailer, or a room or combination of rooms, with facilities for living for a single household.

"Heating season" means the period beginning on November 1 of any year and ending on the following April 1.

(b) A utility, including a municipally owned utility, that provides energy or fuel to an occupied dwelling may not, during the heating season, terminate service to the dwelling because of the failure of the

customer to pay his energy or fuel bills until fourteen (14) days after it serves notice upon the customer of its intent to terminate service.

(c) A notice served under this section must be in language that is clear, concise, and easily understandable to a layman. It must, in separately numbered paragraphs:

(1) indicate the date on which service will be terminated;

(2) state the reason and factual basis for the termination of service;

(3) list the telephone number of the utility office that the customer may call during regular business hours in order to question the proposed termination of service or to seek information concerning his rights; and

(4) state that the customer may refer to the pamphlet furnished to him under 170 IAC 4-1-18 for information as to his rights.

(d) Service of a notice under this section must be by:

(1) mail addressed to the customer; or

(2) personal delivery to the customer or to a responsible member of his household;

at the address listed for the customer in the records of the utility.

(e) No notice may be served under this section before the date on which the customer's account becomes delinquent.

As added by P.L.43-1983, SEC.11.

IC 8-1-2-125

"Not-for-profit utilities"; services and facilities; reasonable and just charges; not-for-profit sewer utilities

Sec. 125. (a) As used in this section, "not-for-profit utility" means a public water or sewer utility that:

(1) does not have shareholders;

(2) does not engage in any activities for the profit of its trustees, directors, incorporators, or members; and

(3) is organized and conducts its affairs for purposes other than the pecuniary gain of its trustees, directors, incorporators, or members.

The term does not include a regional district established under IC 13-26, a conservancy district established under IC 14-33, or, for purposes of subsections (f), (g), (h), (i), (j), and (k), a utility company owned, operated, or held in trust by a consolidated city.

(b) As used in this section, "sewage disposal system" means a privy, cesspool, septic tank, or other similar structure. The term includes a septic tank soil absorption system (as defined in IC 13-11-2-199.5). The term does not include a sewer system operated by a not-for-profit public sewer utility.

(c) A not-for-profit utility shall be required to furnish reasonably adequate services and facilities. The charge made by any not-for-profit utility for any service rendered or to be rendered, either directly or in connection with the service, must be nondiscriminatory, reasonable, and just. Each discriminatory, unjust, or unreasonable

charge for the service is prohibited and unlawful.

(d) A reasonable and just charge for water or sewer service within the meaning of this section is a charge that will produce sufficient revenue to pay all legal and other necessary expense incident to the operation of the not-for-profit utility's system, including the following:

(1) Maintenance and repair costs.

(2) Operating charges.

(3) Interest charges on bonds or other obligations.

(4) Provision for a sinking fund for the liquidation of bonds or other evidences of indebtedness.

(5) Provision for a debt service reserve for bonds or other obligations in an amount not to exceed the maximum annual debt service on the bonds or obligations.

(6) Provision of adequate funds to be used as working capital.

(7) Provision for making extensions and replacements.

(8) The payment of any taxes that may be assessed against the not-for-profit utility or its property.

The charges must produce an income sufficient to maintain the not-for-profit utility's property in sound physical and financial condition to render adequate and efficient service. A rate too low to meet these requirements is unlawful.

(e) Except as provided in subsections (f) and (h), a not-for-profit public sewer utility may require connection to its sewer system of property producing sewage or similar waste and require the discontinuance of use of a sewage disposal system if:

(1) there is an available sanitary sewer within three hundred (300) feet of:

(A) the property line, if the property is:

(i) located in a consolidated city;

(ii) adjacent to a body of water, including a lake, river, or reservoir; or

(iii) any part of a subdivision, or land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale; or

(B) for all other properties, the improvement or other structure from which the sewage or similar waste is discharged; and

(2) the utility has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before the date for connection stated in the notice.

The notice given under subdivision (2) must also inform the property owner, other than an owner of property located in a consolidated city, that the property owner may qualify for an exemption as set forth in subsection (f).

(f) Subject to subsection (h), a property owner is exempt from the

requirement to connect to a not-for-profit public sewer utility's sewer system and to discontinue use of a sewage disposal system if the following conditions are met:

(1) The property owner's sewage disposal system is a septic tank soil absorption system that was new at the time of installation and approved in writing by the local health department.

(2) The property owner, at the property owner's expense, obtains a written determination from the local health department or the department's designee that the septic tank soil absorption system is not failing. The local health department or the department's designee shall provide the owner with a written determination not later than sixty (60) days after receipt of the owner's request. If the local health department or the department's designee fails to provide a written determination within the time established in this subdivision, the owner, at the owner's expense, may obtain a written determination from a qualified inspector. If the local health department or the department's designee determines that a septic tank soil absorption system is failing, the property owner may appeal the determination to the board of the local health department. The decision of the board is final and binding.

(3) The property owner provides the not-for-profit public sewer utility with:

(A) the written notification of potential qualification for the exemption described in subsection (i); and

(B) the written determination described in subdivision (2);

within the time limits set forth in subsection (i).

(g) If a property owner, within the time allowed under subsection (i), notifies a not-for-profit public sewer utility in writing that the property owner qualifies for the exemption under this section, the not-for-profit public sewer utility shall, until the property owner's eligibility for an exemption under this section is determined, suspend the requirement that the property owner discontinue use of a sewage disposal system and connect to the not-for-profit public sewer utility's sewer system.

(h) A property owner who qualifies for the exemption provided under this section may not be required to connect to the not-for-profit public sewer utility's sewer system for a period of ten (10) years beginning on the date the new sewage disposal system was installed. A property owner may apply for two (2) five (5) year extensions of the exemption provided under this section by following the procedures set forth in subsections (f) and (g). If ownership of an exempt property is transferred during a valid exemption period, including during an extension of an initial exemption:

(1) the exemption applies to the subsequent owner of the property for the remainder of the exemption period during which the transfer occurred; and

(2) the subsequent owner may apply for any remaining extensions.

However, the total period during which a property may be exempt from the requirement to connect to a district's sewer system under this section may not exceed twenty (20) years, regardless of ownership of the property.

(i) To qualify for an exemption under this section, a property owner must:

(1) within sixty (60) days after the date of the written notice given to the property owner under subsection (e), notify the not-for-profit public sewer utility in writing that the property owner qualifies for the exemption under this section; and

(2) within one hundred twenty (120) days after the not-for-profit public sewer utility receives the written notice provided under subdivision (1), provide the not-for-profit public sewer utility with the written determination required under subsection (f)(2).

(j) When a property owner who qualifies for an exemption under this section subsequently discontinues use of the property owner's sewage disposal system and connects to the not-for-profit public sewer utility's sewer system, the property owner may be required to pay only the following to connect to the sewer system:

(1) The connection fee the property owner would have paid if the property owner connected to the sewer system on the first date the property owner could have connected to the sewer system.

(2) Any additional costs:

(A) considered necessary by; and

(B) supported by documentary evidence provided by;

the not-for-profit public sewer utility.

(k) A not-for-profit public sewer utility may not require a property owner to connect to the not-for-profit public sewer utility's sewer system if:

(1) the property is located on at least ten (10) acres;

(2) the owner can demonstrate the availability of at least two (2) areas on the property for the collection and treatment of sewage that will protect human health and the environment;

(3) the waste stream from the property is limited to domestic sewage from a residence or business;

(4) the system used to collect and treat the domestic sewage has a maximum design flow of seven hundred fifty (750) gallons per day; and

(5) the owner, at the owner's expense, obtains and provides to the district a certification from the local health department or the department's designee that the system is not failing.

(l) A property owner who connects to a not-for-profit public sewer utility's sewer system may provide, at the owner's expense, labor, equipment, materials, or any combination of labor, equipment, and

materials from any source to accomplish the connection to the sewer system, subject to inspection and approval by the not-for-profit public sewer utility.

(m) This section does not affect the authority of the state department of health, a local health department, or a county health officer with respect to a sewage disposal system.

(n) For purposes of this section, a sewage disposal system is "failing" if one (1) or more of the following apply:

(1) The system refuses to accept sewage at the rate of design application and interferes with the normal use of plumbing fixtures.

(2) Effluent discharge exceeds the absorptive capacity of the soil into which the system discharges, resulting in ponding, seepage, or other discharge of the effluent to the ground surface or to surface waters.

(3) Effluent discharged from the system contaminates a potable water supply, ground water, or surface waters.

(o) As used in this section, "qualified inspector" means any of the following:

(1) An employee of a local health department who is designated by the local health department as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

(2) An individual who is certified by the Indiana Onsite Wastewater Professionals Association as an onsite sewage system installer or inspector.

(3) An individual listed by the state department of health or the local health department with jurisdiction over the service area of the property inspected as having sufficient knowledge of onsite sewage systems to determine if an onsite sewage system is failing.

As added by P.L.82-1986, SEC.1. Amended by P.L.35-1990, SEC.25; P.L.78-1996, SEC.1; P.L.97-2012, SEC.1; P.L.178-2013, SEC.1; P.L.292-2013, SEC.1.

IC 8-1-2-126

Electrical power generated outside the United States

Sec. 126. A public utility or municipally owned utility may not purchase or transmit any electrical power generated in a country outside of the borders of the United States, unless the commission determines that the purchase or transmission is necessary for the health and welfare of the citizens of Indiana.

As added by P.L.119-1987, SEC.1.

IC 8-1-2-127

Customer billing; indication of amount of federal energy tax

Sec. 127. A public utility shall:

(1) indicate separately and conspicuously on each customer's

bill the total charge attributable to any tax imposed under federal law on the basis of British Thermal Units or any other measure of the energy content of energy consumed by the customer during the billing period; and

(2) identify the charge described under subdivision (1) as a federal energy tax.

As added by P.L.35-1993, SEC.2.

IC 8-1-2.1
Repealed

(Repealed by Acts 1980, P.L.68, SEC.2.)

IC 8-1-2.2

Chapter 2.2. Municipal Electric Utility Programs

IC 8-1-2.2-1

Findings and purpose

Sec. 1. Municipalities owning facilities for the distribution of electric power and energy are required by law to provide, and serve a public purpose by providing, customers with an adequate, a reliable, and an economical supply of electric power and energy. Individually, such municipalities or joint agencies are not financially capable of providing the planning, financing, locating, and building of needed new facilities for generation and transmission or operating or managing these facilities. Therefore, the general assembly finds it necessary and proper to provide a method for certain of those municipalities to jointly finance, develop, own, manage, and operate, either by themselves or with public utilities, electric generation and transmission facilities appropriate to the present and projected electric energy needs of such municipalities and to the changes in the electric utility industry affecting these municipalities or joint agencies.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.54-1992, SEC.1; P.L.81-1997, SEC.1.

IC 8-1-2.2-2

Definitions

Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Bonds" means electric utility revenue bonds, notes, and other evidences of indebtedness of a municipality or a joint agency issued under the provisions of this chapter.

(c) "Cost" or "cost of a project" means but may not be limited to the cost of acquisition, construction, reconstruction, improvement, enlargement, betterment, extension, decommissioning, or disposal of any project or part thereof, including:

(1) the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating thereto;

(2) the cost of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of applications thereof;

(3) administrative, legal, engineering, and inspection expenses;

(4) financing fees, expenses, and costs;

(5) working capital;

(6) initial fuel costs;

(7) interest on the bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing municipality or joint agency;

(8) establishment of reserves for the payment of debt service, for renewals and replacements, for working capital, for

operating expenses, and for any other purposes deemed reasonable and proper; and

(9) all other expenditures of the issuing municipality or joint agency incidental, necessary, or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment, extension, decommissioning, or disposal of any project and the placing of the same in operation.

(d) "Governing body" means the legislative body of a city or town or commissioners of a joint agency.

(e) "Joint agency" means an agency created by two (2) or more municipalities pursuant to section 8 of this chapter.

(f) "Municipality" means a city or town in the state or any board, agency, or commission thereof owning and operating on January 1, 1980, an electric utility which furnishes retail electric service to the public.

(g) "Project" means any plant, works, system, or facilities, and other real and personal property of any nature whatsoever necessary or convenient in the generation, transmission, transformation, purchase, sale, exchange, or interchange of electric power and energy or steam, or the development, production, manufacture, procurement, handling, storage, fabrication, enrichment, processing, or reprocessing of fuel of any kind or any facility or rights with respect to the supply of water, by any means whatsoever or any interest therein or any rights to the use, output, or capacity thereof. A transmission contract entered into under section 9(a)(14) of this chapter is not a project.

(h) "Public utility" means any corporation, company, limited liability company, partnership, or other form of legal entity, individual, association of individuals, or public agency organized under the laws of Indiana or another state of the United States authorized to own, operate, or control any plant or equipment for the generation, transmission, or distribution of electric power and energy and to sell electric power and energy to:

(1) the public;

(2) public or municipally owned utilities (as defined in IC 8-1-2); or

(3) cooperatives.

(i) "State" means the state of Indiana.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.23-1988, SEC.29; P.L.82-1988, SEC.1; P.L.8-1989, SEC.39; P.L.179-1991, SEC.12; P.L.1-1992, SEC.29; P.L.54-1992, SEC.2; P.L.1-1993, SEC.48; P.L.81-1997, SEC.2.

IC 8-1-2.2-3

Authorization to cooperate

Sec. 3. Authorization to Cooperate. (a) In addition and supplemental to the powers otherwise conferred on municipalities by law, and in order to accomplish the purposes of this chapter, a

municipality may plan, finance, develop, construct, reconstruct, acquire, improve, enlarge, own, operate and maintain an undivided interest as a tenant in common in a project jointly with one (1) or more municipalities, joint agencies or public utilities, and may plan and enter into contracts in this connection with them, not inconsistent with the provisions of this chapter.

(b) Prior to acquiring any undivided interest, the governing body shall determine the present and future needs of the municipality for power and energy based upon engineering studies and reports, and may not acquire an undivided interest as a tenant in common in a project in excess of that amount of capacity and the energy required to provide for its projected needs for power and energy for such reasonable period of time as shall be determined by the governing body and approved by the commission in a proceeding pursuant to section 19 of this chapter.

(c) The future power requirements of a municipality shall be evaluated by the governing body in accordance with the following:

(1) the economies and efficiencies to be achieved in constructing large scale facilities for the generation and transmission of electric power and energy;

(2) the municipality's needs for reserve and peaking capacity and obligations reasonably related to its needs for power and energy under pooling and reserve sharing agreements to which it is or may become a party;

(3) the estimated useful life of the project; and

(4) the estimated time for planning, development, acquisition or construction of the project and the time required in advance to obtain, acquire or construct additional power supply.

As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-4

Joint ownership of project

Sec. 4. (a) Each municipality, joint agency, or public utility shall own an undivided interest in any project in proportion to the amount of the money furnished or the value of property or other consideration supplied by it for the planning, development, acquisition, or construction of the project and shall be entitled to a percentage share of the project net output and capacity equal to the undivided interest. This section does not preclude a joint owner of a project from agreeing to take and pay for the project net output in a percentage share that differs from its undivided interest.

(b) Each municipality, joint agency, and public utility participating in a project shall be severally liable for its own acts and may not be held, jointly or severally liable for the acts, omissions, or obligations of others. However, nothing shall preclude each municipality, joint agency and public utility participating in a project from being severally liable for acts performed by any project manager, construction agent, or operating agent for such project.

Except as otherwise provided in this chapter, no money or property or other consideration supplied by any municipality, joint agency, or public utility may be credited or otherwise applied to the account of any other municipality, joint agency, or public utility, nor shall the undivided share of any municipality, joint agency, or public utility in a project be charged directly or indirectly with any debt or obligation of any other municipality, joint agency, or public utility, or be subject to any lien as a result thereof. The acquisition of a project may include, but is not limited to, the purchase or lease of an existing and completed project or the purchase of a project under construction or the purchase of a project to be constructed. A municipality or joint agency participating in the joint planning, financing, construction, reconstruction, acquisition, improvement, enlargement, ownership, operation, or maintenance of any project under this chapter may furnish money derived solely from the proceeds of bonds or from the ownership and operation of its electric system, or both, and provide property, both real and personal, services, and other considerations.

(c) Any contract entered into by municipalities under this chapter with respect to joint ownership in a project shall contain terms, conditions, and provisions, not inconsistent with the provisions of this section. Any contract shall be ratified by resolution of the governing body of each municipality and recorded in its minutes. Any contract shall include the following:

(1) The purpose or purposes of the contract.

(2) The duration of the contract.

(3) The manner of appointing or employing personnel necessary in connection with the project.

(4) The method of financing the project including the apportionment of costs and revenues.

(5) Provisions specifying the ownership interests of the parties in property used or useful in connection with the project, and the procedures for the disposition of such property when the contract expires, is terminated, or when the project, for any reason, is abandoned, decommissioned, or dismantled.

(6) Provisions relating to alienation and prohibiting partition of a municipality's undivided interest in a project, which provisions shall not be subject to any provision of law restricting convenants against alienation or partition.

(7) Provisions for the construction of a project, which may include the determination that a municipality, joint agency, or public utility may construct the project as agent for all the parties.

(8) Provisions for the operation and maintenance of a project, which may include the determination that a municipality, joint agency, or public utility may operate and maintain the project as agent for all the parties.

(9) Provisions for the creation of a committee of representatives of the municipalities, joint agencies and public utilities jointly

participating with such powers of supervision of the construction and operation of the project as the contract may provide, which are not inconsistent with the provisions of this chapter.

(10) Provisions that if one (1) or more of the municipalities, joint agencies, or public utilities default in the performance or discharge of its obligations with respect to the project, the other party or parties may assume, pro rata, or otherwise, the obligations of the defaulting party or parties and may succeed to the rights and interests of the defaulting party or parties as may be agreed upon in the contract.

(11) Methods for amending the contract.

(12) Methods for terminating the contract.

(13) Any other necessary or proper matter.

(d) For the purpose of paying its respective share of the cost of a project or projects, a municipality or joint agency may issue its bonds as provided in this chapter, and, notwithstanding the provisions of any other law to the contrary, may pledge to the payment of the principal, premium, if any, and interest on such bonds, the revenues, or any portion of revenues, derived or to be derived from the ownership and operation of its system or facilities for the generation, transmission, or distribution of electric power or energy or its interest in any joint project or projects, or a combination of such revenues. All bonds issued under the provisions of this chapter shall be authorized and issued by the governing body. Upon the request of the issuing municipality or joint agency the commission shall approve at one (1) time sufficient bonds to be issued to finance the issuer's share of the cost of a project even though such bonds are to be issued in series from time to time and even though the exact amount of such costs have not been finally determined and such approval may be of an indeterminate amount.

(e) Municipalities and joint agencies may jointly or severally own, operate and maintain projects with any public utility. Any municipality or joint agency shall have for such purposes all powers conferred upon them by the provisions of this chapter including the power to issue revenue bonds pursuant to the provisions of this chapter to finance its share of the cost of any such project. The definitions and all other terms and provisions of this chapter shall be construed so as to include such undivided ownership interest in order to fully effectuate the power and authority conferred by the foregoing provisions of this section.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.82-1988, SEC.2.

IC 8-1-2.2-5

Sale of capacity or output by a municipality

Sec. 5. Sale of Capacity or Output by a Municipality. Whenever a municipality has capacity or output derived from its ownership

share of a project or otherwise in excess of its current needs or which cannot be economically utilized immediately, it may sell or exchange the excess capacity or output, by agreement, to any municipality owning electric distribution facilities in this state, to any joint agency, or to any public utility. Sales of excess capacity or output of a project to public utilities shall not be made in such amounts, for such periods of time, and under such conditions as will cause the interest on bonds issued to finance the cost of a project to become taxable by the federal government.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-6
Licenses and approvals

Sec. 6. Licenses and Approvals. Municipalities and joint agencies proposing to jointly plan, finance, develop, and operate a project are authorized to jointly or separately apply to any agency of the state or federal government for licenses, permits, certificates, or approvals.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-7
Authority to contract for energy exchange

Sec. 7. Authority to Contract for Energy Exchange. Municipalities participating in a project or projects are hereby authorized to enter into contracts for the exchange, interchange, wheeling, pooling, and transmission of electric power and energy produced by the project or projects with any municipality, joint agency, or public utility.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-8
Joint agency

Sec. 8. (a) The governing bodies of two (2) or more municipalities may, by resolution or ordinance, determine that it is in their best interests to create a joint agency, for the purpose of undertaking the planning, financing, ownership, and operation of a project or projects to supply electric power and energy for their present or future needs. Any joint agency created under this chapter shall be a body corporate and politic and a political subdivision of the state, and in exercising its powers under this chapter, it shall be deemed to be exercising a part of the sovereign powers of the state. The activities of the joint agency in carrying out the purposes of this chapter shall constitute state action.

(b) In determining whether or not the creation of a joint agency is in their best interests, the governing bodies shall consider the following:

(1) Whether cost reduction, efficiencies, or other advantages may be realized by creating a joint agency.

(2) Whether better financial market acceptance may result if a joint agency is responsible for issuing all of the bonds for the

project or projects in a timely and orderly manner and with uniform credit ratings as opposed to multiple municipalities making separate issues of bonds.

If each governing body determines that it is in the best interests of the municipality to create a joint agency, each governing body shall adopt a mutually acceptable resolution or ordinance so finding (which need not prescribe in detail the basis for the determination), which shall set forth the names of the municipalities proposed to be members of the joint agency and shall authorize any two (2) or more of such municipalities to enter into a contract for the creation of the joint agency. After the execution of the contract, each municipality shall cause notice of the execution of the contract to be given to the presiding officer of the governing body of the municipality. The governing body shall thereupon appoint in writing one (1) commissioner of the joint agency.

(c) The appointed commissioners shall convene and issue a statement containing:

(1) a brief description of the resolution creating the joint agency;

(2) the name of the agency;

(3) the participating municipalities; and

(4) the names and addresses of the appointed commissioners.

The commissioners shall file copies of the statement with the commission, the secretary of state, and with the recorder of each county in which the member municipal utilities provide service.

(d) The joint agency shall consist of a board of commissioners. The governing body of each municipality shall appoint one (1) commissioner who may be an officer or employee of the municipality or a member or employee of the board described in IC 8-1.5-3-3(a). The appointment of a commissioner shall be made by resolution or ordinance. Each commissioner shall have not less than one (1) vote and may have such number of additional votes as a majority of the members of the joint agency shall determine. Each commissioner shall serve at the pleasure of the governing body by which he was appointed. Each appointed commissioner before entering upon his duties shall take and subscribe to an oath before a person authorized by law to administer oaths to execute the duties of his office faithfully and impartially, and a record of the oath shall be filed with the governing body of the appointing municipality and entered in its minutes.

(e) The board of commissioners of the joint agency shall annually elect, from among its membership, a chairman and a vice chairman. It shall also annually elect another person or persons, who may be commissioners, as treasurer and secretary. It may also annually elect, if desired, one (1) or more assistant secretaries. The office of treasurer may be held by the secretary or an assistant secretary. The board of commissioners may also appoint additional officers. The secretary or assistant secretary of the joint agency shall keep a record

of its proceedings and the secretary shall be the custodian of all records, books, documents, and papers filed with the joint agency, the minute book or journal of the joint agency and its official seal. Either the secretary or an assistant secretary of the joint agency may cause copies to be made of all minutes and other records and documents of the joint agency and may give certificates under the official seal of the joint agency to the effect that such copies are true copies, and all persons dealing with the joint agency may rely upon such certificates.

(f) A majority of the commissioners of a joint agency constitute a quorum. A vacancy in the board of commissioners of the joint agency shall not impair the right of a quorum to exercise all the rights and perform all the duties of the joint agency. Any action taken by the joint agency under the provisions of this chapter may be authorized by resolution at any regular or special meeting, and each resolution takes effect immediately and need not be published or posted. A contract that is approved by a resolution of the board of commissioners may provide that an action may be taken under a delegation provision in the contract if the action taken is consistent with prudent utility practice. A majority of the votes which the convened commissioners are entitled to cast shall be sufficient to take any action or to pass any resolution, so long as the convened commissioners are entitled to cast a majority of the total number of votes held by the full board.

(g) Except as provided in this subsection, no commissioner of a joint agency may receive from the joint agency any compensation for the performance of his duties under this chapter. However, each commissioner may be paid his necessary expenses incurred while engaged in the performance of his duties. In addition, a municipality may pay the commissioner it appoints up to fifteen dollars ($15) per day for each day or fraction of a day the commissioner is engaged in the performance of duties under this chapter, but only if the commissioner is not a person holding a lucrative office.

(h) The board of commissioners of the joint agency may create an executive committee of the board of commissioners. The board may provide for the composition of the executive committee. The executive committee shall have and shall exercise such of the powers and authority of the board of commissioners during the intervals between the board's meetings as shall be prescribed in the bylaws of the joint agency. The terms of office of the members of the executive committee and the method of filling vacancies therein shall be fixed by the bylaws of the joint agency.

(i) Additional municipalities may join a joint agency upon such terms and conditions as shall be provided in the contract for the creation of the joint agency.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.90-1985, SEC.1; P.L.82-1988, SEC.3; P.L.81-1997, SEC.3.

IC 8-1-2.2-9
General powers of joint agencies

Sec. 9. (a) Each joint agency shall have all of the rights and powers necessary or convenient to carry out the purposes and provisions of this chapter, including but not limited to the following:

(1) To adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

(2) To adopt an official seal and alter the same at pleasure.

(3) To maintain an office at such place or places as it may determine.

(4) To sue and be sued in its own name and to plead and be impleaded.

(5) To receive, administer, and comply with the conditions and requirements respecting any gift, grant, or donation of any property or money.

(6) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof.

(7) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein.

(8) To pledge or assign any money, rents, charges, or other revenues and proceeds derived by the joint agency from the sales of bonds or property and insurance or condemnation proceeds and any contracts or other rights of the joint agency.

(9) To issue bonds of the joint agency for the purpose of paying all or any part of the costs of any of the projects or purposes authorized by this chapter.

(10) To study, plan, finance, construct, reconstruct, acquire, improve, enlarge, better, own, operate, and maintain individually or jointly with one (1) or more other joint agencies, municipalities or public utilities one (1) or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the joint agency or from any other funds available to the joint agency.

(11) To generate, produce, transmit, deliver, exchange, purchase, or sell for resale only, electric power or energy or steam, and transmission and related services and to enter into contracts for any or all such purposes.

(12) To fix, charge and collect rents, rates, fees and charges for electric power or energy and other services, facilities, and commodities sold, furnished or supplied by it.

(13) To negotiate and enter into contracts with each of its member municipalities whereby each municipality may purchase power and energy and related services from the joint

agency derived from any project or projects or without designation as to source and pursuant to which contracts each municipality shall agree to make payments from the revenues of its electric system adequate:

(A) to pay when due (whether at maturity, upon acceleration, or by sinking fund requirements) the principal, premium, if any, and interest on all bonds issued by the joint agency to finance any service provided to such member municipality, and to establish reserves therefor; and

(B) to pay the necessary expenses of the joint agency (including, without limitation, all amounts required to be collected pursuant to the trust agreement or resolution providing for the issuance of bonds) and to establish reserves therefor.

(14) To make and execute contracts and other instruments necessary or convenient for the operation, maintenance, and management of a regional transmission system, including transmission facilities owned by a municipality or a joint agency. Such a contract may not be for a term that is more than fifty (50) years. Such a contract may not make the state, a political subdivision, or a municipality a shareholder in a public utility. Such a contract may delegate responsibilities if the delegation and action taken are consistent with prudent utility practice.

(15) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the joint agency under this chapter, including contracts with persons, firms, corporations, limited liability companies, and others.

(16) To employ engineers, attorneys, financial advisors, and such other consultants, agents, and employees as may be required in the judgment of the joint agency and to fix and pay their compensation from funds available to the joint agency therefor.

(17) To do all acts and things necessary, convenient, or desirable to carry out the purposes of, and to exercise the powers granted to, the joint agency herein.

(b) No joint agency may finance a project or projects, in whole or in part, without first obtaining the approval of the commission as provided in section 19 of this chapter.

(c) No joint agency may construct any transmission line without first obtaining the approval of the commission as provided in section 19 of this chapter.

(d) A determination by the joint agency approved by the commission shall be conclusive unless a party to the proceeding aggrieved by the determination of the commission shall file notice of appeal pursuant to IC 8-1-3.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.82-1988,

SEC.4; P.L.8-1993, SEC.116; P.L.81-1997, SEC.4.

IC 8-1-2.2-10
Contracts with municipality

Sec. 10. Contracts with Municipality. (a) Any municipality which is a member of a joint agency may contract to purchase power and energy and related services from the joint agency derived from any project or projects or without designation as to source and pursuant to which contracts such municipality shall agree to make payments to the joint agency from the revenues of its electric system adequate:

(1) to pay when due (whether at maturity, upon acceleration, or by sinking fund requirements) the principal, premium, if any, and interest on all bonds issued by the joint agency to finance any service provided to such member municipality, and to establish reserves therefor; and

(2) to pay the necessary expenses of the joint agency (including, without limitation, all amounts required to be collected pursuant to the trust agreement or resolution providing for the issuance of bonds) and to establish reserves therefor.

Since the creation of a joint agency is an alternative method whereby a municipality may obtain the benefits of a joint project or projects, any contract may provide: (A) that the contracting municipality shall be obligated to make the payments required by the contract whether or not a project is completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of a project or the power and energy contracted for; and (B) that the payments under the contract may not be subject to any reduction whether by offset or otherwise, and may not be conditioned upon the performance or nonperformance of the joint agency or any other member of the joint agency under the contract or any other instrument. Any contract may also provide that if one (1) or more of the municipalities should default in the performance or discharge of its obligations under its contract, the other contracting municipalities shall assume, pro rata, or otherwise, the obligations of the defaulting municipality or municipalities and may succeed to the rights and interests of the defaulting municipality or municipalities as may be agreed upon in the contract. Any such contract may also provide for requirements, purchases or exclusive dealing arrangements if the joint agency determines that such provisions are necessary to obtain financing on favorable terms.

(b) Notwithstanding the provisions of any other law to the contrary, any contract with respect to the sale or purchase of power and energy, transmission and related services, from a joint agency may extend for a period not exceeding fifty (50) years from the date service is estimated to be first rendered under the contract; and the execution and effectiveness of the contract may not be subject to any authorizations or approvals by the state or any agency, commission or instrumentality or political subdivision thereof except as

specifically required and provided in this chapter, nor shall it be subject to any publication requirements.

(c) Payments by a municipality under any contract with a joint agency shall be payable solely from the revenues derived from the ownership and operation of the electric system of that municipality and may be treated as an expense of the operation and maintenance thereof if the contract so provides, and any obligation under that contract may not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any of its income, receipts, or revenues, except the revenues of its electric system, and neither the faith and credit nor the taxing power of the municipality are, or may be, pledged for the payment of any obligation under any such contract. A municipality shall be obligated to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities, sold, furnished or supplied through its electric system in an amount sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues. In any proceeding before the commission for the approval of rates set by a municipality subject to its jurisdiction, the commission shall make specific findings of the revenue requirements referred to in the prior sentence and shall provide rates sufficient for such requirements.

(d) Any member of a joint agency may furnish the joint agency with money derived solely from the ownership and operation of its electric system or facilities and provide the joint agency with personnel, equipment and property, both real and personal. Any municipality may also provide any services to a joint agency.

(e) Any member of a joint agency may contract for, advance or contribute funds derived solely from the ownership and operation of its electric system or facilities to a joint agency as may be agreed upon by the joint agency and the member, and the joint agency shall repay such advances or contributions from proceeds of bonds, or from any other funds of the joint agency, together with interest thereon as may be agreed upon by the member and the joint agency.

(f) In the exercise of the powers enumerated in this chapter, including without limitation, the execution of contracts as provided in this section, a municipality and a joint agency shall be deemed to be exercising a part of the sovereign powers of the state and shall be exempt from any and all laws, rules and regulations prohibiting, limiting or conditioning anticompetitive conduct.

As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-11

Issuance of bonds

Sec. 11. Issuance of Bonds. (a) Each municipality or joint agency is hereby authorized to issue at one (1) time, or from time to time, its bonds for the purpose of paying all or any part of the cost of any of

the purposes authorized by this chapter including, without limitation, the funding or refunding of the principal, interest or other obligation on any bonds issued by the municipality or joint agency whether or not such bonds to be funded or refunded have or have not become due, the establishment or increase of reserves to secure or to pay such bonds, the provision of working capital and the payment of all other costs or expenses incident to and necessary or convenient to carry out the purposes and powers authorized by this chapter. The principal of, premium, if any, and the interest on these bonds shall be payable solely from the revenues and other available funds of the issuer pledged or specified for their payment in accordance with this chapter. The bonds of each issue shall bear interest at a rate or rates determined by the issuer and shall not be subject to any other law of this state limiting the same. The bonds of each issue shall be dated and shall mature in amounts and at a time or times, not exceeding fifty (50) years from their respective date or dates, as may be determined by the governing body of the issuer. The bonds of each issue may be made redeemable before maturity at a price or prices, and under terms and conditions, as may be fixed by the governing body of the issuer prior to issuance of the bonds. The governing body of the issuer shall determine the form and manner of execution of the bonds, including any interest coupons to be attached, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state, provided that at least one (1) place of payment is within the state. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds or coupons shall cease to hold that office before the delivery of his bond, that signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until delivery. The governing body of the issuer may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in fully registered form, or both, as the governing body of the issuer may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The bonds of each issue, issued by a joint agency, shall be sold either by public or negotiated sale at such price as may be determined by the joint agency.

(b) The proceeds of the bonds of each issue shall be used solely for the purposes for which such bonds have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the governing body of the issuer may provide in the resolution authorizing the issuance of those bonds or in any trust agreement securing the bonds. The municipality or joint agency may issue interim receipts or temporary bonds, with or without coupons,

exchangeable for definitive bonds when those bonds have been executed and are available for delivery. The municipality or joint agency may also provide for replacement of any bonds which have become mutilated, destroyed, or lost.

(c) Except as provided in section 19 of this chapter, bonds may be issued under the provisions of this chapter without obtaining the consent of the state or of any political subdivision, or of any agency, commission or instrumentality of either of them, and without any other approvals, proceedings or the happening of any conditions or things other than those approvals, proceedings, conditions or things specifically required by this chapter, and provisions of the resolution authorizing the issuance of the bonds or the trust agreement securing them.

As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-12

Trust agreement or resolution on bondholders' rights

Sec. 12. Trust Agreement, or Resolution, on Rights of Bondholders. In the discretion of the governing body of the issuer, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the issuer and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. That trust agreement, or the resolution providing for the issuance of bonds, may contain provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of bonds may contain covenants including, but not limited to, the following:

(1) the pledge of all or any part of the revenues derived or to be derived from the project or projects to be financed by the bonds or from the electric system or facilities of a municipality or joint agency, or in the case of a joint agency from the revenues received from the municipalities;

(2) the rents, rates, fees and charges to be established, maintained and collected, and the use and disposal of revenues, gifts, grants and funds received or to be received by the municipality or joint agency;

(3) the setting aside of reserves and the investment, regulation and disposition of reserves;

(4) the custody, collection, securing, investment, and payment of any moneys held for the payment of bonds;

(5) limitations or restrictions on the purposes to which the proceeds of sale of bonds then or thereafter to be issued may be applied;

(6) limitations or restrictions on the issuance of additional bonds; the terms upon which additional bonds may be issued

and secured; or the refunding of outstanding or other bonds;

(7) the procedure, if any, by which the terms of any contract with bondholders may be amended, the percentage of bonds the bondholders of which must consent to an amendment, and the manner in which consent may be given;

(8) events of default and the rights and liabilities arising upon default, the terms and conditions upon which bonds issued under this chapter shall become or may be declared due before maturity, and the terms and conditions upon which the declaration and its consequences may be waived;

(9) the preparation and maintenance of a budget;

(10) the retention or employment of consulting engineers, independent auditors, and other technical consultants;

(11) limitations on or the prohibition of free service to any person, firm, limited liability company, or corporation, public or private;

(12) the acquisition and disposal of property, provided that no project or part thereof may be mortgaged by such trust agreement or resolution;

(13) provisions for insurance and for accounting reports and for their inspection and audit; and

(14) the continuing operation and maintenance of the project.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.8-1993, SEC.117.

IC 8-1-2.2-13

Revenues

Sec. 13. Revenues. (a) A municipality or joint agency may fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interests in any project. For so long as any bonds of a municipality or joint agency issued under this chapter are outstanding and unpaid, the rents, fees and charges shall be so fixed as to provide revenues sufficient to pay (1) all costs of and charges and expenses in connection with the proper operation and maintenance of the municipality's or joint agency's electric system, (2) its interest in any project, (3) all necessary repairs, replacements or renewals thereof, (4) when due (whether at maturity, upon acceleration, or by sinking fund requirements), the principal, premium, if any, and interest on all bonds payable from said revenues, (5) to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, (6) when due (whether at maturity, upon acceleration, or by sinking fund requirements), the principal, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions, and improvements to its electric system, (7) any and all amounts which the municipality may be obligated to pay from these revenues by law or contract, and

(8) any additional amounts which must be realized in order to meet the requirements of any rate covenant imposed by any resolution or trust agreement authorizing and securing bonds.

(b) Any pledge made by a municipality or joint agency pursuant to this chapter shall be valid and binding from the date the pledge is made. The revenues, securities, and other moneys so pledged and then held or thereafter received by the municipality or joint agency or any fiduciary shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality or joint agency without regard to whether such parties have notice thereof. The resolution or trust agreement or any financing statement, continuation statement or other instrument by which a pledge is created need not be filed or recorded in any manner.

As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-14
Trust funds

Sec. 14. Trust Funds. Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be considered trust funds to be held and applied solely as provided in this chapter. The resolution authorizing the bonds of any issue, or the trust agreement securing such bonds, may provide that any of those moneys may be temporarily invested and reinvested pending the disbursements of those moneys in securities and other investments as shall be provided in the resolution or trust agreement, and shall also provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of those moneys and shall hold and apply them as directed, subject to such regulation as this chapter and the resolution or trust agreement may provide.

As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-15
Remedies

Sec. 15. Remedies. Any holder of bonds issued under the provisions of this chapter or any of the bond coupons, and the trustee under any trust agreements, except to the extent that his rights are restricted by the trust agreement or the resolution authorizing the issuance of the bonds, may, (a) either at law or in equity, by suit, action, or other proceeding, protect and enforce any and all rights under the laws of the state or, to the extent permitted by law, under the trust agreement or resolution authorizing the issuance of the bonds or under any agreement or other contract executed by the municipality or joint agency pursuant to this chapter, and (b) may

enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by any municipality or joint agency or by any officer of any municipality or joint agency, including the fixing, charging, and collecting of rents, rates, fees, and charges.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-16
Bond eligibility for investment

Sec. 16. Bond Eligibility for Investment. Bonds issued by a municipality or joint agency under the provisions of this chapter are hereby made securities in which all public officers and agencies of the state, all insurance companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These bonds are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-17
Agreement of state with bondholders

Sec. 17. Agreement of the State. The state hereby covenants and agrees with the holders of any bonds that so long as any bonds of a municipality or joint agency issued under this chapter are outstanding and unpaid, the state will not limit or alter the rights vested in such municipality or joint agency to acquire, construct, reconstruct, improve, enlarge, extend, own, operate and maintain its electric system or any project or interest in any project, or to establish, maintain, revise, charge, and collect the rents, rates, fees and charges referred to in this chapter and to fulfill the terms of any agreements made with the holders of the bonds or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully paid, met and discharged.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-18
Limited liability on bonds

Sec. 18. Limited Liability. (a) The bonds issued under the authority of this chapter by a municipality shall not be general obligations of the municipality issuing them. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the municipality, nor shall they constitute a legal

or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the resolution authorizing the bonds or the trust agreement securing the bonds. Neither the faith and credit nor the taxing power of a municipality or of the state are, or may be, pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of the bonds shall have the right to compel the exercise of the taxing power by the state or a municipality or the forfeiture of any of its property in connection with any default. Every bond shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the revenues and other funds pledged to its payment and that the municipality is not obligated to pay the principal, premium, if any, or interest except from such revenues and other funds.

(b) The bonds issued under the authority of this chapter by a joint agency shall constitute obligations of the joint agency issuing them and neither the state nor any political subdivision thereof, other than the joint agency, shall be obligated to pay the principal of, premium, if any, or interest on the bonds and neither the faith and credit nor the taxing power of the state or any such political subdivision thereof or of any such municipality shall be pledged to the payment of the principal of, premium, if any, or interest on the bonds.

(c) Payments made under a transmission contract under section 9(a)(14) of this chapter must be paid solely from revenues of the joint agency entering into the contract. The obligation to make these payments does not constitute an indebtedness, or lend the credit of the state, a political subdivision, or a municipality to a public utility. *As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.81-1997, SEC.5.*

IC 8-1-2.2-19
Approval of commission

Sec. 19. (a) Prior to the acquisition or the commencement of construction of any project to be financed by the issuance of bonds under this chapter, the municipality or municipalities or joint agency shall file a verified petition with the commission for approval of the project, for approval of participation of the municipality or municipalities or joint agency in the project, and for approval of any bonds to be issued under this chapter. If the commission shall determine:

(1) that the participation of the municipality or municipalities or joint agency in the project is economically and technically feasible;

(2) that the project will be integrated with existing or planned transmission line facilities in the state in a manner that will avoid economic and physical duplication of existing or planned transmission line facilities;

(3) that the municipality or municipalities or joint agency own

or have access to the transmission facilities to transmit such power and energy from the project to the municipality or municipalities or joint agency;

(4) that for a project involving a coal-consuming facility, the facility utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

(5) that for a project involving the acquisition or participation in the ownership of an electric generating facility located outside Indiana, the municipality, municipalities, or joint agency has been unable to acquire or participate in the ownership of a comparable generating facility in Indiana at a comparable cost and unable to purchase sufficient amounts of electricity in Indiana at a comparable cost giving due consideration to all factors, including but not limited to the length and terms of available purchases and the expected useful life of the facility;

(6) that for a project involving the acquisition or participation in the ownership of an electric generating facility located outside Indiana, acquisition of or participation in the ownership of the facility provides the municipality, municipalities, or joint agency with greater economic benefits than either:

(A) the acquisition or participation in the ownership of a comparable generating facility in Indiana available for ownership; or

(B) the purchase of sufficient amounts of electricity in Indiana at a comparable cost giving due consideration to all factors, including but not limited to the length and terms of available purchases and the expected useful life of the facility; and

(7) that the determinations of the governing body or bodies with respect to the items listed in section 3(c) or 8(b) of this chapter have been or should be approved;

then the commission shall issue an order approving the project and the participation of the municipality or municipalities or joint agency in the project and the issuance of bonds by the municipality or municipalities or by the joint agency. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings, and examine such witnesses, books, papers, documents, or contracts as it may deem of importance in enabling it to reach a determination. The determinations required by this subsection are in addition to the requirements of IC 8-1-8.5-4 and IC 8-1-8.5-5.

(b) A joint agency is not a public utility (as defined in IC 8-1-2). However, with respect to proceedings initiated by a joint agency under this section, the commission is given jurisdiction to proceed in the same manner and with like power as is provided by IC 8-1-2 in the case of public utilities (as defined in IC 8-1-2).

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.82-1988, SEC.5; P.L.54-1992, SEC.3; P.L.81-1997, SEC.6.

IC 8-1-2.2-20
Acquisition and construction contracts

Sec. 20. Acquisition and Construction Contracts. A municipality or joint agency may contract for the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, and improvement of generation and transmission facilities within or without its corporate limits or those of its members, or may contract with other public or private entities to perform these functions, without advertising for bids or securing performance and payment bonds, except to the extent that its governing body determines that these actions are desirable in furtherance of the purposes of this chapter. Except as otherwise provided by this section, no contract shall be invalid or unenforceable by reason of nonperformance of the conditions required by any other law relating to public contracts.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-21
Tax exempt status

Sec. 21. Tax Exempt Status. Bonds, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation by the state or any political subdivision or any agency of either thereof, excepting inheritance or gift taxes.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-22
Payments in lieu of taxes

Sec. 22. Payments in Lieu of Taxes. That part of a project owned by a municipality or municipalities or joint agency shall be exempt from property taxes. However, each municipality participating in a project or joint agency owning all or any part of a project shall, in lieu of property taxes, pay to any governmental unit authorized to levy property taxes the amount which would be assessed as taxes on real and personal property of a project if such project were otherwise subject to valuation and assessment. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the cases of taxes on other property. Payments in lieu of taxes made under this section shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

Except as expressly provided in this section with respect to jointly owned projects, no other property of a municipality used or useful in the generation, transmission and distribution of electric power and energy shall be subject to payments in lieu of taxes.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-23
Personnel

Sec. 23. Personnel. Personnel employed or appointed by a municipality or joint agency to work on a project shall have the same authority, rights, privileges and immunities which officers, agents and employees of municipalities enjoy, when they are acting within the scope of their authority or in the course of their employment.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-24
Dissolution of joint agencies

Sec. 24. Dissolution of Joint Agencies. Whenever the board of commissioners of a joint agency and the governing bodies of its member municipalities by resolution or ordinance determine that the purposes for which the joint agency was formed have been substantially fulfilled and that all bonds issued and all other obligations incurred by the joint agency have been fully paid or satisfied or provision for the payment thereof has been made in accordance with the terms of the resolution or trust agreement securing the same, the board of commissioners and governing boards may declare the joint agency to be dissolved. On the effective date of the resolution or ordinance, the title to all funds and other property owned by the joint agency at the time of the dissolution shall vest in the member municipalities of the joint agency as provided in this chapter and the bylaws of the joint agency.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-25
Annual reports

Sec. 25. Annual Reports. The municipal utilities or joint agencies possessing ownership interests in a project shall, following the closing of each fiscal year, submit a consolidated or combined annual report of their activities (including the activities of any joint agency) with respect to such project for the preceding year to the respective governing bodies of such municipalities and to the commission. Each report shall set forth in a form prescribed by the commission a complete operating and financial statement covering the operations of the project during the year. The municipalities or joint agencies possessing ownership interests in a project shall cause an audit of the books of record and accounts relating to such project (including any joint agency) to be made at least once in each year by a certified public accountant or accountants and the cost of the audit may be treated as a cost of construction of the project, or otherwise as part of the expenses of the administration of the project covered by such audit.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-26

Government grants and loans

Sec. 26. Government Grants and Loans. The governing body of any municipality or the joint agency is hereby authorized to make application and to enter into contracts for and to accept grants-in-aid and loans from the federal and state governments and their agencies for planning, acquiring, constructing, expanding, maintaining and operating any project or facility, or participating in any research or development program, or performing any function which such municipality or joint agency may be authorized by general or local law to provide or perform.

In order to exercise the authority granted by this section, the governing board of any municipality or joint agency may:

(1) enter into and carry out contracts with the state or federal government or any agency or institution thereof under which such government, agency or institution grants financial or other assistance to the municipality or joint agency;

(2) accept such assistance or funds as may be granted or loaned by the state or federal government with or without such a contract;

(3) agree to and comply with any reasonable conditions which are imposed upon such grants or loans; and

(4) make expenditures from any funds so granted.

As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-27

Eminent domain

Sec. 27. (a) Municipalities participating in a project and joint agencies have the power of eminent domain to the extent and in the same manner and under the same laws as municipalities or public utilities under IC 32-24-1 or IC 8-1-8. However, a municipality or joint agency exercising the power of eminent domain for a purpose authorized by this chapter may not condemn an existing facility used for the generation, transmission, or distribution of electric power and energy.

(b) The commission may order that:

(1) the lines and rights-of-way of any public utility or subscriber owned utility, or municipality or municipalities participating in a joint project or joint agency may be crossed by any municipality participating in a joint project or joint agency; or

(2) the lines of any municipalities participating in a joint project or joint agency may be crossed by any public utility or subscriber owned utility.

As added by Acts 1980, P.L.68, SEC.1. Amended by P.L.2-2002, SEC.35.

IC 8-1-2.2-28

Liability of officers

Sec. 28. Liability of Officers. No officer of any municipality or

joint agency or person or persons acting in their behalf, while acting within the scope of their authority, shall be subject to any personal liability or accountability by reason of his carrying out any of the powers expressly or impliedly given in this chapter.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-29
Construction with other laws

Sec. 29. Other Statutes. This chapter shall be considered to provide a complete method for the performance of things so authorized, and shall be considered and construed to be supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. However, insofar as the provisions of this chapter are inconsistent with the provisions of any other general, special or local law, the provisions of this chapter shall be controlling. Nothing in this chapter may be construed to authorize the issuance of bonds for the purpose of financing facilities to be owned by any private corporation and the issuance of bonds to finance an interest in any project undertaken jointly with a private corporation shall not be construed to be the issuance of bonds for the purpose of financing facilities to be owned by any private corporation.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-30
Severability

Sec. 30. Severability of Invalid Provisions. Any provisions of this chapter which may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
As added by Acts 1980, P.L.68, SEC.1.

IC 8-1-2.2-31
Member participating by electronic means of communication

Sec. 31. (a) This section applies to a meeting of the board of commissioners of a joint agency at which at least a quorum of the board is physically present at the place where the meeting is conducted.

(b) A member of the board of commissioners of a joint agency may participate in a meeting of the board of commissioners by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of the board of commissioners of a joint agency who participates in a meeting by using a means of communication described in subsection (b) is considered to be present at the meeting.

(d) The memoranda of a meeting of the board of commissioners of a joint agency prepared under IC 5-14-1.5-4 must state the name of:

(1) each member who was physically present at the place where the meeting was conducted;

(2) each member who participated in the meeting by using a means of communication described in subsection (b); and

(3) each member who was absent.

As added by P.L.179-2007, SEC.10.

IC 8-1-2.3

Chapter 2.3. Electricity Suppliers' Service Area Assignments

IC 8-1-2.3-1

Legislative findings and declaration of policy

Sec. 1. Legislative Findings and Declaration of Policy. It is declared to be in the public interest that, in order to encourage the orderly development of coordinated statewide electric service at retail, to eliminate or avoid unnecessary duplication of electric utility facilities, to prevent the waste of material and resources, and to promote economical, efficient, and adequate electric service to the public, the currently unincorporated areas of Indiana shall be divided into designated geographic areas within which an assigned electricity supplier has the sole right to furnish retail electric service to customers.

As added by Acts 1980, P.L.69, SEC.1.

IC 8-1-2.3-2

Definitions

Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Electricity supplier" means a public utility, a local district rural electric membership corporation, or a municipally owned electric utility which furnishes retail electric service to the public.

(c) "Retail electric service" means electric service furnished to a customer for ultimate consumption, but does not include wholesale electric service furnished by an electricity supplier to another electricity supplier for resale.

(d) "Existing electric distribution line" means an electric conductor which on January 1, 1979, was being used for the distribution or delivery of retail electric service.

(e) "Assigned service area" means the designated geographic area within the boundaries of which an electricity supplier is authorized to furnish all retail electric service, as provided in this chapter.

(f) "Municipality" means a city or town.

(g) "Existing municipal limits" means the corporate boundaries of any municipality as such boundaries existed on January 1, 1979.

As added by Acts 1980, P.L.69, SEC.1. Amended by P.L.23-1988, SEC.30.

IC 8-1-2.3-3

Assigned service areas

Sec. 3. Assigned Service Areas. (a) Unless otherwise agreed upon between adjacent electricity suppliers, all areas inside existing municipal limits are hereby assigned to the electricity supplier serving a plurality of the electric meters within the municipality on January 1, 1979.

(b) Where two (2) or more electricity suppliers are rendering retail

electric service within existing municipal limits, those suppliers shall take one (1) or more of the following actions to assure that only one (1) electricity supplier shall serve within the existing municipal limits:

(1) The electricity supplier serving a plurality of electric meters within the municipality on January 1, 1979, may purchase the electric utility property of any other electricity supplier which is devoted to retail electric service and is located within the existing municipal limits, at its then reproduction cost new depreciated value plus severance damages.

(2) At the option of the electricity supplier serving a plurality of electric meters within the municipality on January 1, 1979, and subject to commission approval, the electricity suppliers may exchange all or part of the electric utility property located outside of the existing municipal limits for the electric utility property located within the existing municipal limits.

(3) If the affected electricity suppliers do not agree upon a purchase or exchange of the electric utility property before September 1, 1980, the commission shall determine the appropriate purchase price for the electric utility property according to subsection (b)(1) of this section.

(c) On or before July 1, 1981, each electricity supplier in each county shall exchange with all other electricity suppliers in the county a map or maps showing all of its existing electric distribution lines in the county which are relevant to the assignment of service areas outside existing municipal limits and any other information it considers useful in determining the boundaries of an assigned service area.

(d) Until otherwise agreed upon between electricity suppliers or ordered by the commission under section 3(g) of this chapter, the boundaries of the assigned service area for each adjacent electricity supplier outside existing municipal limits shall be set as a line equidistant from its existing electric distribution lines and the nearest existing electric distribution lines of any other electricity supplier; the resulting assigned service area outside existing municipal limits of an electricity supplier will be that area which is closer to the existing electric distribution lines of a supplier than to the existing electric distribution lines of any other electricity supplier.

(e) Each electricity supplier shall negotiate with all adjacent electricity suppliers as soon as practicable in an effort to agree on the boundaries of the service areas to be assigned.

(f) Maps depicting the boundaries of such proposed service area assignments shall be prepared by each electricity supplier for each county in which the electricity supplier provides electric retail service, and shall be filed, together with a petition requesting approval and assignment of such service areas with the commission on or before July 1, 1982, or on such other date as the commission may determine, but in any event on or before March 1, 1983.

Thereafter, the commission shall hold a public hearing regarding the proposed service areas, after publication of notice of the hearing at least ten (10) days before the hearing in the county or counties in which such proposed service areas are located. If the commission finds that the proposed service areas comply with this chapter, it shall issue an order within twelve (12) months of the filing of the petition and related maps, approving and assigning the service areas as designated on the prepared maps.

(g) If two (2) or more adjacent electricity suppliers cannot agree upon the boundary line or lines between their respective proposed service areas on or before July 1, 1982, or such other date as the commission may determine, but in any event on or before March 1, 1983, the commission on its own motion or upon petition of one (1) of the electricity suppliers shall hold a public hearing regarding the location of the boundary line or lines, after publication of notice of the hearing at least ten (10) days before the hearing in the county or counties in which the boundary line or lines are located. The commission shall determine the boundary line or lines based as nearly as practicable upon a line equidistant between the existing electric distribution lines of the adjacent electricity suppliers, consistent with good utility practice and public convenience and necessity. The commission shall issue an order determining the boundary line or lines and assigning the service areas, and shall direct the parties to file with the commission maps showing such assigned service areas. If the commission determines that the maps comply with its order, it shall issue a supplemental order approving the assigned service areas as designated on the maps.

(h) Once established according to this section, the boundaries of assigned service areas may not be changed except as provided in section 6 of this chapter.

As added by Acts 1980, P.L.69, SEC.1. Amended by Acts 1982, P.L.71, SEC.1.

IC 8-1-2.3-4

Service area rights

Sec. 4. Service Area Rights. (a) As long as an electricity supplier continues to provide adequate retail service, it shall have the sole right to furnish retail electric service to each present and future consumer within the boundaries of its assigned service area and no other electricity supplier shall render or extend retail electric service within its assigned service area unless the electricity supplier with the sole right consents thereto in writing and the commission approves. This subsection does not prevent the commission from exercising its authority under IC 8-1-2-69.

(b) If an electricity supplier unlawfully renders or extends retail electric service within the assigned service area of another electricity supplier, the electricity supplier which has the sole right to furnish retail electric service in that assigned service area may bring an

action in the circuit or superior court of the county where such assigned service area is located to enjoin the other electricity supplier from rendering or extending such unlawful retail electric service.

If a violation is proved, the violator shall pay to the aggrieved electricity supplier the gross revenues derived by the violator from the sale of electric service within the assigned service area of the aggrieved electricity supplier, all witness fees, court costs and reasonable attorneys' fees incurred in any litigation brought to enforce this section. Payment of damages, fees and costs does not entitle a violator to furnish retail electric service in such assigned service area. All such actions or proceedings must be brought within three (3) years after the violation occurs.

As added by Acts 1980, P.L.69, SEC.1.

IC 8-1-2.3-5

Effect of incorporation, annexation, consolidation, or merger

Sec. 5. Effect of Incorporation, Annexation, Consolidation or Merger. After January 1, 1979, the inclusion by incorporation, annexation, consolidation, or merger of any part of the assigned service area of an electricity supplier does not impair or affect the rights of an electricity supplier to continue to solely furnish and extend retail electric service throughout any part of its assigned service area, except as provided in section 6 of this chapter.

As added by Acts 1980, P.L.69, SEC.1.

IC 8-1-2.3-6

Change of service area boundaries

Sec. 6. (a) The boundaries of the assigned service areas of electricity suppliers may not be changed except under one (1) of the following circumstances:

(1) Except as provided in subsection (b), if a municipality which owns and operates an electric utility system furnishing retail electric service to the public annexes an area beyond the assigned service area of its municipally owned electric utility, the municipally owned electric utility may petition the commission to change the assigned service area of the municipally owned electric utility to include the annexed area, according to the following procedures:

(A) The municipally owned electric utility shall file its petition with the commission not later than sixty (60) days after the annexation becomes effective. The petition must include a certified copy of the annexation ordinance, which serves as conclusive evidence that the area has been lawfully annexed and is part of the municipality. After the filing of a petition under this subdivision, the commission shall promptly enter an order changing the assigned service area facet maps of the municipally owned electric utility and incumbent electricity suppliers to include the annexed area

within the assigned service area of the municipally owned electric utility and giving the right to serve and immediate possession to the municipally owned electric utility. The commission order is enforceable in court pending an appeal of that order. An appellant from a court order enforcing a commission order under this subdivision is not entitled to a stay of the court order pending appeal. However, this subdivision does not apply to incorporations, consolidations, mergers, or annexations that are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b), IC 36-4-3-4(h), or IC 36-4-3-4.1 or that are not contiguous under IC 36-4-3-13(b) or IC 36-4-3-13(c).

(B) Not later than thirty (30) days after filing a petition under this subdivision, the municipally owned electric utility shall determine for each affected incumbent electricity supplier and pay to that supplier an amount not less than the value of all the electric utility property of the incumbent electricity supplier that is devoted to furnishing retail electric service within the additional assigned service area at its then reproduction cost new depreciated value. In addition, the municipally owned electric utility shall pay the incumbent electricity supplier severance damages in an amount equal to:

(i) the value of the incumbent electricity supplier's distribution and substation facilities dedicated to and located within the annexed area or relocated by reason of the annexation or an amount equal to two and one-half (2 1/2) times the incumbent electricity supplier's gross revenues from electricity sales in the annexed area during the twelve (12) month period immediately preceding the date the annexation ordinance became effective, whichever is greater; plus

(ii) if additional permanent service locations or service accounts are established in the annexed area during the five (5) year period beginning on the effective date of the annexation ordinance, one-tenth of one cent ($0.001) for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales that occur during a five (5) year period beginning on the date each service location or service account is established, up to a maximum of one hundred seventy thousand (170,000) kilowatt hours per service account or service location for each monthly billing period.

However, the municipally owned electric utility is not required to pay severance damages under item (ii) if, at the time each annual payment otherwise would accrue, it is purchasing all of its requirements for electric power and energy, except for generation directly provided by the municipally owned electric utility or by a customer, from the

incumbent electricity supplier. Severance damages must be paid not later than thirty (30) days after the end of each calendar year in which severance damages have accrued. The municipally owned electric utility and incumbent electricity suppliers shall cooperate to calculate the amount of any severance damages and shall furnish to each other all information and records reasonably necessary for the determination and verification of severance damages. If the municipally owned electric utility and incumbent electricity suppliers cannot agree on the amount of severance damages the municipally owned electric utility is to pay, the commission shall determine the amount and order payment in accordance with this clause. Not later than twenty (20) days after making a payment, the municipally owned electric utility shall certify to the commission and to any affected incumbent electricity supplier that it has paid the amounts required under this clause.

(C) If the municipally owned electric utility fails to make a payment under clause (B), an affected incumbent electricity supplier may, not later than sixty (60) days after the payment is due and after giving the municipally owned electric utility reasonable notice of and an opportunity to cure the defect, file with the commission a petition alleging that a payment due under clause (B) has not been made. If the commission finds after notice and hearing that any payments owed to the incumbent electricity supplier have not been timely and fully paid, the commission shall order the municipally owned electric utility to pay:

(i) the delinquent payments by a date determined by the commission;

(ii) accrued interest at the rate set forth in IC 24-4.6-1-102; and

(iii) the incumbent electricity supplier's costs of filing and prosecuting a petition under this clause.

If the commission finds against the incumbent electricity supplier, it shall order the incumbent electricity supplier to pay the costs incurred by the municipally owned electric utility in defending against the incumbent electricity supplier's petition.

(D) A certified copy of a final commission order that:

(i) determines and orders the payment of severance damages under clause (B); or

(ii) orders the payment of delinquent payments, interest, and costs under clause (C);

may be filed with the clerk of the circuit or superior court of any county in which part or all of the annexed area is located. A commission order that is filed in a court under this clause may be enforced and executed in the same

manner as if it were a final judgment of that court.

(2) Upon mutual agreement of the affected electricity suppliers and approval of the commission. If notice of a verified request for a change of boundary lines by mutual agreement under this subdivision is published in a newspaper of general circulation in every county in which the boundary lines are located and an affected electricity customer does not request a hearing within twenty (20) days of the last date of publication, the commission may approve the change without a hearing. The commission shall approve a boundary line change under this subdivision unless the commission finds, after a public hearing, that the change would cause:

(A) duplication of electric utility facilities;

(B) waste of materials or resources; or

(C) uneconomic, inefficient, or inadequate electric service to the public.

(3) In the case where a landowner owns a single tract of land that is intersected by the boundary lines of two (2) or more assigned service areas, and retail electric service can best be supplied by only one (1) electricity supplier, or in the case where a customer or customers are housed in a single structure or constitute a single governmental, industrial, or institutional operation, and the electricity suppliers involved are unable to agree which shall furnish the electric service, any of the electricity suppliers may submit the matter to the commission for its determination based upon public convenience and necessity. If, after notice and hearing, the commission determines that one (1) or more electricity suppliers are to supply the required retail electric service and the boundaries of an assigned service area are to be changed, the assigned service area maps of the electricity suppliers shall be changed to reflect the new boundaries.

(b) After May 19, 2015, a municipality that:

(1) owns and operates an electric utility system furnishing retail electric service to the public; and

(2) annexes an area beyond the assigned service area of its municipally owned electric utility;

may not petition the commission to change the assigned service area of the municipally owned electric utility to include the annexed area according to the procedures set forth in subsection (a)(1). After May 19, 2015, the boundaries of the assigned service areas of electricity suppliers may be changed only according to the procedures set forth in subsection (a)(2) or (a)(3), as applicable. This subsection does not affect a petition that is filed with the commission under subsection (a)(1) before May 20, 2015, and pending before the commission on May 20, 2015.

As added by Acts 1980, P.L.69, SEC.1. Amended by P.L.91-1985, SEC.1; P.L.19-1986, SEC.27; P.L.79-1996, SEC.1;

P.L.255-1997(ss), SEC.7; P.L.217-1999, SEC.1; P.L.56-2002, SEC.1; P.L.31-2015, SEC.1.

IC 8-1-2.4

Chapter 2.4. Alternate Energy Production, Cogeneration, and Small Hydro Facilities

IC 8-1-2.4-1

Development of alternate energy production facilities; policy

Sec. 1. It is the policy of this state to encourage the development of alternate energy production facilities, cogeneration facilities, and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient utilization.
As added by Acts 1982, P.L.72, SEC.1.

IC 8-1-2.4-2

Definitions

Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

(1) a solar, wind turbine, waste management, resource recovery, refuse-derived fuel, or wood burning facility;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "Cogeneration facility" means:

(1) a facility that:

(A) simultaneously generates electricity and useful thermal energy; and

(B) meets the energy efficiency standards established for cogeneration facilities by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(d) "Electric utility" means any public utility or municipally owned utility that owns, operates, or manages any electric plant.

(e) "Small hydro facility" means:

(1) a hydroelectric facility at a dam;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(f) "Steam utility" means any public utility or municipally owned utility that owns, operates, or manages a steam plant.

(g) "Private generation project" means a cogeneration facility that has an electric generating capacity of eighty (80) megawatts or more and is:

(1) primarily used by its owner for the owner's industrial, commercial, heating, or cooling purposes; or

(2) a qualifying facility for purposes of the Public Utility Regulatory Policies Act of 1978 that:

(A) is in existence on July 1, 2014; and

(B) produces electricity and useful thermal energy that is primarily used by a host operation for industrial, commercial, heating, or cooling purposes.

As added by Acts 1982, P.L.72, SEC.1. Amended by P.L.23-1988, SEC.31; P.L.222-2014, SEC.2.

IC 8-1-2.4-3

Participation of utilities; encouragement

Sec. 3. The commission shall encourage the participation of utilities in alternate energy production facilities, cogeneration facilities, small hydro facilities, and private generation projects.

As added by Acts 1982, P.L.72, SEC.1. Amended by P.L.222-2014, SEC.3.

IC 8-1-2.4-4

Contracts by electric and steam utilities required

Sec. 4. (a) Subject to section 5 of this chapter, the commission shall require electric utilities and steam utilities to enter into long term contracts to:

(1) purchase or wheel electricity or useful thermal energy from alternate energy production facilities, cogeneration facilities, or small hydro facilities located in the utility's service territory, under the terms and conditions that the commission finds:

(A) are just and economically reasonable to the corporation's ratepayers;

(B) are nondiscriminatory to alternate energy producers, cogenerators, and small hydro producers; and

(C) will further the policy stated in section 1 of this chapter; and

(2) provide for the availability of supplemental or backup power to alternate energy production facilities, cogeneration facilities, or small hydro facilities, on a nondiscriminatory basis and at just and reasonable rates.

(b) Upon application by the owner or operator of any alternate energy production facility, cogeneration facility, or small hydro facility, or any interested party, the commission shall establish for the affected utility just and economically reasonable rates for electricity purchased under subsection (a)(1). The rates shall be

established at levels sufficient to stimulate the development of alternate energy production, cogeneration, and small hydro facilities in Indiana, and to encourage the continuation of existing capacity from those facilities.

(c) The commission shall base the rates for new facilities or new capacity from existing facilities on the following factors:

(1) The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the utility.

(2) The term of the contract between the utility and the seller.

(3) A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the utility's new construction program.

(4) The utility's annual energy costs, including current fuel costs, related operation and maintenance costs, and any other energy-related costs considered appropriate by the commission.

Until July 1, 1986, the rate for a new facility may not exceed eight cents ($.08) per kilowatt hour.

(d) The commission shall base the rates for existing facilities on the factors listed in subsection (c). However, the commission shall also consider the original cost less depreciation of existing facilities and may establish a rate for existing facilities that is less than the rate established for new facilities.

(e) In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be equal to the current cost to the utility of similar types and quantities of electrical service.

(f) In lieu of the other procedures provided by this section, a utility and an owner or operator of an alternate energy production facility, cogeneration facility, or small hydro facility may enter into a long term contract in accordance with subsection (a) and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the commission in the manner provided by IC 8-1-2-42.

(g) This section does not require an electric utility or steam utility to construct any additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility, cogeneration facility, or small hydro facility.

As added by Acts 1982, P.L.72, SEC.1.

IC 8-1-2.4-5

Utilities excepted; grounds

Sec. 5. (a) The commission may not require an electric utility or steam utility to purchase or wheel electricity or useful thermal energy from an alternate energy production facility or cogeneration facility unless the facility:

(1) has an electric generating capacity of not more than eighty

(80) megawatts;

(2) produces electricity, gas, or useful thermal energy for industrial, commercial, or residential purposes; and

(3) is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that:

(A) is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities, cogeneration facilities, or small hydro facilities; and

(B) does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

(b) The commission may not require an electric utility or steam utility to purchase or wheel electricity or useful thermal energy from a small hydro facility unless the facility has an electric generating capacity of not more than eighty (80) megawatts.

As added by Acts 1982, P.L.72, SEC.1.

IC 8-1-2.4-6

Private generation projects; sale of excess output; interconnection

Sec. 6. (a) The owner of a private generation project may sell excess electric output generated by the private generation project to an electric utility as provided in subsection (b) to the extent the sale is consistent with applicable federal and state laws, rules, and regulations.

(b) An electric utility may purchase excess output described in subsection (a) from a private generation project that is located entirely in the assigned service area of the electric utility. The terms of the purchase must be consistent with the integrated resource plan filed with the commission by the electric utility under 170 IAC 4-7, including avoided energy and capacity costs determined in the integrated resource plan.

(c) An electric utility is entitled to recover costs associated with the purchase of energy and capacity under subsection (b) under IC 8-1-2-42(d).

(d) An electric utility shall interconnect with a private generation project upon request, subject to reasonable considerations of safety, reliability, and financial assurance. The interconnection of a private generation project with an electric utility's distribution system is governed by 170 IAC 4-4.3. The interconnection of a private generation project with an electric utility's transmission system is governed by federal law and regulation, including orders, regulations, and transmission tariffs approved by the Federal Energy Regulatory Commission.

(e) Upon the request of the owner of a private generation project, an electric utility shall provide the private generation project with

back up, maintenance, and supplementary power. The electric utility shall charge rates that:

(1) are based on the electric utility's costs;

(2) do not discriminate against:

(A) the private generation project; or

(B) other customers of the electric utility with load characteristics similar to the private generation project; and

(3) do not create subsidies for:

(A) the private generation project; or

(B) retail customers of the electric utility.

As added by P.L.222-2014, SEC.4.

IC 8-1-2.5

Chapter 2.5. Alternative Utility Regulation

IC 8-1-2.5-1

Legislative findings

Sec. 1. The Indiana general assembly hereby declares the following:

(1) That the provision of safe, adequate, efficient, and economical retail energy services is a continuing goal of the commission in the exercise of its jurisdiction.

(2) That competition is increasing in the provision of energy services in Indiana and the United States.

(3) That traditional commission regulatory policies and practices, and certain existing statutes are not adequately designed to deal with an increasingly competitive environment for energy services and that alternatives to traditional regulatory policies and practices may be less costly.

(4) That an environment in which Indiana consumers will have available state-of-the-art energy services at economical and reasonable costs will be furthered by flexibility in the regulation of energy services.

(5) That flexibility in the regulation of energy services providers is essential to the well-being of the state, its economy, and its citizens.

(6) That the public interest requires the commission to be authorized to issue orders and to formulate and adopt rules and policies that will permit the commission in the exercise of its expertise to flexibly regulate and control the provision of energy services to the public in an increasingly competitive environment, giving due regard to the interests of consumers and the public, and to the continued availability of safe, adequate, efficient, and economical energy service.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-2

"Energy utility" defined

Sec. 2. As used in this chapter, "energy utility" means a public utility or a municipally owned utility within the meaning of IC 8-1-2-1, or a local district corporation or a general district corporation within the meaning of IC 8-1-13-23, engaged in the production, transmission, delivery, or furnishing of heat, light, or power.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-3

"Retail energy service" defined

Sec. 3. As used in this chapter, "retail energy service" means energy service furnished by an energy utility to a customer for

ultimate consumption, including energy service by a general district corporation to a local district corporation within the meaning of IC 8-1-13-23. The term does not include wholesale energy service furnished by an energy utility for resale (other than energy service by a general district corporation to a local district corporation) to another energy utility, a cooperatively owned electric utility, or a municipally owned electric utility.
As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-4
Petition from energy utility requesting relief

Sec. 4. Section 5 or 6, or both, of this chapter do not apply to an energy utility unless the energy utility voluntarily submits a verified petition to the commission stating the energy utility's election to become subject to such section or sections. A request for relief by an energy utility under section 5 of this chapter shall be limited to jurisdiction over the energy utility or its retail energy services, including rates, charges, or both. A request for relief by an energy utility under section 6 of this chapter shall be limited to approval of its energy services or the establishment of its rates and charges, or both.
As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-5
Commission's order declining jurisdiction

Sec. 5. (a) Notwithstanding any other law or rule adopted by the commission, except those cited, or rules adopted that pertain to those cited, in section 11 of this chapter, on the request of an energy utility electing to become subject to this section, the commission may enter an order, after notice and hearing, that the public interest requires the commission to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over either the energy utility or the retail energy service of the energy utility, or both.

(b) In determining whether the public interest will be served, the commission shall consider the following:

(1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.

(2) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility's customers, or the state.

(3) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.

(4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-6

Powers of commission in approving rates and services; alternative regulatory plan

Sec. 6. (a) Notwithstanding any other law or rule adopted by the commission, except those cited, or rules adopted that pertain to those cited, in section 11 of this chapter, in approving retail energy services or establishing just and reasonable rates and charges, or both for an energy utility electing to become subject to this section, the commission may do the following:

(1) Adopt alternative regulatory practices, procedures, and mechanisms, and establish rates and charges that:

(A) are in the public interest as determined by consideration of the factors described in section 5 of this chapter; and

(B) enhance or maintain the value of the energy utility's retail energy services or property;

including practices, procedures, and mechanisms focusing on the price, quality, reliability, and efficiency of the service provided by the energy utility.

(2) Establish rates and charges based on market or average prices, price caps, index based prices, and prices that:

(A) use performance based rewards or penalties, either related to or unrelated to the energy utility's return or property; and

(B) are designed to promote efficiency in the rendering of retail energy services.

(b) This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before January 1, 1995;

(2) does not give the commission the authority to order a party to a collective bargaining agreement to cancel, terminate, amend or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the commission in a way that would give a party to a collective bargaining agreement any greater rights under the collective bargaining agreement than the party had before January 1, 1995.

(c) An energy utility electing to become subject to this section shall file with the commission an alternative regulatory plan proposing how the commission will approve retail energy services or just and reasonable rates and charges for the energy utility's retail energy service.

(d) The energy utility shall publish a notice of the filing of a petition under this section in a newspaper of general circulation published in any county in which the energy utility provides retail energy service.

(e) After notice and hearing, the commission may approve, reject, or modify the energy utility's proposed plan if the commission finds

that such action is consistent with the public interest. However, the commission may not order that material modifications changing the nature, scope or duration of the plan take effect without the agreement of the energy utility. The energy utility shall have twenty (20) days after the date of a commission order modifying the energy utility's proposed plan within which to, in writing, accept or reject the commission's order.

(f) An energy utility may withdraw a plan proposed under this section without prejudice before the commission's approval of the plan, or the energy utility may timely reject a commission order modifying its proposed plan under this section without prejudice. However, the energy utility may not file a petition for comparable relief under this section for a period of twelve (12) months after the date of the energy utility's withdrawal of its proposed plan or the date of the energy utility's rejection of the commission's order, whichever is applicable.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-7
Termination of plan; exercise of jurisdiction over energy utility

Sec. 7. The commission may:

(1) on its own motion;
(2) at the request of the utility consumer counselor;
(3) at the request of the affected energy utility; or
(4) at the request of any class satisfying the standing requirements of IC 8-1-2-54;

enter an order notifying an energy utility subject to an alternative regulatory plan or over which jurisdiction was either limited or not exercised under this chapter that the commission will proceed to terminate the plan, or any part thereof, or exercise jurisdiction over the energy utility or its retail energy service to the extent the public interest requires, unless a formal request for a hearing is filed by the energy utility with the commission not more than fifteen (15) days after the date of the order. In the event that such a formal request is timely filed, the commission shall hold a hearing concerning such matters and issue its order thereon based upon the evidence introduced at the hearing. However, if the commission has declined jurisdiction in whole or in part or approved an alternative regulatory plan under this chapter for a fixed term of years, such jurisdiction may be reimposed or the plan, or any part of the plan, may be terminated before expiration of the term only if material and irreparable harm to the energy utility, the energy utility's customers, the state, or the safety of the energy utility's workforce has been established.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-8
Commencement of proceedings

Sec. 8. A proceeding before the commission under section 5 or 6, or both, of this chapter may be commenced only by an energy utility that elects to become subject to the applicable section.
As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-9
Legislative committee; monitoring changes and competition in energy utility industry

Sec. 9. (a) As used in this section, "committee" means the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4.

(b) The committee shall monitor changes and competition in the energy utility industry.

(c) The commission shall before August 15 of each year prepare for presentation to the committee an analysis of the effects of competition or changes in the energy utility industry on service and on the pricing of all energy utility services under the jurisdiction of the commission.

(d) In addition to reviewing the commission report prepared under subsection (c), the committee shall also issue a report and recommendations to the legislative council before November 1 of each year that are based on a review of the following issues:

(1) The effects of competition or changes in the energy utility industry and the impact of the competition or changes on the residential rates.

(2) The status of modernization of the energy utility facilities in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development of this modernization.

(4) The traditional method of regulating energy utilities and the method's effectiveness.

(5) The economic and social effectiveness of traditional energy utility service pricing.

(6) The effects of legislation enacted by the United States Congress.

(7) All other energy utility issues the committee considers appropriate; however, it is not the intent of this section to provide for the review of the statutes cited in section 11 of this chapter.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995;

(2) does not give the committee the authority to order a party to a collective bargaining agreement to cancel, terminate, amend, or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the committee in a way that would give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995.

(f) The committee shall, with the approval of the commission, retain independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid with funds from the public utility fees assessed under IC 8-1-6.

As added by P.L.108-1995, SEC.3. Amended by P.L.78-1997, SEC.2; P.L.28-2004, SEC.70; P.L.256-2013, SEC.1; P.L.53-2014, SEC.75.

IC 8-1-2.5-10
Implementation of chapter

Sec. 10. The commission may also adopt rules under IC 4-22-2 to implement this chapter, but the absence of such rules does not affect the commission's authority under this chapter.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-11
Limitations on chapter's applicability

Sec. 11. Nothing in this chapter affects the continuing applicability of IC 8-1-2-87, IC 8-1-2-87.5, IC 8-1-2.3, or IC 8-1-3.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.5-12
Wages of independent contractor

Sec. 12. For purposes of IC 8-1-2.5, wages paid to an independent contractor of an energy utility for construction or maintenance performed for an energy utility shall not be found to be excessive merely because the wages are those normally paid for work of the same type and quality in the labor market in which the work for the energy utility is being performed.

As added by P.L.108-1995, SEC.3.

IC 8-1-2.6

Chapter 2.6. Competition in the Provision of Telephone Services

IC 8-1-2.6-0.1

"Basic telecommunications service"

Sec. 0.1. (a) As used in this chapter, "basic telecommunications service" means stand alone telephone exchange service (as defined in 47 U.S.C. 153(47)) that:

(1) is provided to a residential customer through the customer's primary line; and

(2) is:

(A) the sole service purchased by the customer;

(B) not part of a package of services, a promotion, or a contract; or

(C) not otherwise offered at a discounted price.

(b) The term includes, at a minimum, the following:

(1) Voice grade access to the public switched telephone network with minimum bandwidth of three hundred (300) to three thousand (3,000) hertz.

(2) Dual tone multifrequency signaling and single party service.

(3) Access to:

(A) emergency services, including access to 911 and enhanced 911 if provided by the local government having jurisdiction in the service area;

(B) operator services;

(C) local directory assistance;

(D) telephone relay services; and

(E) interexchange service.

(4) Toll limitation services for qualifying low income customers.

(c) The term does not include a functionally equivalent service provided by a person or an entity described in IC 8-1-2-1.1.

As added by P.L.27-2006, SEC.6.

IC 8-1-2.6-0.2

"Incumbent local exchange carrier"

Sec. 0.2. As used in this chapter, "incumbent local exchange carrier" has the meaning set forth in 47 U.S.C. 251(h).

As added by P.L.27-2006, SEC.7.

IC 8-1-2.6-0.3

"Nonbasic telecommunications service"

Sec. 0.3. (a) As used in this chapter, "nonbasic telecommunications service" means retail telecommunications service other than:

(1) basic telecommunications service, except when the service is purchased by the customer:

(A) in conjunction with another service;
(B) as part of a package of services, a promotion, or a contract; or
(C) at an otherwise discounted price;
(2) commercial mobile radio service (as defined in 47 CFR 51.5);
(3) services outside the jurisdiction of the commission under section 1.1 of this chapter; and
(4) switched and special access services.
(b) The term includes services included in:
(1) customer specific contracts;
(2) volume, term, and discount pricing options; and
(3) packages, bundles, and promotions, including offers designed to obtain new customers, retain existing customers, or bring back former customers.
As added by P.L.27-2006, SEC.8.

IC 8-1-2.6-0.4
"Provider"
Sec. 0.4. As used in this chapter, "provider" means a person or an entity that offers basic or nonbasic telecommunications service.
As added by P.L.27-2006, SEC.9.

IC 8-1-2.6-0.5
"Rates and charges"
Sec. 0.5. As used in this chapter, "rates and charges", with respect to basic telecommunications service, means the monthly charge to a customer for basic telecommunications service, including:
(1) recurring charges for flat rate and message rate service; and
(2) any nonrecurring charge for installation or a line or service connection.
As added by P.L.27-2006, SEC.10.

IC 8-1-2.6-0.6
"Telecommunications"
Sec. 0.6. As used in this chapter, "telecommunications" has the meaning set forth in 47 U.S.C. 153.
As added by P.L.27-2006, SEC.11. Amended by P.L.7-2015, SEC.8.

IC 8-1-2.6-0.7
"Telecommunications service"
Sec. 0.7. As used in this chapter, "telecommunications service" has the meaning set forth in 47 U.S.C. 153.
As added by P.L.27-2006, SEC.12. Amended by P.L.7-2015, SEC.9.

IC 8-1-2.6-1
Legislative declaration
Sec. 1. The Indiana general assembly hereby declares that:

(1) the maintenance of universal telephone service is a continuing goal of the commission in the exercise of its jurisdiction;
(2) competition has become commonplace in the provision of telecommunications services in Indiana and the United States;
(3) advancements in and the convergence of technologies that provide voice, video, and data transmission, including:
(A) landline, wireless, cable, satellite, and Internet transmissions; and
(B) transmissions involving voice over Internet Protocol (VOIP), Internet Protocol enabled services, and voice over power lines;
are substantially increasing consumer choice, reinventing the marketplace with unprecedented speed, and making available highly competitive products and services and new methods of delivering local exchange service;
(4) traditional regulatory policies, practices, and statutes are not designed to deal with a competitive environment and technological advancements;
(5) an environment in which Indiana consumers will have available the widest array of state-of-the-art communications services at the most economic and reasonable cost possible will necessitate full and fair facilities based competition in the delivery of telecommunications services throughout Indiana; and
(6) streamlining of, and flexibility in, the regulation of providers of telecommunications services, regardless of the technology used, is essential to the well-being of Indiana, its economy, and its citizens, and that the public interest requires that the commission be authorized to formulate and adopt rules and policies as will permit the commission, in the exercise of its expertise, to regulate and control the provision of telecommunications services to the public in an increasingly competitive and technologically changing environment, giving due regard to the interests of consumers and the public, the ability of market forces to encourage innovation and investment, and the continued universal availability of basic telecommunications service.

As added by P.L.92-1985, SEC.1. Amended by P.L.23-1988, SEC.32; P.L.27-2006, SEC.13.

IC 8-1-2.6-1.1
Services not subject to commission jurisdiction

Sec. 1.1. The commission shall not exercise jurisdiction over:
(1) advanced services (as defined in 47 CFR 51.5);
(2) broadband service, however defined or classified by the Federal Communications Commission;
(3) information service (as defined in 47 U.S.C. 153;

(4) Internet Protocol enabled retail services:
(A) regardless of how the service is classified by the Federal Communications Commission; and
(B) except as expressly permitted under IC 8-1-2.8;
(5) commercial mobile service (as defined in 47 U.S.C. 332); or
(6) any service not commercially available on March 28, 2006.
As added by P.L.27-2006, SEC.14. Amended by P.L.1-2007, SEC.69; P.L.7-2015, SEC.10.

IC 8-1-2.6-1.2
Nonbasic telecommunications service; commission's limited jurisdiction
Sec. 1.2. Except as provided in sections 1.5(b) and 13 of this chapter, after March 27, 2006, the commission shall not exercise jurisdiction over any nonbasic telecommunications service.
As added by P.L.27-2006, SEC.15. Amended by P.L.1-2007, SEC.70; P.L.256-2013, SEC.2.

IC 8-1-2.6-1.3
Measured local service prohibited
Sec. 1.3. A provider that offers basic telecommunications service in Indiana:
(1) must offer a flat monthly rate with unlimited local calling for basic telecommunications service in each local exchange area in Indiana in which the provider offers basic telecommunications service; and
(2) may not, in any local exchange area in Indiana in which the provider offers basic telecommunications service, offer any service plan for basic telecommunications service that includes measured local service.
As added by P.L.27-2006, SEC.16. Amended by P.L.256-2013, SEC.3.

IC 8-1-2.6-1.4
Basic telecommunications service; commission's limited jurisdiction
Sec. 1.4. Except as provided in sections 1.5(b) and 13 of this chapter, after June 30, 2009, the commission shall not exercise jurisdiction over basic telecommunications service.
As added by P.L.27-2006, SEC.17. Amended by P.L.1-2007, SEC.71; P.L.256-2013, SEC.4.

IC 8-1-2.6-1.5
Commission's delegated authority; intrastate switched or special access service rates and charges; filing of tariff
Sec. 1.5. (a) In acting to impose any requirements or set any prices concerning:
(1) interconnection with the facilities and equipment of

providers for purposes of 47 U.S.C. 251(c)(2);

(2) the resale of telecommunications service for purposes of 47 U.S.C. 251(c)(4); or

(3) the unbundled access of one (1) provider to the network elements of another provider for purposes of 47 U.S.C. 251(c)(3);

the commission shall not exceed the authority delegated to the commission under federal laws and regulations with respect to those actions.

(b) Subject to any regulations adopted by the Federal Communications Commission, this section does not affect:

(1) the commission's authority to mediate a dispute between providers under 47 U.S.C. 252(a);

(2) the commission's authority to arbitrate a dispute between providers under 47 U.S.C. 252(b);

(3) the commission's authority to approve an interconnection agreement under 47 U.S.C. 252(e), including the authority to establish service quality metrics and liquidated damages;

(4) the commission's authority to review and approve a provider's statement of terms and conditions under 47 U.S.C. 252(f);

(5) a provider's ability to file a complaint with the commission to have a dispute decided by the commission:

(A) after notice and hearing; and

(B) in accordance with this article; or

(6) the commission's authority to resolve an interconnection dispute between providers under the expedited procedures set forth in 170 IAC 7-7.

(c) If a provider's rates and charges for intrastate switched or special access service are:

(1) at issue in a dispute that the commission is authorized to mediate, arbitrate, or otherwise determine under state or federal law; or

(2) included in an interconnection agreement or a statement of terms and conditions that the commission is authorized to review or approve under state or federal law;

the commission shall consider the provider's rates and charges for intrastate switched or special access service to be just and reasonable if the intrastate rates and charges mirror the provider's interstate rates and charges for switched or special access service.

(d) If the commission requires a provider to file a tariff for intrastate switched access service, special access service, or any other service, the filing of the tariff with the commission serves as the public notice of the filing of the tariff. The commission shall provide the public with notice of tariff filings through the commission's Internet web site or other electronic means.

As added by P.L.27-2006, SEC.18. Amended by P.L.256-2013, SEC.5; P.L.107-2014, SEC.1.

IC 8-1-2.6-2

Rules and orders of the commission; notice and hearing; underlying policies; determination of public interest

Sec. 2. (a) This section applies to rules and orders that:

(1) concern telecommunications service or providers of telecommunications service; and

(2) may be adopted or issued by the commission under the authority of state or federal law.

(b) Rules and orders described in this section:

(1) may be adopted or issued only after notice and hearing, unless:

(A) the commission determines in accordance with IC 8-1-2-113 that an emergency exists that requires the commission or a provider to take immediate action to:

(i) prevent injury to the business or interests of the citizens of Indiana; or

(ii) maintain a provider's financial integrity and ability to provide adequate basic telecommunications service;

(B) the commission is authorized under IC 8-1-2 to adopt a particular rule or issue a particular order without the necessity of a hearing; or

(C) after receiving notice of the commission's proposed action, all parties to a proceeding consent to the commission taking action without a hearing; and

(2) must be:

(A) consistent with this chapter; and

(B) in the public interest, as determined by the commission under subsection (d).

(c) Rules and orders described in this section must promote one (1) or more of the following:

(1) Cost minimization for providers to the extent that a provider's quality of service and facilities are not diminished.

(2) A more accurate evaluation by the commission of a provider's physical or financial conditions or needs as well as a less costly regulatory procedure for either the provider, the provider's customers, or the commission.

(3) Consumer access to affordable basic telecommunications service.

(4) Development of depreciation guidelines and procedures that recognize technological obsolescence.

(5) Increased provider management efficiency beneficial to customers.

(6) Regulation consistent with a competitive environment.

(d) In determining whether the public interest will be served, as required under subsection (b), the commission shall consider:

(1) whether technological change, competitive forces, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the commission unnecessary or

wasteful;

(2) whether the exercise of commission jurisdiction produces tangible benefits to the customers of providers; and

(3) whether the exercise of commission jurisdiction inhibits a regulated entity from competing with unregulated providers of functionally similar telecommunications services or equipment.

As added by P.L.92-1985, SEC.1. Amended by P.L.27-2006, SEC.19; P.L.107-2014, SEC.2.

IC 8-1-2.6-3
Repealed

(As added by P.L.92-1985, SEC.1. Repealed by P.L.27-2006, SEC.61.)

IC 8-1-2.6-4
Reports; legislative committee review

Sec. 4. (a) As used in this section, "committee" means the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4.

(b) Subject to subsection (e), the commission shall, by July 1 of each year, report to the committee in an electronic format under IC 5-14-6 on the following:

(1) The effects of competition and technological change on universal service and on pricing of all telecommunications services offered in Indiana.

(2) The status of competition and technological change in the provision of video service (as defined in IC 8-1-34-14) available to Indiana customers, as including the following information:

(A) The number of multichannel video programming distributors offering video service to Indiana customers.

(B) The technologies used to provide video service to Indiana customers.

(C) The advertised programming and pricing options offered by video service providers to Indiana customers.

(3) Best practices concerning vertical location of underground facilities for purposes of IC 8-1-26. A report under this subdivision must address the viability and economic feasibility of technologies used to vertically locate underground facilities.

(c) In addition to reviewing the commission report prepared under subsection (b), the committee may also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

(1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.

(2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).
(4) The current methods of regulating providers, at both the federal and state levels, and the effectiveness of the methods.
(5) The economic and social effectiveness of current telecommunications service pricing.
(6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(d) The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

(e) If the commission requests a communications service provider (as defined in section 13(b) of this chapter) to provide information for the commission to use in preparing a report under this section, the request must be limited to public information provided to the Federal Communications Commission and may be required to be provided only in the form in which it is provided to the Federal Communications Commission. However, the commission may request any public information from a communications service provider (as defined in section 13(b) of this chapter) upon a request from the committee's chairperson that specifically enumerates the public information sought.

As added by P.L.92-1985, SEC.1. Amended by P.L.23-1988, SEC.33; P.L.55-1992, SEC.1; P.L.224-2003, SEC.277; P.L.28-2004, SEC.71; P.L.27-2006, SEC.20; P.L.62-2009, SEC.1; P.L.256-2013, SEC.6; P.L.241-2013, SEC.1; P.L.53-2014, SEC.76.

IC 8-1-2.6-4.1
Biennial review of rules

Sec. 4.1. (a) Not later than:
(1) July 1, 2007; and
(2) July 1 of each odd-numbered year after July 1, 2007;

the commission shall, through a rulemaking proceeding under IC 4-22-2 or another commission proceeding, identify and eliminate rules and policies concerning telecommunications service and telecommunications service providers if the rules or policies are no longer necessary in the public interest or for the protection of consumers as the result of meaningful economic competition between providers of telecommunications services.

(b) A rule adopted under subsection (b) (as subsection (b) was in effect before its expiration on June 30, 2013) is void after June 30, 2013.

As added by P.L.27-2006, SEC.21. Amended by P.L.256-2013, SEC.7; P.L.53-2014, SEC.77.

IC 8-1-2.6-5
Repealed
(As added by P.L.92-1985, SEC.1. Repealed by P.L.27-2006, SEC.61.)

IC 8-1-2.6-6
Repealed
(As added by P.L.92-1985, SEC.1. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-2.6-7
Repealed
(As added by P.L.92-1985, SEC.1. Repealed by P.L.27-2006, SEC.61.)

IC 8-1-2.6-8
Repealed
(As added by P.L.81-1988, SEC.2. Amended by P.L.27-2006, SEC.22. Repealed by P.L.256-2013, SEC.8.)

IC 8-1-2.6-12
Repealed
(As added by P.L.27-2006, SEC.23. Repealed by P.L.256-2013, SEC.9.)

IC 8-1-2.6-13
Commission's jurisdiction; reporting requirements
Sec. 13. (a) As used in this section, "communications service" has the meaning set forth in IC 8-1-32.5-3.

(b) As used in this section, "communications service provider" means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

(c) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the commission may do the following, except as otherwise provided in this subsection:

(1) Enforce the terms of a settlement agreement approved by the commission before July 29, 2004. The commission's authority under this subdivision continues for the duration of the settlement agreement.

(2) Fulfill the commission's duties under IC 8-1-2.8 concerning the provision of dual party relay services to deaf, hard of hearing, and speech impaired persons in Indiana.

(3) Fulfill the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information

and referrals.

(4) Fulfill the commission's responsibilities under IC 8-1-29 to adopt and enforce rules to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(5) Fulfill the commission's obligations under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(6) Perform any of the functions described in section 1.5(b) of this chapter.

(7) Perform the commission's responsibilities under IC 8-1-32.5 to:

(A) issue; and

(B) maintain records of;

certificates of territorial authority for communications service providers offering communications service to customers in Indiana.

(8) Perform the commission's responsibilities under IC 8-1-34 concerning the issuance of certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(9) Require a communications service provider, other than a provider of commercial mobile service (as defined in 47 U.S.C. 332), to report to the commission on an annual basis, or more frequently at the option of the provider, and subject to section 4(e) of this chapter, any information needed by the commission to prepare the commission's report to the interim study committee on energy, utilities, and telecommunications under section 4 of this chapter.

(10) Perform the commission's duties under IC 8-1-32.4 with respect to telecommunications providers of last resort, to the extent of the authority delegated to the commission under federal law to perform those duties.

(11) Collect and maintain from a communications service provider the following information:

(A) The address of the provider's Internet web site.

(B) All toll free telephone numbers and other customer service telephone numbers maintained by the provider for receiving customer inquiries and complaints.

(C) An address and other contact information for the

provider, including any telephone number not described in clause (B).

The commission shall make any information submitted by a provider under this subdivision available on the commission's Internet web site. The commission may also make available on the commission's Internet web site contact information for the Federal Communications Commission and the Cellular Telephone Industry Association.

(12) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(d) The commission does not have jurisdiction over any of the following with respect to a communications service provider:

(1) Rates and charges for communications service provided by the communications service provider, including the filing of schedules or tariffs setting forth the provider's rates and charges.

(2) Depreciation schedules for any of the classes of property owned by the communications service provider.

(3) Quality of service provided by the communications service provider.

(4) Long term financing arrangements or other obligations of the communications service provider.

(5) Except as provided in subsection (c), any other aspect regulated by the commission under this title before July 1, 2009.

(e) The commission has jurisdiction over a communications service provider only to the extent that jurisdiction is:

(1) expressly granted by state or federal law, including:

(A) a state or federal statute;

(B) a lawful order or regulation of the Federal Communications Commission; or

(C) an order or a ruling of a state or federal court having jurisdiction; or

(2) necessary to administer a federal law for which regulatory responsibility has been delegated to the commission by federal law.

As added by P.L.27-2006, SEC.24. Amended by P.L.1-2007, SEC.72; P.L.109-2012, SEC.2; P.L.256-2013, SEC.10; P.L.107-2014, SEC.3; P.L.149-2016, SEC.34.

IC 8-1-2.6-14

Payment of switched network access rates and other carrier compensation not affected

Sec. 14. This chapter does not affect the rights and obligations of any person or entity concerning the payment of switched network access rates or other carrier compensation concerning:

(1) Internet Protocol enabled services;

(2) advanced services (as defined in 47 CFR 51.5);

(3) broadband service; or
(4) other Internet access services.
As added by P.L.27-2006, SEC.25.

IC 8-1-2.6-15
Statutory conflicts
Sec. 15. If there is a conflict between this chapter and another provision of this article, this chapter controls.
As added by P.L.27-2006, SEC.26. Amended by P.L.256-2013, SEC.11.

IC 8-1-2.6-16
Repealed
(As added by P.L.27-2006, SEC.27. Repealed by P.L.107-2014, SEC.4.)

IC 8-1-2.6-17
Delegation of authority to grant numbering requests
Sec. 17. The commission may delegate to staff the authority to grant requests for numbering resources submitted through the safety valve process established by the Federal Communications Commission as provided In the Matter of Numbering Resource Optimization: Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 17 FCC Rcd 252 (FCC 01-362, 2001). An action taken by commission staff under this section is appealable to the commission.
As added by P.L.219-2011, SEC.1.

IC 8-1-2.7

Chapter 2.7. Local Water Corporations; Indiana Utility Regulatory Commission Jurisdiction

IC 8-1-2.7-1

Repealed

(Repealed by P.L.82-1997, SEC.19 and P.L.80-1997, SEC.24.)

IC 8-1-2.7-1.2

Repealed

(As added by P.L.82-1997, SEC.1. Repealed by P.L.159-1999, SEC.21.)

IC 8-1-2.7-1.3

Applicability of chapter

Sec. 1.3. (a) This chapter applies to the following:

(1) A public utility established to provide water service that is:

(A) privately owned and serves less than three hundred (300) customers;

(B) a not-for-profit utility (as defined by IC 8-1-2-125(a));

(C) a cooperative corporation exempt from state and federal income taxation; or

(D) a conservancy district established under IC 14-33-2 that:

(i) has as a purpose of the district the provision of a water supply, including the treatment and distribution of water, for domestic, industrial, and public use; and

(ii) provides water service to less than two thousand (2,000) customers.

(2) A public utility established to provide sewage disposal service (as defined in IC 8-1-2-89(a)(1)) that holds a certificate of territorial authority as required by IC 8-1-2-89, and that is:

(A) privately owned and serves less than three hundred (300) customers;

(B) a not-for-profit utility (as defined in IC 8-1-2-125(a)); or

(C) a cooperative corporation exempt from state and federal income taxation.

(3) Except as provided in subsection (b), a legal entity providing only sewage treatment service to a not-for-profit sewage disposal company.

(b) Subsection (a)(3) does not include a sewage treatment provider that is otherwise subject to the commission's jurisdiction.

As added by P.L.82-1997, SEC.2 and P.L.80-1997, SEC.2. Amended by P.L.159-1999, SEC.2; P.L.78-2007, SEC.1.

IC 8-1-2.7-1.4

"Members" and "shareholders" defined

Sec. 1.4. As used in this chapter, "members" of a not-for-profit water or sewage disposal company and "shareholders" of a privately

owned water or sewage disposal company shall also include the customers of that utility.
As added by P.L.80-1997, SEC.3 and P.L.82-1997, SEC.3. Amended by P.L.159-1999, SEC.3.

IC 8-1-2.7-1.5
Repealed
(As added by P.L.80-1997, SEC.4 and P.L.82-1997, SEC.4. Repealed by P.L.159-1999, SEC.21.)

IC 8-1-2.7-1.6
"Sewage treatment provider" defined
Sec. 1.6. (a) As used in this chapter, "sewage treatment provider" means a legal entity that provides only sewage treatment service to a not-for-profit sewage disposal company.
(b) As used in this chapter, "sewage treatment recipient" means a not-for-profit sewage disposal company that receives sewage treatment service from another legal entity.
As added by P.L.159-1999, SEC.4.

IC 8-1-2.7-1.7
Entity contracting with nonprofit public sewage utility not subject to commission jurisdiction
Sec. 1.7. (a) This section does not apply to a sewage treatment provider that is otherwise subject to the jurisdiction of the commission.
(b) When a sewage treatment provider contracts to provide only sewage treatment service to a sewage treatment recipient, the sewage treatment provider is not subject to the jurisdiction of the commission, regardless of whether the sewage treatment recipient is subject to the jurisdiction of the commission.
As added by P.L.80-1997, SEC.5 and P.L.82-1997, SEC.5. Amended by P.L.159-1999, SEC.5.

IC 8-1-2.7-2
Withdrawal of utility from commission jurisdiction
Sec. 2. (a) This chapter provides the exclusive statutory manner for a utility described in section 1.3(a)(1) or 1.3(a)(2) of this chapter to withdraw from the jurisdiction of the commission for the approval of the following:
(1) Rates and charges.
(2) Stocks, bonds, notes, or other evidence of indebtedness.
(3) Rules.
(4) The annual report filing requirement.
(b) Notwithstanding any other provision in this article, a sewer disposal company described in section 1.3(a)(2) of this chapter shall not initiate operations or provide service or seek commission authority to do so within a territory for which the commission has

granted operating and territorial authority to any other entity, which has not been revoked.

(c) A sewage disposal company described in section 1.3(a)(2) of this chapter that has withdrawn from commission jurisdiction under this chapter shall offer service to all customers within the territory for which the commission has granted the utility territorial authority.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.6; P.L.82-1997, SEC.6; P.L.159-1999, SEC.6.

IC 8-1-2.7-3

Approval for withdrawal

Sec. 3. A utility described in section 1.3(a)(1) or 1.3(a)(2) of this chapter that proposes to withdraw from the jurisdiction of the commission must first obtain approval from its members or shareholders.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.7; P.L.82-1997, SEC.7; P.L.159-1999, SEC.7.

IC 8-1-2.7-4

Referendum on withdrawal

Sec. 4. The board of directors of a utility described in section 1.3(a)(1) or 1.3(a)(2) of this chapter must conduct a referendum among its members or shareholders to determine whether the members or shareholders approve the withdrawal from commission jurisdiction.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.8; P.L.82-1997, SEC.8; P.L.159-1999, SEC.8.

IC 8-1-2.7-5

Notice of special meeting for referendum

Sec. 5. The referendum must be conducted at a special meeting called by the board. Written notice of the meeting must be sent to every member or shareholder of the withdrawing utility and to the secretary of the commission not less than thirty (30) days before the date of the meeting. The notice must contain the following information:

(1) The place, date, and hour of the meeting.

(2) The purpose of the meeting, including an explanation of what the withdrawal from commission jurisdiction entails.

(3) The fact that no proxies will be permitted.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.9; P.L.82-1999, SEC.9; P.L.159-1999, SEC.9.

IC 8-1-2.7-6

Quorum

Sec. 6. A quorum consisting of not less than five percent (5%) of the members must be present at the meeting to transact business and to take official action regarding the jurisdiction question.

As added by P.L.108-1989, SEC.1.

IC 8-1-2.7-7
Ballots; form; eligible voters; results

Sec. 7. The board shall distribute secret written ballots to the members or shareholders present at the meeting. The form of the ballots must be as follows:

[] YES, I want to withdraw from the jurisdiction of the commission.

[] NO, I want to remain under the jurisdiction of the commission.

Only those members or shareholders present at the meeting are eligible to vote, and proxy votes are not permitted. Each member or shareholder present is entitled to one (1) vote on the question of withdrawal from commission jurisdiction. If a majority of members or shareholders present vote in favor of the utility withdrawing from commission jurisdiction, the withdrawal becomes effective thirty (30) days after the date of the vote. If less than a majority of the members or shareholders present vote in favor of withdrawal from commission jurisdiction, the utility is prohibited from seeking withdrawal for two (2) years following the date of the vote.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.10; P.L.82-1997, SEC.10; P.L.159-1999, SEC.10.

IC 8-1-2.7-8
Repealed

(As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.11; P.L.82-1997, SEC.11. Repealed by P.L.159-1999, SEC.21.)

IC 8-1-2.7-9
Effect of withdrawal

Sec. 9. (a) Except as provided under subsection (c) or section 15 of this chapter, when a utility successfully withdraws from commission jurisdiction, the commission does not have authority to regulate the following:

(1) Rates and charges.

(2) Stocks, bonds, notes, or other evidence of indebtedness.

(3) Rules.

(4) The annual report filing requirement.

(b) When the number of patrons served by a withdrawn utility described in section 1.3(a)(1)(A) or 1.3(a)(2)(A) of this chapter reaches five thousand (5,000), the utility:

(1) becomes subject to the annual report filing requirement described in IC 8-1-2-16; and

(2) shall immediately notify the commission of the number of patrons served by the utility.

Upon receiving notice under subdivision (2), the commission may reassert jurisdiction over the utility, in whole or in part, after notice

and hearing if the commission finds that the public interest so requires.

(c) As used in this subsection, "utility" refers to a utility described in section 1.3(a)(1)(B) of this chapter that is located in a county having a population of more than sixteen thousand (16,000) but less than seventeen thousand (17,000). When one (1) utility has successfully withdrawn from commission jurisdiction under this chapter, upon the filing of a complaint by another utility that has not withdrawn from commission jurisdiction under this chapter, the commission shall reassert jurisdiction over the withdrawn utility with respect to the withdrawn utility's:

(1) rates and charges;

(2) rules; and

(3) operating and territorial authority;

that have been or may be established concerning the purchase of water for resale by the complaining utility from the withdrawn utility. The rates and charges described in subdivision (1) are subject to the requirements of IC 8-1-2-125. The burden of proof that the rates and charges described in subdivision (1) comply with IC 8-1-2-125 is on the withdrawn utility.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.12; P.L.82-1997, SEC.12; P.L.159-1999, SEC.11; P.L.226-2001, SEC.2; P.L.170-2002, SEC.58; P.L.119-2012, SEC.83.

IC 8-1-2.7-10

Confirmation of withdrawal

Sec. 10. (a) If a utility successfully withdraws from commission jurisdiction, the board of directors shall, within five (5) days of the meeting, send written confirmation to the secretary of the commission containing the following information:

(1) The total membership or number of shareholders of the utility.

(2) The total number present at the meeting.

(3) The vote totals both for and against withdrawal.

(4) Written verification of notice of the meeting.

(5) An affidavit, signed by all of the members of the board of directors, stating that all of the requirements of this chapter have been met.

(b) If a utility successfully withdraws from commission jurisdiction, the utility is not required to pay the public utility fee imposed under IC 8-1-6.

(c) Notwithstanding any other provision of this chapter, a utility described in section 1.3(a)(2) of this chapter that has withdrawn from commission jurisdiction remains subject to commission jurisdiction with regard to the requirements of IC 8-1-2-89(f).

(d) Whenever two (2) or more utilities described in section 1.3(a)(1) or 1.3(a)(2) of this chapter propose to consolidate, and at

least one (1), but not all of the utilities have withdrawn from commission jurisdiction, then the following apply:

(1) For purposes of the consolidation, all of the utilities are under the commission's jurisdiction.

(2) The new corporation that is formed as a result of the consolidation is under the commission's jurisdiction for all purposes and must fully comply with this chapter in order to withdraw from commission jurisdiction.

(e) If two (2) or more utilities described in section 1.3(a)(1)(C) or 1.3(a)(2)(C) of this chapter propose to consolidate, and all of the cooperatives have withdrawn from commission jurisdiction, the new utility continues to operate outside the commission's jurisdiction under the terms of this section.

(f) The commission's approval is not required for consolidation of two (2) or more utilities that have all withdrawn from commission jurisdiction.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.13; P.L.82-1997, SEC.13; P.L.159-1999, SEC.12.

IC 8-1-2.7-11

Petition to return to commission jurisdiction; referendum; ballot form

Sec. 11. (a) Whenever the members or shareholders of a utility desire to return to commission jurisdiction, they must petition the commission. A petition signed by:

(1) at least fifteen percent (15%) of the members or shareholders; or

(2) the board of directors of the utility;

must first be submitted to the commission, informing that body of the utility's intent to conduct a referendum concerning the return to commission jurisdiction. The procedures outlined in sections 2 through 7 of this chapter must be followed when conducting a referendum under this section, except that the form of the ballots must be as follows:

[] YES, I want to return to the jurisdiction of the commission.

[] NO, I want to remain outside of the jurisdiction of the commission.

(b) The question of returning to commission jurisdiction may not be submitted to the members or shareholders within four (4) years after the date the utility withdrew from commission jurisdiction.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.14; P.L.82-1997, SEC.14; P.L.159-1999, SEC.13.

IC 8-1-2.7-12

Return to commission jurisdiction

Sec. 12. If a utility returns to commission jurisdiction, the commission assumes jurisdiction thirty (30) days after the date of the vote over the following:

(1) Rates and charges.
(2) Stocks, bonds, notes, or other evidence of indebtedness.
(3) Rules.
(4) The annual report filing requirement.

If less than a majority of the members or shareholders present vote in favor of returning to commission jurisdiction, a referendum on the question may not be conducted for four (4) years following the date of the vote.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.15; P.L.82-1997, SEC.15; P.L.159-1999, SEC.14.

IC 8-1-2.7-13

Confirmation of return to commission jurisdiction

Sec. 13. If a utility attempts to return to commission jurisdiction, the board of directors shall, within five (5) days following the meeting, send written confirmation to the secretary of the commission containing the following information:

(1) The total membership or number of shareholders of the utility.
(2) The total number present at the meeting.
(3) The vote totals both for and against the return.
(4) Written verification of notice of the meeting.
(5) An affidavit, signed by all the members of the board of directors, stating that all of the requirements of this chapter have been met.

As added by P.L.108-1989, SEC.1. Amended by P.L.82-1997, SEC.16; P.L.80-1997, SEC.16; P.L.159-1999, SEC.15.

IC 8-1-2.7-14

Annual reports of utility before return to commission jurisdiction

Sec. 14. When a utility returns to commission jurisdiction, the commission may order the utility to file an annual report of the operation of its plant for each of the three (3) calendar years immediately preceding its return to commission jurisdiction on a form prescribed by the commission.

As added by P.L.108-1989, SEC.1. Amended by P.L.80-1997, SEC.17; P.L.82-1997, SEC.17; P.L.159-1999, SEC.16.

IC 8-1-2.7-14.5

Failure to follow procedures for withdrawal from or return to commission's jurisdiction

Sec. 14.5. (a) This section applies when a utility fails to follow the procedures provided in this chapter for withdrawal from or return to the commission's jurisdiction.

(b) To contest compliance with this chapter:

(1) parties aggrieved by the decision to withdraw from commission jurisdiction; or
(2) other interested parties;

must file an action in the circuit or superior court with jurisdiction in the county where the utility has its principal office.

(c) An action filed under this section must be filed not later than thirty (30) days after the date of the vote regarding commission jurisdiction over the utility.

As added by P.L.159-1999, SEC.17.

IC 8-1-2.7-15

Revocation or limitation of withdrawal from commission jurisdiction

Sec. 15. (a) This section applies after a utility has properly withdrawn from commission jurisdiction under this chapter.

(b) The commission shall revoke or limit the withdrawal from the jurisdiction of the commission of a utility if the lesser of:

(1) one hundred (100); or

(2) more than fifty percent (50%);

of the utility's customers file, individually or collectively, a verified petition with the commission and prove that the public interest requires the commission to revoke or limit the withdrawal from the jurisdiction of the commission.

(c) A petition may be filed with the commission under this section at any time following the withdrawal of the utility.

As added by P.L.82-1997, SEC.18. Amended by P.L.159-1999, SEC.18.

IC 8-1-2.8

Chapter 2.8. Dual Party Relay Services for Persons Who Are Deaf, Hard of Hearing, or Speech Impaired

IC 8-1-2.8-1

"ADA"

Sec. 1. As used in this chapter, "ADA" refers to the federal Americans with Disabilities Act of 1990 (47 U.S.C. 225).

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-2

"Commission"

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-3

"Dual party relay services"

Sec. 3. (a) As used in this chapter, "dual party relay services" means telecommunications transmission services that provide the ability for a person who has a hearing impairment or speech impairment to engage in communication with a hearing person in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services.

(b) The term includes services that enable two-way communication between a person who uses a telecommunications device for individuals who are deaf or other nonvoice terminal and a person who does not use such a device.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.28; P.L.99-2007, SEC.31.

IC 8-1-2.8-4

"FCC"

Sec. 4. As used in this chapter, "FCC" refers to the Federal Communications Commission.

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-5

"Deaf, hard of hearing, or speech impaired person"

Sec. 5. As used in this chapter, "deaf, hard of hearing, or speech impaired person" means a person who is so certified by a licensed physician, an otolaryngologist, a speech language pathologist, an audiologist, or a qualified state agency.

As added by P.L.75-1991, SEC.1. Amended by P.L.109-2012, SEC.3.

IC 8-1-2.8-6

"Indiana Telephone Relay Access Corporation for the Hearing and

Speech Impaired"

Sec. 6. As used in this chapter, "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired" or "InTRAC" means a corporation formed under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 that meets the requirements of section 18 of this chapter.

As added by P.L.75-1991, SEC.1. Amended by P.L.1-2010, SEC.39.

IC 8-1-2.8-7

"Local exchange access service"

Sec. 7. As used in this chapter, "local exchange access service" means telephone exchange access lines or channels that provide local access to the local telecommunications network to effect the transfer of information.

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-8

"Local exchange company"

Sec. 8. As used in this chapter, "local exchange company" or "LEC" refers to any communications service provider (as defined in IC 8-1-2.6-13(b)) that:

(1) has a certificate of territorial authority on file with the commission; and

(2) is required to provide dual party relay services to deaf, hard of hearing, and speech impaired persons under federal law.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.29; P.L.109-2012, SEC.4.

IC 8-1-2.8-9

"Telephone company"

Sec. 9. As used in this chapter, "telephone company" means:

(1) any natural person, firm, association, corporation, or partnership, owning, leasing, or operating any lines, facilities, or systems used in the furnishing of telephone service; and

(2) any common carrier or carrier as those terms are defined in Title IV of the ADA.

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-10

Findings and declarations

Sec. 10. The general assembly finds and declares the following:

(1) That it is in the public interest of the state to promptly provide deaf, hard of hearing, or speech impaired persons with access to telecommunications services that are functionally equivalent to those provided to hearing persons.

(2) That Title IV of the ADA mandates that each telephone company providing telephone service within the state must provide dual party relay services on or before July 26, 1993, to

deaf, hard of hearing, and speech impaired persons within the territorial area or areas it serves in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) That the most efficient, cost effective, and fair method for LECs to provide dual party relay services to deaf, hard of hearing, and speech impaired persons and to comply with the federal mandate without the use of tax revenues is the establishment of the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired under this chapter.

(4) That the provision of dual party relay services to deaf, hard of hearing, and speech impaired persons can be enhanced by providing in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices that facilitate access to the dual party relay services.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.1; P.L.27-2006, SEC.30; P.L.109-2012, SEC.5.

IC 8-1-2.8-11

Residential and business lines; surcharge

Sec. 11. Beginning on June 1, 1991, the commission shall require each LEC to impose a monthly surcharge in the amount of five cents ($0.05) on each residential and business line (or line equivalent) of its customers to fund and recover costs for developing and providing dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to deaf, hard of hearing, and speech impaired persons.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.2; P.L.109-2012, SEC.6.

IC 8-1-2.8-12

Adjustment of surcharge

Sec. 12. (a) The InTRAC may periodically apply to the commission for an adjustment in the amount of the monthly surcharge that a LEC must impose on its customers under this chapter. Before applying to the commission for such an adjustment, the InTRAC must do the following:

(1) Employ an independent accounting firm to review its surcharge determinations and to review and audit those accounts of the InTRAC and its members relevant to the surcharge.

(2) File with the commission in connection with its application a copy of the report prepared by the accounting firm under subdivision (1).

(b) When the InTRAC applies for an adjustment under this section, the commission may perform audits and tests to verify the calculation of the adjustment. However, the sole purpose of audits

and tests by the commission must be to assure that the revenue produced by the surcharge is sufficient to cover the costs incurred by the InTRAC in providing services that meet the requirements imposed on telephone companies by the ADA. The costs incurred by the InTRAC include the following:

(1) Costs for the development, continued operation and improvement of dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC providing telecommunications devices to deaf, hard of hearing, and speech impaired persons.

(2) The administrative costs of the InTRAC.

(3) The amount of reasonable reserves necessary to meet future costs.

(4) The amounts paid by the InTRAC to each LEC to compensate the LEC for collection, inquiry, and other administrative services it provides for the surcharges.

(5) The amounts paid by the InTRAC to each LEC to compensate the LEC for the necessary costs incurred by the LEC in facilitating inter-connection with and effecting use of the dual party relay service for their respective customers.

(c) It is the intent and purpose of this section that the InTRAC shall have available to it at all times sufficient funding to develop, provide for, and maintain dual party relay services that meet or exceed the requirements imposed by the ADA.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.3; P.L.109-2012, SEC.7.

IC 8-1-2.8-13

Approval of surcharge adjustment

Sec. 13. Unless the commission disapproves an application by the InTRAC for a surcharge adjustment within ninety (90) days of the application, the commission shall approve the adjustment, and the LEC may charge and collect an adjusted surcharge. However, the commission may not approve an adjustment that results in a monthly surcharge that exceeds forty cents ($0.40) per residential or business line (or line equivalent).

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-14

Monthly bill; collection of surcharge

Sec. 14. A surcharge shall be collected on the regular monthly bill that a LEC sends to each of its customers. The surcharge may be separately identified on customers' bills as a special surcharge for the provision of services, including telecommunications devices as provided in section 10(4) of this chapter, to deaf, hard of hearing, and speech impaired persons.

As added by P.L.75-1991, SEC.1. Amended by P.L.1-1992, SEC.30; P.L.80-1996, SEC.4; P.L.109-2012, SEC.8.

IC 8-1-2.8-15
Accounting and recovery of costs

Sec. 15. All costs incurred by a LEC as a result of its compliance with the ADA requirements to provide services to deaf, hard of hearing, and speech impaired persons shall be accounted for separately and recovered as required by the ADA and the FCC.

As added by P.L.75-1991, SEC.1. Amended by P.L.109-2012, SEC.9.

IC 8-1-2.8-16
Exemption from taxes and fees

Sec. 16. The amount of money collected by a LEC in surcharges under this chapter is exempt from all state income taxes and all fees imposed under IC 8-1-6.

As added by P.L.75-1991, SEC.1.

IC 8-1-2.8-17
Payments of surcharge

Sec. 17. A LEC that collects a surcharge under this chapter shall pay the amount collected for the surcharge on the terms and in the manner determined under section 21(2) of this chapter to a not-for-profit corporation formed under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 and named "The Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired". However, no payments under this section may be made to the InTRAC until the following occur:

(1) The InTRAC files with the commission the following:

(A) A certificate of existence issued by the secretary of state that certifies that the InTRAC is in existence under Indiana law.

(B) A certificate in which two (2) authorized officers of the InTRAC certify that the corporation meets the requirements of section 18 of this chapter.

(C) A document executed by an authorized officer of the InTRAC in which the InTRAC agrees to meet the requirements of sections 18 and 21 of this chapter.

(2) Copies of the certificates described in subdivision (1)(A) and (1)(B) have been delivered to each LEC that collects the surcharge required by this chapter.

As added by P.L.75-1991, SEC.1. Amended by P.L.1-2010, SEC.40.

IC 8-1-2.8-18
Articles of incorporation

Sec. 18. The articles of incorporation of the InTRAC must provide the following:

(1) The name of the corporation shall be "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired".

(2) The sole purpose for which the InTRAC shall be organized

and operated is to provide at the lowest cost reasonably possible:

(A) on behalf of LECs and the citizens of Indiana; and

(B) in conjunction with LECs;

adequate and dependable dual party relay services that may include in appropriate circumstances in the sole discretion of the InTRAC telecommunications devices to deaf, hard of hearing, and speech impaired persons within the territorial area in Indiana that LECs serve in a manner that meets or exceeds the requirements of regulations prescribed by the FCC.

(3) The InTRAC must have authority to perform any lawful act that is necessary, convenient, or expedient to accomplish the purpose for which the InTRAC is formed.

(4) No part of the net earnings of the InTRAC may inure to the benefit of any member, director, or officer of the InTRAC, nor shall any member of the InTRAC receive any earnings from the corporation except as follows:

(A) A member may be an independent contractor, a supplier, a vendor, or an authorized agent of the InTRAC and may receive fair and reasonable compensation for the member's provision of goods or services.

(B) An officer may receive reasonable compensation for services that the officer performs in the officer's capacity as an officer of the InTRAC.

(C) A director may be reimbursed for expenses incurred by the director in the performance of the director's duties.

(5) The InTRAC may not:

(A) make an advancement for services to be performed in the future; or

(B) make a loan of money or property to any director or officer of the corporation.

(6) No member, director, or officer of the InTRAC or any private individual may share in the distribution of any of the assets of the InTRAC upon its dissolution.

(7) If there is a dissolution of the InTRAC, any of the assets of the InTRAC available for distribution shall be distributed to a charity:

(A) selected by the board of directors of the InTRAC; and

(B) having a purpose that includes providing services to persons who are deaf, hard of hearing, and speech impaired.

(8) The InTRAC shall have one (1) class of members consisting of those communications service providers that are designated as authorized LECs by the commission.

(9) Each member of the InTRAC shall serve as a member for as long as the commission finds that the member is a LEC. A member's:

(A) right to vote at meetings of the members of the InTRAC; and

(B) right, title, and interest in or to the corporation;
cease on the termination of a member's membership.

(10) Each member present in person or by proxy at a meeting of the members of the InTRAC may cast one (1) vote upon each question voted upon at:

(A) all meetings of the members; and

(B) in any election of a director of the InTRAC.

(11) The board of directors of the InTRAC consists of seven (7) directors selected as follows:

(A) Six (6) directors elected by the members of the InTRAC.

(B) The director of the state office of deaf and hearing impaired services.

(12) The business, property, and affairs of the InTRAC are managed and controlled by the board of directors of the InTRAC.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.5; P.L.27-2006, SEC.31; P.L.109-2012, SEC.10.

IC 8-1-2.8-19

Articles of incorporation; additional provisions

Sec. 19. The articles of incorporation of the InTRAC may contain provisions in addition to those specified in section 18 of this chapter that:

(1) the members of the InTRAC provide in accordance with IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17; and

(2) do not violate the provisions required under section 18 of this chapter.

As added by P.L.75-1991, SEC.1. Amended by P.L.1-2010, SEC.41.

IC 8-1-2.8-20

Actions in pursuit of purposes

Sec. 20. (a) In pursuit of its purpose, the InTRAC may do the following:

(1) Perform audits and tests of the accounts of a LEC to verify the amounts described in section 12 of this chapter.

(2) Provide by contract dual party relay services to communications service providers operating outside Indiana if the effect of the contract:

(A) is to decrease the amount of surcharges imposed on the customers of members of the InTRAC; and

(B) does not sacrifice the quality of service that InTRAC provides for those customers in the absence of a contract.

(b) The actions described in subsection (a) are examples and are not intended to limit in any way the scope or types of actions that the InTRAC may take in pursuit of its purposes.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.32.

IC 8-1-2.8-21
Duties of InTRAC

Sec. 21. The InTRAC shall do the following:

(1) Establish, implement, and administer, in whole or in part, a statewide dual party relay service system. Any contract for the supply or operation of a dual party relay service system or for the supply of telecommunications devices shall be provided through a competitively selected vendor.

(2) Determine the terms and manner in which each LEC shall pay to the InTRAC the surcharge required under this chapter.

(3) Annually review the costs it incurred during prior periods, make reasonable projections of anticipated funding requirements for future periods, and file a report of the results of the review and projections with the commission by May 1 of each year.

(4) Annually employ an independent accounting firm to prepare audited financial statements for the end of each fiscal year of the InTRAC to consist of:

(A) a balance sheet;

(B) a statement of income; and

(C) a statement of cash flow;

and file a copy of these financial statements with the commission before May 2 of each year.

(5) Enter into contracts with any LEC to provide dual party relay services for the LEC, upon request by the LEC. However, the InTRAC:

(A) shall require reasonable compensation from the LEC for the provision of these services;

(B) is not required to contract with its members; and

(C) shall provide dual party relay services to InTRAC members for communications service originating with the members' Indiana customers for no consideration other than the payment to the InTRAC of the surcharges collected by the member under this chapter.

(6) Send to each of its members and file with the governor and the general assembly before May 2 of each year an annual report that contains the following:

(A) A description of the InTRAC's activities for the previous fiscal year.

(B) A description and evaluation of the dual party relay services that the InTRAC provides.

(C) A report of the volume of services the InTRAC provided during the previous fiscal year.

(D) A copy of the financial statements that subdivision (4) requires.

A report filed under this subdivision with the general assembly must be in an electronic format under IC 5-14-6.

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.6;

P.L.28-2004, SEC.72; P.L.27-2006, SEC.33.

IC 8-1-2.8-22
Use of InTRAC services by nonmembers

Sec. 22. If:

(1) a communications service provider that is not a member of InTRAC originates, carries, or terminates, in whole or in part, any telecommunication message that uses the InTRAC's dual party relay services; and

(2) refuses to:

(A) enter into a contract with the InTRAC as provided in section 21(5) of this chapter; or

(B) pay any sums due under such a contract;

the InTRAC may apply to the commission for an order requiring just and reasonable payments or the payments that are due under the contract. The InTRAC may enforce this order in the courts of the state.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.34.

IC 8-1-2.8-23
Exemption of InTRAC from commission jurisdiction; affiliated interests

Sec. 23. (a) If the InTRAC meets the requirements of sections 18 and 21 of this chapter, the InTRAC:

(1) is not a public utility;

(2) is not a telephone company or a communications service provider; and

(3) is free from the jurisdiction and oversight of the commission except as specifically provided in this chapter.

(b) The InTRAC is not an affiliated interest (as defined in IC 8-1-2-49). An officer, a director, or a member of the InTRAC may not be construed to be an affiliated interest solely because that person or entity is an officer, a director, or a member of the InTRAC.

As added by P.L.75-1991, SEC.1. Amended by P.L.27-2006, SEC.35.

IC 8-1-2.8-24
Charitable purposes; exemptions

Sec. 24. If the InTRAC meets the requirements of sections 18 and 21 of this chapter, the InTRAC:

(1) for purposes of all taxes imposed by the state or any county or municipality in Indiana is an organization that is organized and operated exclusively for charitable purposes; and

(2) qualifies for all exemptions applicable to those organizations, including but not limited to those exemptions set forth in IC 6-2.5-5-21(b)(1)(B) and IC 6-1.1-10-16.

As added by P.L.75-1991, SEC.1. Amended by P.L.192-2002(ss), SEC.144.

IC 8-1-2.8-25

Immunity from civil liability

Sec. 25. The following are not liable in any civil action for any injuries or loss to persons or property incurred by any person as a result of any act or omission of any person or entity listed in subdivisions (1) through (3) in connection with the development, adoption, implementation, maintenance, or operation of any system that provides dual party relay services or telecommunications devices, except for injuries or losses incurred as a result of willful or wanton misconduct:

(1) The InTRAC.

(2) A LEC providing dual party relay services.

(3) An employee, a director, an officer, or an agent of an entity listed in subdivision (1) or (2).

As added by P.L.75-1991, SEC.1. Amended by P.L.80-1996, SEC.7; P.L.27-2006, SEC.36.

IC 8-1-2.9
Repealed

(Repealed by P.L.256-2013, SEC.12; P.L.241-2013, SEC.4.)

IC 8-1-3

Chapter 3. Judicial Review of Utility Regulatory Commission Decisions

IC 8-1-3-1

Appeals; time limitations; assignments of error

Sec. 1. Any person, firm, association, corporation, limited liability company, city, town, or public utility adversely affected by any final decision, ruling, or order of the commission may, within thirty (30) days from the date of entry of such decision, ruling, or order, appeal to the court of appeals of Indiana for errors of law under the same terms and conditions as govern appeals in ordinary civil actions, except as otherwise provided in this chapter and with the right in the losing party or parties in the court of appeals to apply to the supreme court for a petition to transfer the cause to said supreme court as in other cases. An assignment of errors that the decision, ruling, or order of the commission is contrary to law shall be sufficient to present both the sufficiency of the facts found to sustain the decision, ruling, or order, and the sufficiency of the evidence to sustain the finding of facts upon which it was rendered.

(Formerly: Acts 1957, c.189, s.1.) As amended by P.L.23-1988, SEC.34; P.L.8-1993, SEC.118.

IC 8-1-3-2

Petition for rehearing; time for ruling; actions for mandate; termination of right of appeal

Sec. 2. (a) If a petition for rehearing is filed with the commission by a party to the proceeding before the commission, within the time allowed by the rules of the commission, the commission must rule on the petition within a reasonable period of time after the filing of the final pleading filed in support of or opposition to the petition. If the commission fails to rule on the petition within a reasonable period of time, the petitioner may bring an action for mandate under IC 34-27 to compel the commission to make the ruling. However, notwithstanding IC 34-27 or any other law or rule, the action for mandate may only be filed in the court of appeals. For the purposes of IC 1-1-1-8, if any part of this subsection is held invalid, the entire subsection is void.

(b) If a petition for rehearing is filed with the commission by any party to the proceeding before the commission, within the time allowed by the rules of the commission, and prior to the filing of the commission record with the clerk of the supreme court, the right to appeal under this chapter terminates thirty (30) days after the determination by the commission on such petition for rehearing. The appeal shall not be submitted prior to that determination of the petition for rehearing, and the decision of the commission on the petition shall not be assigned as error unless the final decision, ruling, or order of the commission is modified or amended as a result

of the petition without further hearing ordered.
(Formerly: Acts 1957, c.189, s.2.) As amended by P.L.3-1989, SEC.51; P.L.106-1989, SEC.2; P.L.1-1998, SEC.87.

IC 8-1-3-3
Petition to be made party applicant; intervenor or protestant

Sec. 3. Any person firm, association, corporation, limited liability company, city, town or public utility may file with the clerk of the court a verified petition to be made a party appellant or appellee, which petition shall allege facts showing that the petitioner has a substantial interest in the determination of the action, and such petitioner shall be made a party appellant or appellee as its interest appears. Any party applicant, intervenor or protestant in the proceedings had before the commission in the matter from which the appeal is taken shall be and have the rights of a party on appeal, upon the filing of a written appearance therein. But no party by his appearance or petition to be made a party shall acquire the right to file a brief, the time for filing of which has expired prior to his appearance.
(Formerly: Acts 1957, c.189, s.3.) As amended by P.L.8-1993, SEC.119.

IC 8-1-3-4
Assignment of errors and transcript of record; filing

Sec. 4. (a) Within twenty (20) days after the entry or rendition of any final decision, ruling, or order of the commission, or within twenty (20) days after the entry or rendition of any determination of the commission upon a petition for rehearing duly filed pursuant to the rules of the commission, any person, firm, association, corporation, limited liability company, city, town, or public utility desiring to appeal the cause to the court of appeals shall file with the commission a written request for the record, and the commission shall order that a certified transcript be prepared, containing all pleadings and papers filed, notices given and entered of record, proceedings had, testimony taken, and orders entered.

(b) No extension of time shall be granted by the court of appeals for the filing of an assignment of errors and the transcript of the record, unless a showing be made that the written request for the record was duly filed within the time granted under this section.
(Formerly: Acts 1957, c.189, s.4.) As amended by P.L.3-1989, SEC.52; P.L.8-1993, SEC.120.

IC 8-1-3-5
Service of papers

Sec. 5. A copy of any assignment of errors or of cross-errors filed in the court of appeals shall be served by mail, on or before the date of such filing, upon all parties or their attorneys of record as shown by the commission record filed. Copies of briefs shall be served, by

mail, upon only the attorney general and those parties or their attorneys of record who have filed an appearance or assignment of errors with the clerk of the supreme court.
(Formerly: Acts 1957, c.189, s.5.) As amended by P.L.3-1989, SEC.53.

IC 8-1-3-6
Presumption; rates; collection pending appeal

Sec. 6. All rules, practices, installations, and services prescribed, approved, or required by the commission shall be in force and shall be prima facie reasonable unless finally found otherwise by the court of appeals or by the supreme court if the cause is transferred to and decided by that court. However, pending the appeal as in this chapter provided, any municipally owned utility, public utility, rural electric membership corporation, or rural telephone cooperative association whose rate or rates are affected by the decision, ruling, or order appealed from shall have the right to collect the rate or rates as fixed by said decision, ruling, or order, or the former rate, whichever is higher in amount, and such municipally owned utility, public utility, corporation, or association shall refund the difference to each consumer or contract customer if such difference be not sustained upon appeal. However, pending the appeal as in this chapter provided, the court of appeals, upon good cause shown by verified petition, may authorize and permit, but not require, any common or contract carrier whose rate or rates are affected by the decision, ruling, or order appealed from, to collect the rate or rates published and in effect or the rate or rates sought to be put into effect, immediately prior to the commencement of the proceeding before the commission, subject to such provisions for bond or escrow as the court shall provide to protect the interest of all parties of record before the court.
(Formerly: Acts 1957, c.189, s.6.) As amended by Acts 1977, P.L.100, SEC.1; P.L.384-1987(ss), SEC.8.

IC 8-1-3-7
Determination of appeal; remand of proceedings for rehearing; injunctions

Sec. 7. (a) Upon determination of the appeal, the court shall have jurisdiction to affirm or set aside such decision, ruling, or order of the commission, in whole or in part, or remand the proceeding to the commission with instructions. No evidence beyond that contained in the record of the proceedings before the commission shall be considered or received by the court, except that in cases where issues of confiscation or of constitutional right are involved, the court, on its own motion or verified petition of a party, may order such additional evidence as it deems necessary for the determination of such issues to be taken before the commission and to be received at the hearing before the commission in such manner and upon such

terms and conditions as the court shall order.

(b) If a new hearing is ordered under subsection (a), the commission is not required to receive any evidence as to facts which were in existence at the time of the prior commission hearing or hearings, except upon a showing, either to the court in the first instance, or the commission, upon the hearing, that:

(1) the evidence was not available for presentation to the commission prior to the entry of its final decision, ruling, or order, or prior to the determination of the commission upon the petition for rehearing, if a petition for rehearing was filed; and

(2) due diligence was exercised by the party offering the evidence to procure and present the evidence to the commission prior to the entry of its final decision, ruling, or order, or its determination upon the petition for rehearing, if any was filed.

(c) Whenever the court shall order additional evidence to be taken the commission shall promptly hear and report the evidence to the court so that the proof may be brought as nearly as reasonably possible down to the date of its report to the court. The commission may, after hearing such evidence, modify its findings as to facts and its original decision, ruling, or order, and it shall file with the court the amended decision or orders and any modified or new findings.

(d) If the commission modifies or amends its original decision or orders, the appealing party or any other party aggrieved by the modified or amended decision or order may file with the court, within the time allowed by the court, a specification of any errors of law claimed to have been made by the commission in the modified decision or orders. A specification of errors shall be considered by the court in addition to the errors of law asserted in the assignment or assignments of error.

(e) The supreme court and the court of appeals, as the case may be, have jurisdiction, upon application of the commission or any party, to order or enjoin temporarily or permanently the enforcement of any determination, ruling, or order of the commission made in the cause.

(f) The supreme court and the court of appeals, as the case may be, also have jurisdiction upon application of a public utility to issue temporary injunctions protecting the utility in the collection of rates determined by the court to be nonconfiscatory during the pendency of the proceeding and until nonconfiscatory rates are fixed by the commission if existing rates are finally determined to be confiscatory, with appropriate provisions as to bonds and refunds.

(Formerly: Acts 1957, c.189, s.7.) As amended by P.L.3-1989, SEC.54.

IC 8-1-3-8

Costs

Sec. 8. The cost of preparing the transcript of the record, on reasonable terms fixed by general administrative order of the

commission, shall be paid in the first instance upon receipt of the transcript by the person filing the written request for the transcript, and the amount shall be stated as paid in the certificate of the secretary which authenticates the transcript of record. However, all costs incurred in connection with the appeal shall be awarded and taxed as provided in other appeals of a civil nature in the supreme court or the court of appeals. That part of the cost of the transcript of the record which is incurred by reason of the transcription of oral testimony by any reporter appointed by the commission shall become the property of the reporter when paid.
(Formerly: Acts 1957, c.189, s.8.) As amended by P.L.3-1989, SEC.55.

IC 8-1-3-9
Opposing affidavits; time to file
Sec. 9. Upon the filing of any petition provided for in this chapter, all parties of record on appeal shall have ten (10) days, or such other time as provided by the court of appeals or supreme court, in which to file opposing affidavits.
(Formerly: Acts 1957, c.189, s.9.) As amended by P.L.59-1984, SEC.49.

IC 8-1-3-10
Questions of law; certification by commission
Sec. 10. The commission, of its own motion, may certify questions of law to the court of appeals for a decision and determination.
(Formerly: Acts 1957, c.189, s.10.) As amended by P.L.3-1989, SEC.56.

IC 8-1-3-11
Enforcement proceedings by commission
Sec. 11. Nothing in this chapter contained shall be construed to affect the duty or power of the commission to commence and prosecute enforcement proceedings in its own name or the name of the state of Indiana, in the circuit or superior courts of this state, pursuant to the provisions of other statutes, except insofar as such proceedings may interfere with the jurisdiction of the court of appeals or supreme court in a cause then pending on appeal.
(Formerly: Acts 1957, c.189, s.11.) As amended by P.L.59-1984, SEC.50; P.L.23-1988, SEC.35.

IC 8-1-3-12
Repealed
(Repealed by P.L.59-1984, SEC.51.)

IC 8-1-4

Chapter 4. Public Utility Securities

IC 8-1-4-1

Maturity dates

Sec. 1. It shall be unlawful for the commission to approve the issue of any stock, certificates of stock, bonds, notes maturing more than twelve (12) months after the date thereof, or other evidence of indebtedness, by any public utility except for cash or other property actually received or to be received therefor by such utility, when the total amount of such issue, together with the outstanding stock, bonds, notes maturing more than twelve (12) months from the date thereof, or other evidence of indebtedness of such public utility, is in excess of the fair value of the property of such public utility, including any acquisitions, construction, extensions, additions, and betterments to such property to be financed in whole or in part by such issue or the proceeds thereof, as found by the commission. Provided, however, that any public utility corporation may issue as may any corporation organized for profit under the laws of the state of Indiana, its stock, certificates of stock, bonds, notes maturing more than twelve (12) months from the date thereof, or other evidence of indebtedness, in an amount not in excess of the value of the property of such public utility, including acquisitions, construction, extensions, additions and betterments to such property to be evidenced in whole or in part by such issues or the proceeds thereof, as found by the commission, subject, however, to the approval of such commission as to the character of such issues and the relation in amount to each other of bonds and stock.

(Formerly: Acts 1923, c.65, s.1.) As amended by P.L.23-1988, SEC.36.

IC 8-1-5

Chapter 5. Execution and Filing of Mortgages by Utilities

IC 8-1-5-1

Lien of mortgage

Sec. 1. (a) Notwithstanding any other statute or rule of law of the state, any mortgage executed and recorded by a public utility, as defined in IC 8-1-2-1, or by any corporation or other business entity engaged in the railroad business or the transmission of oil, gas, or petroleum products by pipeline, in the manner provided for the execution and recording of mortgages upon real estate:

(1) may include all or any part of the property of the mortgagor, real, personal, or mixed, chattels real and fixtures; and

(2) shall, upon its recordation, constitute a valid and perfected lien upon all and every part of the property of the mortgagor described in the mortgage and situated in any county in this state where the mortgage is or shall be recorded in the manner provided for recording real estate mortgages. Neither the mortgage nor any statement respecting the mortgage or any of the property described in the mortgage need be otherwise filed or refiled in order to perfect or continue perfection of the lien created by the mortgage.

(b) The term "mortgage", as used in this chapter, includes deeds of trust and any and all documents creating an interest in property to secure the payment of bonds, notes, debentures, and like securities, and any instrument executed to supplement any mortgage.

(c) If it is executed and recorded as provided in this section and by its terms covers some or all of the after-acquired property of the mortgagor, the mortgage constitutes a valid and perfected lien upon the interest of the mortgagor in the after-acquired property from the date the mortgagor acquires an interest in the property.

(d) Notwithstanding the date of the mortgage's execution or recordation, if collateral covered by IC 26-1-9.1 was or is perfected in compliance with the recordation requirements contained in this section, the recordation was or is equivalent to the highest form of filing or perfection under IC 26-1-9.1.

(Formerly: Acts 1965, c.9, s.1.) As amended by P.L.59-1984, SEC.52; P.L.93-1985, SEC.1; P.L.120-1987, SEC.1; P.L.57-2000, SEC.3.

IC 8-1-5.5

Chapter 5.5. Drinking Water Quality Tests

IC 8-1-5.5-1

Transfer of authority to supply piped drinking water to person other than city or town; time of test; rules

Sec. 1. Within thirty (30) days before the date that the authority to supply piped drinking water is transferred from a city or town to a person other than a city or town, the state department of health shall conduct a test to determine the quality of the drinking water supplied by the city or town. The state department of health shall adopt rules under IC 4-22-2 concerning the test that is required under this section.

As added by Acts 1981, P.L.105, SEC.1. Amended by P.L.2-1992, SEC.79.

IC 8-1-5.5-2

Minimum quality of water

Sec. 2. After August 31, 1981, if the authority to supply piped drinking water is transferred from a city or town to a person other than a city or town, the piped drinking water must, at the time of transfer, be at least equal in quality to the water tested under section 1 of this chapter which was supplied by the city or town. A person shall comply with this section within ten (10) days of the date on which it is found by the state department of health that the person supplies drinking water that does not comply with this section.

As added by Acts 1981, P.L.105, SEC.1. Amended by P.L.2-1992, SEC.80.

IC 8-1-5.5-3

Maintenance of quality

Sec. 3. A person, other than a city or town, to whom the authority to supply piped drinking water is transferred from a city or town, shall maintain, to the extent practicable and reasonable, the quality of water required at the time of transfer of such authority, under section 2 of this chapter.

As added by Acts 1981, P.L.105, SEC.1.

IC 8-1-5.5-4

Violations

Sec. 4. A person who supplies drinking water that does not comply with section 2 of this chapter commits a Class B infraction for each day he is in violation.

As added by Acts 1981, P.L.105, SEC.1.

IC 8-1-6

Chapter 6. Public Utility Fees

IC 8-1-6-1

Public policy; computation; disposition

Sec. 1. (a) It is declared to be the public policy of this state that in order to maintain and foster the effective regulation of the public utilities, in the interests of the people of the state of Indiana and the public utilities as well, the public utilities subject to regulation and which enjoy the privilege of operating as public utilities in this state shall bear the expense of administering the provisions of IC 8-1-1 and IC 8-1-2 by means of a public utility fee on such privilege measured by the annual gross revenue of such public utilities in the manner provided in this chapter. That expense shall be determined by totaling the budgets, approved by the general assembly in its appropriation act for the years to be billed, of the commission and the utility consumer counselor, including expert witness fees. The sum of two hundred fifty thousand dollars ($250,000) shall be added to that total for the use of the commission and the utility consumer counselor as a contingency fund, with expenditures from that fund subject to prior approval of the governor and state budget agency. The proceeds from the public utility fee shall be paid to the commission and deposited in the public utility fund which is hereby created in the state treasury. If the reports required to be submitted to the commission under section 5 of this chapter reveal that the amounts to be collected for the fiscal year from the public utilities, when added together, plus the unexpended balance of the public utility fund account at the end of the fiscal year will exceed the total of the expenses plus the contingency fund, the commission shall compute the amount of each public utility's proportionate share of the excess sum. The commission shall, as promptly as possible, notify each public utility of the amount of its proportionate share of such excess and that amount shall be deducted from the subsequent payment of any fees imposed on such utility under section 4 of this chapter.

(b) If the sum of the actual expenditures of the commission and the utility consumer counselor are less than the appropriations therefor by the general assembly, the difference between the actual expenditures and the appropriations shall be subject to the credit provision provided in this section and each utility's proportionate share of that difference shall be deducted from the subsequent payment of any fee imposed on that utility under section 4 of this chapter.

(Formerly: Acts 1969, c.360, s.1; Acts 1974, P.L.28, SEC.1; Acts 1975, P.L.77, SEC.1.) As amended by Acts 1977, P.L.101, SEC.1; P.L.23-1988, SEC.37.

IC 8-1-6-2

Public utility fund account; disposition of fees

Sec. 2. (a) All fees herein prescribed shall be paid into the treasury of the state of Indiana through the secretary of the commission, a quietus shall be issued, and the fees shall be deposited into an account to be known as the commission public utility fund account. This account shall be used for enforcing the provisions of IC 8-1-1 and IC 8-1-2 and shall be utilized only for the purpose of funding the expenses of the commission and the consumer counselor in amounts not in excess of their respective appropriations by the general assembly, plus the contingency fund. All appropriations under this chapter paid out of the commission public utility fund account shall be subject to the prior approval of the general assembly, the governor, and the state budget agency.

(b) Fees collected from municipalities under IC 8-1-2-85 and amounts paid by municipal utilities under IC 8-1-2-70 shall also be deposited in the commission public utility fund account, as if they were fees collected from public utilities under this chapter.

(Formerly: Acts 1969, c.360, s.2; Acts 1975, P.L.77, SEC.2.) As amended by Acts 1977, P.L.101, SEC.2; Acts 1982, P.L.74, SEC.3; P.L.23-1988, SEC.38; P.L.1-2010, SEC.42; P.L.251-2013, SEC.3.

IC 8-1-6-3

"Public utility" and "gross revenue" defined

Sec. 3. The term "public utility", as used in this chapter, shall mean and embrace every corporation, company, cooperative organization of any kind, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever that on or after March 15, 1969, may own, operate, manage, or control any plant or equipment within the state for the conveyance of telegraph or telephone messages, or for the production, transmission, delivery, or furnishing of heat, light, water, or power, or for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste, for service directly or indirectly to the public, but said term shall not include a municipality that may after March 14, 1969, acquire, own, or operate any of the foregoing facilities.

The term "gross revenue", as used in this chapter, shall include all intrastate operating revenue received by a public utility for the conveyance of telegraph or telephone messages or for the production, transmission, delivery, or furnishing of heat, light, water, or power, or for the collection, treatment, purification, or disposal in any sanitary manner of liquid or solid waste, sewage, night soil, and industrial waste for service directly or indirectly to the public. Provided, however, that such term shall not include revenue derived by a public utility in the sale of public utility services, products, or commodities to another public or municipal utility for resale by the latter.

(Formerly: Acts 1969, c.360, s.3.) As amended by P.L.59-1984,

SEC.53.

IC 8-1-6-4
Imposition

Sec. 4. A public utility fee is imposed upon each public utility subject to the provisions of this chapter equal to .0015 of its gross revenue for the preceding calendar year. The commission may not bill or collect a public utility fee that is fifty dollars ($50) or less under this calculation.

(Formerly: Acts 1969, c.360, s.4.) As amended by Acts 1977, P.L.101, SEC.3; P.L.159-1999, SEC.19.

IC 8-1-6-5
Report of annual gross revenue

Sec. 5. On or before May 1 of each year, public utilities subject to the provisions of this chapter shall file with the commission a report of their annual gross revenue for the preceding calendar year and a statement of the amount of public utility fee due on the basis of said report. Forms for said report or returns shall be devised and supplied by the commission.

(Formerly: Acts 1969, c.360, s.5.) As amended by Acts 1979, P.L.84, SEC.5.

IC 8-1-6-6
Audit of returns

Sec. 6. All returns submitted to the commission by a public utility as provided by this chapter shall be sworn to by an appropriate officer of the public utility. The commission may audit each such return submitted and may take such measures as are necessary to ascertain the correctness of the returns submitted. The commission is hereby vested with the power to direct the filing of any return required by this chapter.

(Formerly: Acts 1969, c.360, s.6.) As amended by P.L.59-1984, SEC.54.

IC 8-1-6-7
Quarterly payment

Sec. 7. One quarter (1/4) of the annual fee imposed under section 4 of this chapter shall be paid to the commission on or before the first day of July of the year in which the fee is imposed and one quarter (1/4) on the first day of each of the months of October, January, and April following immediately thereafter; or the entire amount of such fee may, at the election of the utility, be paid in full on or before July 1 of such year.

(Formerly: Acts 1969, c.360, s.7.) As amended by P.L.59-1984, SEC.55.

IC 8-1-6-8

Delinquent fees; penalty

Sec. 8. Each installment or required payment of the fee imposed by section 4 of this chapter becomes delinquent at midnight of the last day for payment thereof as provided in section 7 of this chapter. If a public utility has failed to pay, or has underpaid, the proper amount of any quarterly installment or payment, it shall pay a penalty to the commission of one percent (1%) of the amount so due on any quarterly installment or payment for each month or fraction thereof that such amount is unpaid. The commission may enforce the collection of any delinquent installment or payment, or portion thereof by legal action or in any other manner by which the collection of debts due the state of Indiana may be enforced under the laws of this state.

(Formerly: Acts 1969, c.360, s.8.) As amended by P.L.59-1984, SEC.56.

IC 8-1-6-9

Deposit with treasurer of state

Sec. 9. All sums collected by the commission under the provisions of this chapter shall be paid not less than fifteen (15) days after receipt of the same, accompanied by a detailed statement thereof to the treasurer of the state of Indiana and deposited into the public utility fund.

(Formerly: Acts 1969, c.360, s.9.) As amended by P.L.59-1984, SEC.57.

IC 8-1-7

Chapter 7. Surrender of Utility Franchise

IC 8-1-7-1

Indeterminate permit replacing franchise

Sec. 1. Any public utility operating under a license, permit, or franchise existing on May 31, 1921, from any county, city, or town within the state of Indiana shall, upon filing, at any time prior to July 1, 1923, with the auditor or clerk of any such county, city, or town which granted such license, permit, or franchise, and with the commission, a written declaration, legally executed, that it surrenders such license, permit, or franchise, receive by operation of the law, in lieu thereof, an indeterminate permit as provided in IC 8-1-2, and such public utility shall hold such permit under all the terms, conditions, and limitations of IC 8-1-2 as fully and completely as if the same had been done prior to July 1, 1915.

(Formerly: Acts 1921, c.93, s.1.) As amended by P.L.59-1984, SEC.58; P.L.23-1988, SEC.39.

IC 8-1-8

Chapter 8. Condemnation by Utilities

IC 8-1-8-1

Limitations on power

Sec. 1. (a) A public utility, except in cities of the third class, engaged in the production, transmission, delivery, or furnishing of heat, light, water, or power or for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid sewage or furnishing facilities for transmission of intelligence by electricity to towns and cities and to the public in general or for the furnishing of elevator or warehouse service, either directly or indirectly, to or for the public, for the purpose of enabling it to perform its functions, may appropriate and condemn lands of individuals and private corporations, or any easement in any lands, necessary to the carrying out of its objects, whether the same be for its building, structures, dams, line of poles, wires, mains, conduits, and pipelines, or right-of-way to accommodate railway siding or switch tracks connecting its plant or plants with the tracks of any common carrier, overflowage by backwater from its dams, waste, or sluiceways.

(b) However, within the limits of any incorporated town or city, the authority to appropriate does not:

(1) extend to lands situated in any city block in which more than fifty percent (50%) of the frontage is devoted to residence purposes;

(2) extend to common carriers engaged in the transportation of freight or passengers; or

(3) give to any public utility any right or authority to:

(A) appropriate any land or easement within the corporate limits of any city for overflowage by backwater from any dam;

(B) appropriate or acquire any dam, race, or sluiceway existing on May 31, 1921, or any interest in either, except to use water for condensation purposes;

(C) appropriate or acquire any pipeline laid or contained within the limits of private property; or

(D) authorize any corporation developing hydroelectric power to unreasonably interfere with or disturb the natural flow of the stream from which power may be derived. Lands or easements in lands acquired by appropriation and condemnation shall be held and enjoyed by the company for those purposes as though the land or easement had been acquired by purchase.

(c) If a not-for-profit sewer utility (as described in IC 8-1-2-125(a)) appropriates or condemns land to acquire an easement or right-of-way necessary to carry out the not-for-profit sewer utility's objectives, the easement or right-of-way may not

exceed fifty (50) feet in width.

(d) The appropriation and condemnation of lands and easements in lands authorized by this section must be done under the terms and conditions and in the manner prescribed by IC 32-24-1.

(Formerly: Acts 1921, c.98, s.1; Acts 1961, c.195, s.1.) As amended by P.L.59-1984, SEC.59; P.L.2-2002, SEC.36; P.L.97-2012, SEC.2.

IC 8-1-8-2
Repealed

(Repealed by P.L.59-1984, SEC.60.)

IC 8-1-8-3
Construction of chapter

Sec. 3. This chapter shall be construed as supplemental legislation and not as repealing any statutes in force on May 31, 1921.

(Formerly: Acts 1921, c.98, s.3.) As amended by P.L.59-1984, SEC.61.

IC 8-1-8.1

Chapter 8.1. Electric and Magnetic Fields

IC 8-1-8.1-1

"Commission" defined

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission established by IC 8-1-1-2.

As added by P.L.94-1993, SEC.1.

IC 8-1-8.1-2

Determination of necessity for rules

Sec. 2. The commission shall determine, based on the preponderance of evidence in the scientific literature, whether rules are necessary to protect the public health from electric and magnetic fields.

As added by P.L.94-1993, SEC.1.

IC 8-1-8.1-3

Promulgation of protective rules

Sec. 3. If the commission determines under section 2 of this chapter that rules are necessary, the commission shall by rule adopted under IC 4-22-2 establish requirements that reasonably protect the public health from electric and magnetic fields.

As added by P.L.94-1993, SEC.1.

IC 8-1-8.3

Chapter 8.3. Public Utility Employees; Utility Service Interruption Emergencies

IC 8-1-8.3-1

"Commercial driver's license"

Sec. 1. As used in this chapter, "commercial driver's license" has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

As added by P.L.42-2004, SEC.1. Amended by P.L.198-2016, SEC.59.

IC 8-1-8.3-2

"Commercial motor vehicle"

Sec. 2. As used in this chapter, "commercial motor vehicle" has the meaning set forth in IC 9-13-2-31.

As added by P.L.42-2004, SEC.1.

IC 8-1-8.3-3

"Public utility"

Sec. 3. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-2-1(a).

As added by P.L.42-2004, SEC.1.

IC 8-1-8.3-4

"Utility service interruption emergency"

Sec. 4. As used in this chapter, "utility service interruption emergency" means an outage or interruption of utility service in Indiana, including a near term threat or occurrence of a meteorological or other condition reasonably likely to result in outages or service interruption. A utility service interruption emergency:

(1) is declared to exist within the meaning of 49 CFR 390.23 when a public utility receives:

(A) notice of or a request to respond to an outage or a service interruption; or

(B) notice of the existence of conditions reasonably likely to result in an outage or a service interruption; and

(2) continues until:

(A) the necessary maintenance or repair work is completed; and

(B) personnel used to perform necessary maintenance or repair work have returned to their respective normal work routines.

As added by P.L.42-2004, SEC.1.

IC 8-1-8.3-5

"Utility service vehicle"

Sec. 5. As used in this chapter, "utility service vehicle" has the

meaning set forth in 49 CFR 395.2.
As added by P.L.42-2004, SEC.1.

IC 8-1-8.3-6
Utility service interruption emergency worker; maximum hours of service

Sec. 6. An individual who:

(1) is the holder of a commercial driver's license;

(2) is:

(A) an employee;

(B) an employee of a contractor; or

(C) an employee of a subcontractor;

of a public utility in an employment capacity in which the commercial driver's license is used; and

(3) operates a commercial motor vehicle as a utility service vehicle and engages in intrastate maintenance or repair work in response to a utility service interruption emergency;

is exempt from any regulation of the maximum hours of service that the employee may work under 49 CFR 395.
As added by P.L.42-2004, SEC.1.

IC 8-1-8.4

Chapter 8.4. Federally Mandated Requirements for Energy Utilities

IC 8-1-8.4-1

"Certificate"

Sec. 1. As used in this chapter, "certificate" refers to a certificate of public convenience and necessity issued by the commission under section 7(b) of this chapter.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.4-2

"Compliance project"

Sec. 2. (a) As used in this chapter, "compliance project" means a project that is:

(1) undertaken by an energy utility; and

(2) related to the direct or indirect compliance by the energy utility with one (1) or more federally mandated requirements.

(b) The term includes:

(1) an addition; or

(2) an integrity, enhancement, or a replacement project;

undertaken by an energy utility to comply with a federally mandated requirement described in section 5(5) of this chapter.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.4-3

"Energy utility"

Sec. 3. As used in this chapter, "energy utility" has the meaning set forth in IC 8-1-2.5-2.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.4-4

"Federally mandated costs"

Sec. 4. (a) As used in this chapter, "federally mandated costs" means costs that an energy utility incurs in connection with a compliance project, including capital, operating, maintenance, depreciation, tax, or financing costs.

(b) The term does not include fines or penalties assessed against or imposed on an energy utility for violating laws, regulations, or consent decrees related to a federally mandated requirement.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.4-5

"Federally mandated requirements"

Sec. 5. As used in this chapter, "federally mandated requirement" means a requirement that the commission determines is imposed on an energy utility by the federal government in connection with any of the following:

(1) The federal Clean Air Act (42 U.S.C. 7401 et seq.).
(2) The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).
(3) The federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).
(4) The federal Toxic Substances Control Act (15 U.S.C. 2601 et seq.).
(5) Standards or regulations concerning the integrity, safety, or reliable operation of:
(A) transmission; or
(B) distribution;
pipeline facilities.
(6) Requirements relating to a license issued by the United States Nuclear Regulatory Commission to operate a nuclear energy production or generating facility (as defined in IC 8-1-8.8-8.5).
(7) Any other law, order, or regulation administered or issued by the United States Environmental Protection Agency, the United States Department of Transportation, the Federal Energy Regulatory Commission, or the United States Department of Energy.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.4-6
Necessity for public convenience and necessity certification; considerations for issuing a certificate

Sec. 6. (a) Except as provided in subsection (c), or unless an energy utility has elected to file for:
(1) a certificate of public convenience and necessity; or
(2) the recovery of costs;
under another statute, an energy utility that seeks to recover federally mandated costs under section 7(c) of this chapter must obtain from the commission a certificate that states that public convenience and necessity will be served by a compliance project proposed by the energy utility.

(b) The commission shall issue a certificate of public convenience and necessity under section 7(b) of this chapter if the commission finds that the proposed compliance project will allow the energy utility to comply directly or indirectly with one (1) or more federally mandated requirements. In determining whether to grant a certificate under this section, the commission shall examine the following factors:
(1) The following, which must be set forth in the energy utility's application for the certificate sought, in accordance with section 7(a) of this chapter:
(A) A description of the federally mandated requirements, including any consent decrees related to the federally mandated requirements, that the energy utility seeks to

comply with through the proposed compliance project.

(B) A description of the projected federally mandated costs associated with the proposed compliance project, including costs that are allocated to the energy utility:

(i) in connection with regional transmission expansion planning and construction; or

(ii) under a Federal Energy Regulatory Commission approved tariff, rate schedule, or agreement.

(C) A description of how the proposed compliance project allows the energy utility to comply with the federally mandated requirements described by the energy utility under clause (A).

(D) Alternative plans that demonstrate that the proposed compliance project is reasonable and necessary.

(E) Information as to whether the proposed compliance project will extend the useful life of an existing energy utility facility and, if so, the value of that extension.

(2) Any other factors the commission considers relevant.

(c) An energy utility is not required to obtain a certificate under this section for a project that constitutes a research and development project.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.4-7

Application for certificate; public hearing; granting certificate; recovery of costs

Sec. 7. (a) As a condition for receiving the certificate required under section 6 of this chapter, an energy utility must file with the commission an application that sets forth the information described in section 6(b) of this chapter, supported with technical information in as much detail as the commission requires.

(b) The commission shall hold a properly noticed public hearing on each application and grant a certificate only if the commission has:

(1) made a finding that the public convenience and necessity will be served by the proposed compliance project;

(2) approved the projected federally mandated costs associated with the proposed compliance project; and

(3) made a finding on each of the factors set forth in section 6(b) of this chapter.

(c) If the commission approves under subsection (b) a proposed compliance project and the projected federally mandated costs associated with the proposed compliance project, the following apply:

(1) Eighty percent (80%) of the approved federally mandated costs shall be recovered by the energy utility through a periodic retail rate adjustment mechanism that allows the timely recovery of the approved federally mandated costs. The

commission shall adjust the energy utility's authorized net operating income to reflect any approved earnings for purposes of IC 8-1-2-42(d)(3) and IC 8-1-2-42(g)(3).

(2) Twenty percent (20%) of the approved federally mandated costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, based on the overall cost of capital most recently approved by the commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the commission.

(3) Actual costs that exceed the projected federally mandated costs of the approved compliance project by more than twenty-five percent (25%) shall require specific justification by the energy utility and specific approval by the commission before being authorized in the next general rate case filed by the energy utility with the commission.

As added by P.L.150-2011, SEC.1.

IC 8-1-8.5

Chapter 8.5. Electric Utility Resource Planning and Certification

IC 8-1-8.5-1

Definitions

Sec. 1. (a) As used in this chapter, "public utility" means a:

(1) public, municipally owned, or cooperatively owned utility; or

(2) joint agency created under IC 8-1-2.2.

(b) As used in this chapter, "public utility service" means the service rendered by a public utility.

As added by P.L.43-1983, SEC.12. Amended by P.L.23-1988, SEC.40; P.L.54-1992, SEC.4.

IC 8-1-8.5-2

Necessity for certification

Sec. 2. Except as provided in section 7 of this chapter, a public utility may not begin the construction, purchase, or lease of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service, even though the facility is for furnishing the service already being rendered, without first obtaining from the commission a certificate that public convenience and necessity requires, or will require, such construction, purchase, or lease.

As added by P.L.43-1983, SEC.12. Amended by P.L.88-1985, SEC.6; P.L.11-1987, SEC.14.

IC 8-1-8.5-3

Analysis of needs; integrated resource plans; hearings; report

Sec. 3. (a) The commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity.

(b) This analysis must include an estimate of:

(1) the probable future growth of the use of electricity;

(2) the probable needed generating reserves;

(3) in the judgment of the commission, the optimal extent, size, mix, and general location of generating plants;

(4) in the judgment of the commission, the optimal arrangements for statewide or regional pooling of power and arrangements with other utilities and energy suppliers to achieve maximum efficiencies for the benefit of the people of Indiana; and

(5) the comparative costs of meeting future growth by other means of providing reliable, efficient, and economic electric service, including purchase of power, joint ownership of facilities, refurbishment of existing facilities, conservation (including energy efficiency), load management, distributed

generation, and cogeneration.

(c) The commission shall consider the analysis in acting upon any petition by any utility for construction.

(d) In developing the analysis, the commission:

(1) shall confer and consult with:

(A) the public utilities in Indiana;

(B) the utility commissions or comparable agencies of neighboring states;

(C) the Federal Energy Regulatory Commission; and

(D) other agencies having relevant information; and

(2) may participate as it considers useful in any joint boards investigating generating plant sites or the probable needs for future generating facilities.

(e) In addition to such reports as public utilities may be required by statute or rule of the commission to file with the commission, a utility:

(1) may submit to the commission a current or updated integrated resource plan as part of a utility specific proposal as to the future needs for electricity to serve the people of the state or the area served by the utility; and

(2) shall submit to the commission an integrated resource plan that assesses a variety of demand side management and supply side resources to meet future customer electricity service needs in a cost effective and reliable manner.

The commission shall adopt rules under IC 4-22-2 concerning the submission of an integrated resource plan under subdivision (2).

(f) Insofar as practicable, each utility, the utility consumer counselor, and any intervenor may attend or be represented at any formal conference conducted by the commission in developing an analysis for the future requirements of electricity for Indiana or this region.

(g) In the course of making the analysis required by subsection (a) and, if applicable, developing an analysis described in subsection (f), the commission shall conduct one (1) or more public hearings.

(h) Each year, the commission shall submit to the governor and to the appropriate committees of the general assembly a report of its analysis regarding the future requirements of electricity for Indiana or this region.

As added by P.L.43-1983, SEC.12. Amended by P.L.88-1985, SEC.7; P.L.53-1992, SEC.2; P.L.246-2015, SEC.1.

IC 8-1-8.5-3.5

Forecasting group

Sec. 3.5. (a) To arrive at estimates of the probable future growth of the use of electricity required by section 3(b)(1) of this chapter, the commission shall establish a permanent forecasting group to be located at a state supported college or university within Indiana. The commission shall financially support the group, which shall consist

of a director and such staff as mutually agreed upon by the commission and college or university, from funds appropriated to the commission.

(b) The forecasting group shall develop and keep current a methodology for forecasting the probable future growth of the use of electricity within Indiana and within this region of the nation. To do this, the group shall solicit the input of residential, commercial, and industrial consumers and the electric industry.

(c) The commission shall use the methodology that the forecasting group devises as the commission's primary methodology in developing and keeping current the commission's:

(1) analysis of the long range needs for expansion of facilities for the generation of electricity required by section 3(a) of this chapter; and

(2) plan for meeting the future requirements of electricity required by sections 3(e), 3(f), and 3(g) of this chapter.

As added by P.L.88-1985, SEC.8. Amended by P.L.53-1992, SEC.3.

IC 8-1-8.5-4

Consideration of petition

Sec. 4. In acting upon any petition for the construction, purchase, or lease of any facility for the generation of electricity, the commission shall take into account:

(1) the applicant's current and potential arrangement with other electric utilities for:

(A) the interchange of power;

(B) the pooling of facilities;

(C) the purchase of power; and

(D) joint ownership of facilities; and

(2) other methods for providing reliable, efficient, and economical electric service, including the refurbishment of existing facilities, conservation, load management, cogeneration and renewable energy sources.

As added by P.L.43-1983, SEC.12. Amended by P.L.88-1985, SEC.9.

IC 8-1-8.5-5

Estimate of costs; hearing on application; granting certificate; findings; force and effect of certificate; approval or disapproval of utility specific proposals

Sec. 5. (a) As a condition for receiving the certificate required under section 2 of this chapter, the applicant shall file an estimate of construction, purchase, or lease costs in such detail as the commission may require.

(b) The commission shall hold a public hearing on each such application. The commission may consider all relevant information related to construction, purchase, or lease costs. A certificate shall be granted only if the commission has:

(1) made a finding as to the best estimate of construction,

purchase, or lease costs based on the evidence of record;

(2) made a finding that either:

(A) the construction, purchase, or lease will be consistent with the commission's analysis (or such part of the analysis as may then be developed, if any) for expansion of electric generating capacity; or

(B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e)(1) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, an analysis for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e)(1) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent with the commission's analysis, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e)(1) of this chapter, to the extent the plan was approved by the commission;

(3) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the facility;

(4) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal; and

(5) made the findings under subsection (e), if applicable.

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection (b)(2) that the construction, purchase, or lease of a generating facility is consistent with the commission's analysis for the expansion of electric generating capacity; and

(2) a court finally determines that the commission analysis is invalid;

the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection (b)(2) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e)(1) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

(e) This subsection applies if an applicant proposes to construct

a facility with a generating capacity of more than eighty (80) megawatts. Before granting a certificate to the applicant, the commission:

(1) must, in addition to the findings required under subsection (b), find that the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable; and

(2) shall also consider the following factors:

(A) Reliability.

(B) Solicitation by the applicant of competitive bids to obtain purchased power capacity and energy from alternative suppliers.

The applicant, including an affiliate of the applicant, may participate in competitive bidding described in this subsection.

As added by P.L.43-1983, SEC.12. Amended by P.L.88-1985, SEC.10; P.L.53-1992, SEC.4; P.L.210-2014, SEC.1; P.L.246-2015, SEC.2.

IC 8-1-8.5-5.5

Review of continuing need; modification or revocation of certificate

Sec. 5.5. When, in the opinion of the commission, changes in the estimate of the probable future growth of the use of electricity so indicate, the commission shall commence a review of any certificate granted under this chapter to determine whether the public convenience and necessity continues to require the facility under construction. If the commission finds that completion of the facility under construction is no longer in the public interest, the commission may modify or revoke the certificate.

As added by P.L.88-1985, SEC.11. Amended by P.L.53-1992, SEC.5.

IC 8-1-8.5-6

Review of construction; force and effect of certificate approved under review; election to defer review

Sec. 6. (a) In addition to the review of the continuing need for the facility under construction prescribed in section 5.5 of this chapter, the commission shall, at the request of the public utility, maintain an ongoing review of such construction as it proceeds. The applicant shall submit each year during construction, or at such other periods as the commission and the public utility mutually agree, a progress report and any revisions in the cost estimates for the construction.

(b) If the commission approves the construction and the cost of the portion of the facility under review, the certificate shall remain in full force and effect.

(c) If the commission disapproves of all or part of the construction or cost of the portion of the facility under review, the commission may modify or revoke the certificate.

(d) Alternatively, the public utility may elect to forego commission review under subsection (a) and defer the review of the construction and cost until completion or cancellation of the facility. *As added by P.L.43-1983, SEC.12. Amended by P.L.88-1985, SEC.12; P.L.53-1992, SEC.6.*

IC 8-1-8.5-6.5
Rates; recovery of costs

Sec. 6.5. Absent fraud, concealment, or gross mismanagement, a utility shall recover through rates the actual costs the utility has incurred in reliance on a certificate issued under this chapter, and as modified under sections 5.5 and 6 of this chapter as follows:

(1) If a facility has been found to be completed and the facility's construction has been subject to ongoing review under section 6(a) of this chapter, the costs of construction approved by the commission during the ongoing review shall be included in the utility's rate base without further commission review.

(2) If a facility has been found to be completed and the facility's construction is subject to subsequent review under section 6(d) of this chapter, the costs of construction that do not exceed the estimate found under section 5(b)(1) of this chapter shall be included in the utility's rate base, except for costs that are shown to result from inadequate quality controls. However, inclusion of costs in excess of the estimate found by the commission under section 5(b)(1) of this chapter in the utility's rate base is not permitted unless shown by the utility in construction of that facility to be necessary and prudent.

(3) If a facility has been canceled as a result of the modification or revocation of the certificate under section 5.5 or 6 of this chapter and the facility's construction has been subject to ongoing review under section 6(a) of this chapter (including reviews after cancellation), the costs of construction approved by the commission during the review shall be recovered by the utility by inclusion in rates and amortization over a reasonable time to be determined by the commission. The utility shall be permitted to earn a return, computed using the utility's authorized rate of return, on the unamortized balance.

(4) If a facility has been canceled as a result of the modification or revocation of the certificate under section 5.5 or 6 of this chapter and the facility's construction is subject to subsequent review under section 6(d) of this chapter, the costs of construction incurred before cancellation that were included in the estimate found under section 5(b)(1) of this chapter and that have not been shown to result from inadequate quality controls shall be recovered by the utility by inclusion in rates and amortization over a reasonable time to be determined by the commission. The utility shall be permitted to earn a return, computed using the utility's authorized rate of return, on the

unamortized balance. However, costs that were not included in the estimate found by the commission under section 5(b)(1) of this chapter may not be included in rates unless shown by the utility in construction of that facility to be necessary and prudent.

As added by P.L.53-1992, SEC.7.

IC 8-1-8.5-7

Certification requirements; exemptions; report

Sec. 7. The certification requirements of this chapter do not apply to persons who:

(1) construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;

(2) construct an alternate energy production facility, cogeneration facility, or a small hydro facility that complies with the limitations set forth in IC 8-1-2.4-5; or

(3) are a municipal utility, including a joint agency created under IC 8-1-2.2-8, and install an electric generating facility that has a capacity of ten thousand (10,000) kilowatts or less.

However, those persons shall, nevertheless, be required to report to the commission the proposed construction of such a facility before beginning construction of the facility.

As added by P.L.43-1983, SEC.12. Amended by P.L.168-2013, SEC.2.

IC 8-1-8.5-8

Construction of chapter; valuation of property

Sec. 8. Except as otherwise provided in this chapter, nothing in this chapter limits the commission's responsibility regarding valuation of utility property under IC 8-1-2-6.

As added by P.L.5-1988, SEC.47. Amended by P.L.53-1992, SEC.8.

IC 8-1-8.5-9

Energy efficiency programs; opt out by industrial customers; prohibition against extending or renewing energy efficiency programs established under DSM order

Sec. 9. (a) For purposes of this section, "DSM order" refers to an order of the commission that establishes or approves:

(1) energy efficiency targets or goals for electricity suppliers; or

(2) an energy efficiency program sponsored by an electricity supplier.

The term includes the December 9, 2009, order of the commission concerning demand side management programs.

(b) For purposes of this section, "electricity supplier" has the meaning set forth in IC 8-1-2.3-2(b).

(c) For purposes of this section, "energy efficiency program" means a program that is:

(1) sponsored by an electricity supplier or a third party administrator; and

(2) designed to implement energy efficiency improvements (as defined in 170 IAC 4-8-1(j)) for customers.

The term does not include a program designed primarily to reduce demand.

(d) For purposes of this section, "energy efficiency program costs" include:

(1) program costs;

(2) lost revenues; and

(3) incentives approved by the commission.

(e) For purposes of this section, "industrial customer" means a person that receives services at a single site constituting more than one (1) megawatt of electric capacity from an electricity supplier.

(f) An industrial customer may opt out of participating in an energy efficiency program that is established by an electricity supplier by providing notice to the electricity supplier. Except as provided in subsection (g), an electricity supplier may not charge an industrial customer that opts out rates that include energy efficiency program costs that accrue or are incurred after the date on which the industrial customer opts out. However, an industrial customer remains liable for rates that include energy efficiency program costs that accrued or were incurred, or related to investments made, before the date on which the industrial customer opts out, regardless of the date on which the rates are actually assessed against the industrial customer.

(g) An industrial customer that opts out of participating in an energy efficiency program may subsequently opt to participate in the same or a different energy efficiency program. The industrial customer must participate in the subsequent energy efficiency program for at least three (3) years after the date on which the industrial customer opts in. If the industrial customer terminates participation in the subsequent energy efficiency program during the three (3) year period described in this subsection, the industrial customer shall continue paying energy efficiency program rates, including costs described in subsection (f), for the remainder of the three (3) year period.

(h) Energy efficiency targets or goals that are approved or mandated by the commission in a DSM order must be calculated to exclude all load from an industrial customer that opts out under subsection (f).

(i) The commission may adopt:

(1) rules under IC 4-22-2; or

(2) guidelines;

to assist electricity suppliers and industrial customers in complying with this section.

(j) The commission may not:

(1) extend, renew, or require the establishment of an energy efficiency program under; or

(2) after December 31, 2014, require an electricity supplier to meet a goal or target established in;

the DSM order issued by the commission on December 9, 2009. An electricity supplier may not renew or extend an existing contract or enter into a new contract with a statewide third party administrator for an energy efficiency program established or approved by the DSM order issued by the commission on December 9, 2009.

(k) After December 31, 2014, an electricity supplier may continue to timely recover energy efficiency program costs that:

(1) accrued or were incurred under or relate to an energy efficiency program implemented under the DSM order issued by the commission on December 9, 2009; and

(2) are approved by the commission for recovery.

(l) After December 31, 2014, an electricity supplier may offer a cost effective portfolio of energy efficiency programs to customers. An electricity supplier may submit a proposed energy efficiency program to the commission for review. If an electricity supplier submits a proposed energy efficiency program for review and the commission determines that the portfolio included in the proposed energy efficiency program is reasonable and cost effective, the electricity supplier may recover energy efficiency program costs in the same manner as energy efficiency program costs were recoverable under the DSM order issued by the commission on December 9, 2009. The commission may not:

(1) require an energy efficiency program to be implemented by a third party administrator; or

(2) in making its determination, consider whether a third party administrator implements the energy efficiency program.

(m) This section does not affect:

(1) an energy efficiency program offered by an energy utility (as defined in IC 8-1-2.5-2) that is not an electricity supplier; or

(2) the manner in or means by which an energy utility described in subdivision (1) may recover costs associated with an energy efficiency program described in subdivision (1).

As added by P.L.223-2014, SEC.1. Amended by P.L.246-2015, SEC.3; P.L.149-2016, SEC.35.

IC 8-1-8.5-10

Energy efficiency goals and programs; evaluation, measurement, and verification; recovery of program costs; opt out by industrial customers

Sec. 10. (a) For purposes of this section, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana. The term does not include a utility that is:

(1) a municipally owned utility (as defined in IC 8-1-2-1(h));
(2) a corporation organized under IC 8-1-13;
(3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13; or
(4) a joint agency created under IC 8-1-2.2-8.

(b) For purposes of this section, "energy efficiency" means a reduction in electricity use for a comparable level of electricity service.

(c) For purposes of this section, "energy efficiency goals" means all energy efficiency produced by cost effective plans that are:
(1) reasonably achievable;
(2) consistent with an electricity supplier's integrated resource plan; and
(3) designed to achieve an optimal balance of energy resources in an electricity supplier's service territory.

(d) For purposes of this section, "energy efficiency program" or "program" means a program that is:
(1) sponsored by an electricity supplier; and
(2) designed to implement energy efficiency improvements.

The term does not include a program designed primarily to reduce demand for limited intervals of time, such as during peak electricity usage or emergency conditions.

(e) For purposes of this section, "lost revenues" means the difference, if any, between:
(1) revenues lost; and
(2) the variable operating and maintenance costs saved;

by an electricity supplier as a result of implementing energy efficiency programs.

(f) For purposes of this section, "plan" refers to the goals, programs, program budgets, program costs, and procedures submitted by an electricity supplier to the commission under subsection (h).

(g) For purposes of this section, "program costs" include the following:
(1) Direct and indirect costs of energy efficiency programs.
(2) Costs associated with the evaluation, measurement, and verification of program results.
(3) Other recoveries or incentives approved by the commission, including lost revenues and financial incentives approved by the commission under subsection (o).

(h) Beginning not later than calendar year 2017, and not less than one (1) time every three (3) years, an electricity supplier shall petition the commission for approval of a plan that includes:
(1) energy efficiency goals;
(2) energy efficiency programs to achieve the energy efficiency goals;
(3) program budgets and program costs; and
(4) evaluation, measurement, and verification procedures that

must include independent evaluation, measurement, and verification.

An electricity supplier may submit a plan required under this subsection to the commission for a determination of the overall reasonableness of the plan either as part of a general basic rate proceeding or as an independent proceeding. A petition submitted under this subsection may include a home energy efficiency assistance program for qualified customers of the electricity supplier whether or not the program is cost effective. The commission shall make the petition and its disclosable contents available through the commission's Internet web site.

(i) At the same time an electricity supplier petitions the commission under subsection (h), the electricity supplier shall:

(1) provide a copy of the petition and plan to the office of utility consumer counselor; and

(2) post an electronic copy of the petition and plan on the electricity supplier's Internet web site. The electricity supplier may redact confidential or proprietary information.

(j) In making a determination of the overall reasonableness of a plan submitted under subsection (h), the commission shall consider the following:

(1) Projected changes in customer consumption of electricity resulting from the implementation of the plan.

(2) A cost and benefit analysis of the plan, including the likelihood of achieving the goals of the energy efficiency programs included in the plan.

(3) Whether the plan is consistent with the following:

(A) The state energy analysis developed by the commission under section 3 of this chapter.

(B) The electricity supplier's most recent long range integrated resource plan submitted to the commission.

(4) The inclusion and reasonableness of procedures to evaluate, measure, and verify the results of the energy efficiency programs included in the plan, including the alignment of the procedures with applicable environmental regulations, including federal regulations concerning credits for emission reductions.

(5) Any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of an energy efficiency program or from the overall design of a plan.

(6) Comments provided by customers, customer representatives, the office of utility consumer counselor, and other stakeholders concerning the adequacy and reasonableness of the plan, including alternative or additional means to achieve energy efficiency in the electricity supplier's service territory.

(7) The effect, or potential effect, in both the long term and the short term, of the plan on the electric rates and bills of

customers that participate in energy efficiency programs compared to the electric rates and bills of customers that do not participate in energy efficiency programs.

(8) The lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier.

(9) The electricity supplier's current integrated resource plan and the underlying resource assessment.

(10) Any other information the commission considers necessary.

(k) If, after notice and hearing, the commission determines that an electricity supplier's plan is reasonable in its entirety, the commission shall:

(1) approve the plan in its entirety;

(2) allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustment mechanism; and

(3) allocate and assign costs associated with a program to the class or classes of customers that are eligible to participate in the program.

(l) If, after notice and hearing, the commission determines that an electricity supplier's plan is not reasonable because the costs associated with one (1) or more programs included in the plan exceed the projected benefits of the program or programs, the commission:

(1) may exclude the program or programs and approve the remainder of the plan; and

(2) shall allow the electricity supplier to recover only those program costs associated with the portion of the plan approved under subdivision (1) on a timely basis through a periodic rate adjustment mechanism.

(m) If, after notice and hearing, the commission determines that an electricity supplier's plan is not reasonable in its entirety, the commission shall issue an order setting forth the reasons supporting its determination. The electricity supplier shall submit a modified plan within a reasonable time. After notice and hearing, the commission shall issue an order approving or denying the modified plan. If the commission approves the modified plan, the commission shall allow the electricity supplier to recover program costs associated with the modified plan on a timely basis through a periodic rate adjustment mechanism.

(n) The commission may not:

(1) require an energy efficiency program to be implemented by a third party administrator; or

(2) in making a determination of reasonableness under subsection (j), consider whether a third party administrator implements an energy efficiency program.

(o) If the commission finds a plan submitted by an electricity supplier under subsection (h) to be reasonable, the commission shall

allow the electricity supplier to recover or receive the following:

(1) Reasonable financial incentives that:

(A) encourage implementation of cost effective energy efficiency programs; or

(B) eliminate or offset regulatory or financial bias:

(i) against energy efficiency programs; or

(ii) in favor of supply side resources.

(2) Reasonable lost revenues.

A retail rate adjustment mechanism proposed by an electricity supplier under this section to implement the timely recovery of program costs (including reasonable lost revenues) may be based on a reasonable forecast, with consideration given to the electricity supplier's historical lost revenue forecasting accuracy. If forecasted data is used, the retail rate adjustment mechanism must include a reconciliation mechanism to correct for any variance between the forecasted program costs (including reasonable lost revenues and financial incentives) and the actual program costs (including reasonable lost revenues and financial incentives based on the evaluation, measurement, and verification of the energy efficiency programs under the plan).

(p) An industrial customer (as defined in section 9(e) of this chapter) may opt out of an electricity supplier's plan under this section by following the procedure set forth in section 9(f) and 9(g) of this chapter. The opt out of an industrial customer who has previously complied with the procedure set forth in section 9(f) of this chapter constitutes an opt out of an electricity supplier's plan under this section. An industrial customer may follow the procedure set forth in section 9(g) of this chapter to opt back in.

(q) The commission shall adopt:

(1) rules under IC 4-22-2; or

(2) guidelines;

to assist electricity suppliers and industrial customers in complying with this section.

As added by P.L.246-2015, SEC.4.

IC 8-1-8.6
Repealed

(Repealed by P.L.2-2005, SEC.131.)

IC 8-1-8.7

Chapter 8.7. Clean Coal Technology

IC 8-1-8.7-1

"Clean coal technology"

Sec. 1. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with the combustion or use of coal; and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-2

"Public utility"

Sec. 2. As used in this chapter, "public utility" means a public or municipally owned utility.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-3

Certificate of public convenience and necessity; use of clean coal technology

Sec. 3. (a) Except as provided in subsection (c), a public utility may not use clean coal technology at a new or existing electric generating facility without first applying for and obtaining from the commission a certificate that states that public convenience and necessity will be served by the use of clean coal technology.

(b) The commission shall issue a certificate of public convenience and necessity under subsection (a) if the commission finds that a clean coal technology project offers substantial potential of reducing sulfur or nitrogen based pollutants in a more efficient manner than conventional technologies in general use as of January 1, 1989. For purposes of this chapter, a project that the United States Department of Energy has selected for funding under its Innovative Clean Coal Technology program and is finally approved for funding after December 31, 1988, is not considered a conventional technology in general use as of January 1, 1989. When determining whether to grant a certificate under this section, the commission shall examine the following factors:

(1) The costs for constructing, implementing, and using clean

coal technology compared to the costs for conventional emission reduction facilities.

(2) Whether a clean coal technology project will also extend the useful life of an existing electric generating facility and the value of that extension.

(3) The potential reduction of sulfur and nitrogen based pollutants achieved by the proposed clean coal technology system.

(4) The reduction of sulfur nitrogen based pollutants that can be achieved by conventional pollution control equipment.

(5) Federal sulfur and nitrogen based pollutant emission standards.

(6) The likelihood of success of the proposed project.

(7) The cost and feasibility of the retirement of an existing electric generating facility.

(8) The dispatching priority for the facility utilizing clean coal technology, considering direct fuel costs, revenues and expenses of the utility, and environmental factors associated with byproducts resulting from the utilization of the clean coal technology.

(9) Any other factors the commission considers relevant, including whether the construction, implementation, and use of clean coal technology is in the public's interest.

(c) A public utility is not required to obtain a certificate under this chapter for a clean coal technology project that constitutes a research and development project that may be expensed under IC 8-1-2-6.1.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-4

Hearings and requisite findings; estimated costs; use of Indiana coal

Sec. 4. (a) As a condition for receiving the certificate required under section 3 of this chapter, an applicant must file an estimate of the cost of constructing, implementing, and using clean coal technology and supportive technical information in as much detail as the commission requires.

(b) The commission shall hold a public hearing on each application. A certificate shall be granted only if the commission has:

(1) made a finding that the public convenience and necessity will be served by the construction, implementation, and use of clean coal technology;

(2) approved the estimated costs;

(3) made a finding that the facility where the clean coal technology is employed:

(A) utilizes and will continue to utilize Indiana coal as its primary fuel source; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place; and

(4) made a finding on each of the factors described in section 3(b) of this chapter, including the dispatching priority of the facility to the utility.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-5

Modification or revocation of certificate

Sec. 5. When, in the opinion of the commission, changes in the estimate of the cost or the need for clean coal technology occur, the commission shall immediately commence a review of the certificate granted under this chapter to determine if public convenience and necessity will be served by the implementation of the technology. If the commission finds that implementation of the technology will not serve the public convenience and necessity, the commission may modify or revoke the certificate.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-6

Cancellation of clean coal technology implementation; recovery of expenditures

Sec. 6. If a public utility cancels the implementation of the technology as a result of the modification or revocation of a certificate by the commission under section 5 of this chapter, the public utility may recover the amount of its investment in the technology, along with a reasonable return on the unamortized balance. The utility may not recover on amounts expended in excess of the cost estimates approved by the commission under section 4 of this chapter unless the utility can prove to the commission that those expenditures were necessary and prudent. The recovery must be made over a reasonable period of time through rates charged by the public utility. A recovery may not be made if there was fraud, concealment, or gross mismanagement on the part of the public utility.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-7

Ongoing review of construction and costs

Sec. 7. (a) This section does not apply if the utility elects the review described in section 8 of this chapter.

(b) In addition to the review of the continuing need for the clean coal technology system under construction prescribed in section 5 of this chapter, the commission shall at the request of the public utility maintain an ongoing review of that construction as the construction proceeds. The applicant shall submit each year during construction, or at other times as the commission and the public utility mutually agree, a progress report and any revisions in the cost estimates for the construction. The commission must hold a public hearing before it

may approve or deny a proposed increase in the cost estimates for the implementation, construction, or use of clean coal technology.

(c) If the commission approves the construction and the cost of the part of the clean coal technology system under review, the approval forecloses subsequent challenges to the inclusion of that part of the clean coal technology system in the public utility's rate base on the basis of excessive cost, inadequate quality control, or inability to employ the technology.

(d) If the commission disapproves of all or part of the construction or cost of the part of the clean coal technology system under review, the commission may modify or revoke the certificate. If the public utility cancels construction of the clean coal technology system as a result of the modification or revocation of the certificate, the utility may recover over a reasonable period of time through rates, absent fraud, concealment, or gross mismanagement, the amount of its investment in the clean coal technology system along with a reasonable return on the unamortized balance to the extent the construction and the cost were approved previously by the commission.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-8

Review of completed construction; costs exceeding estimated and approved costs

Sec. 8. A public utility may elect to forgo any commission review of the construction and cost until completion of the clean coal technology system. If the commission has annually approved the continuing need for the project under section 5 of this chapter, and to the extent the public utility seeks to add to the rate base an amount that does not exceed that filed under section 4(a) of this chapter, the inclusion of that amount may be challenged only on the basis of inadequate quality controls. However, inclusion of costs in excess of those approved by the commission under section 4(b)(2) of this chapter is not permitted unless the public utility shows those costs to be necessary and prudent.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-9

Dispatching priority

Sec. 9. After the commission has made a finding under section 4(b)(4) of this chapter as to the dispatching priority of a facility utilizing clean coal technology, the utility receiving the certificate under this chapter may dispatch the facility for which the certificate is issued in accordance with such finding, and such dispatch shall not be considered to be in conflict with the provisions of IC 8-1-2-42.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.7-10

Construction of electric generating facilities; additional certification; joint applications

Sec. 10. (a) This chapter does not relieve a public utility of the duty to obtain a certificate under IC 8-1-8.5 if the utility is proposing the use of clean coal technology as a part of the construction of an electric generating facility.

(b) A public utility seeking a certificate under IC 8-1-8.5 and this chapter for one (1) project may file a joint application for both certificates. If a joint application is filed, the commission shall jointly consider both certificates.

As added by P.L.105-1989, SEC.4.

IC 8-1-8.8

Chapter 8.8. Utility Generation and Clean Coal Technology

IC 8-1-8.8-1

Legislative findings and declaration of purpose

Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for new energy production or generating facilities in Indiana.

(2) The development of a robust and diverse portfolio of energy production or generating capacity, including coal gasification and the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.

(3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy production or generating facilities, including coal gasification facilities, at an affordable price.

(4) Certain regions of the state, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy production or generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois Basin.

(5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned or gasified efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.

(6) It is in the public interest for the state to encourage the construction of new energy production or generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(7) It is in the public interest for the state to encourage the study, analysis, development, and life cycle management of nuclear energy production or generating facilities, as well as carbon dioxide capture, transportation, and storage facilities.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

(1) Indiana's and the region's energy production or generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy production or generating facilities.

(3) The electric transmission and gas transportation systems within Indiana are upgraded to distribute additional amounts of

electricity and gas more efficiently.

(4) Jobs are created as new energy production or generating facilities are built in regions throughout Indiana.

(5) The study, analysis, development, and life cycle management of nuclear energy production or generating facilities are encouraged at the same time as are new coal fired and other fossil fuel based energy production or generating facilities.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.11; P.L.150-2011, SEC.2.

IC 8-1-8.8-2

"Clean coal and energy projects"

Sec. 2. As used in this chapter, "clean energy projects" means any of the following:

(1) Any of the following projects:

(A) Projects at new energy production or generating facilities that employ the use of clean coal technology and that produce energy, including substitute natural gas, primarily from coal, or gases derived from coal, from the geological formation known as the Illinois Basin.

(B) Projects to provide advanced technologies that reduce regulated air emissions from or increase the efficiency of existing energy production or generating plants that are fueled primarily by coal or gases from coal from the geological formation known as the Illinois Basin, such as flue gas desulfurization and selective catalytic reduction equipment.

(C) Projects to provide electric transmission facilities to serve a new energy production or generating facility or a nuclear energy production or generating facility.

(D) Projects that produce substitute natural gas from Indiana coal by construction and operation of a coal gasification facility.

(E) Projects or potential projects that enhance the safe and reliable use of nuclear energy production or generating technologies to produce electricity.

(2) Projects to develop alternative energy sources, including renewable energy projects or coal gasification facilities.

(3) The purchase of fuels or energy produced by a coal gasification facility or by a nuclear energy production or generating facility.

(4) Projects described in subdivisions (1) through (2) that use coal bed methane.

As added by P.L.159-2002, SEC.6. Amended by P.L.174-2005, SEC.2; P.L.175-2007, SEC.12; P.L.150-2011, SEC.3.

IC 8-1-8.8-3

"Clean coal technology"

Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy production or generating facility and directly or indirectly reduces or avoids airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding or loan guaranty under an Innovative Clean Coal Technology or loan guaranty program under the Energy Policy Act of 2005, or any successor program, and is finally approved for such funding or loan guaranty on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.13.

IC 8-1-8.8-4

"Coal gasification facility"

Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used:

(1) as a fuel to generate energy; or

(2) as substitute natural gas.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.14; P.L.150-2011, SEC.4.

IC 8-1-8.8-5

"Costs associated with qualified utility system property"

Sec. 5. As used in this chapter, "costs associated with qualified utility system property" means capital, operation, maintenance, depreciation, tax costs, and financing costs of or for qualified utility system property.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-6

"Eligible business"

Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) or owner of a coal gasification facility that:

(1) proposes to construct or repower a new energy production or generating facility;

(2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;
(3) undertakes a project to develop alternative energy sources, including renewable energy projects or coal gasification facilities; or
(4) purchases fuels or energy produced by a coal gasification facility or by a nuclear energy production or generating facility.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.15; P.L.150-2011, SEC.5.

IC 8-1-8.8-7
"Group"

Sec. 7. As used in this chapter, "group" refers to the forecasting group established by IC 8-1-8.5-3.5.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.8-8
"New energy production or generating facility"

Sec. 8. (a) As used in this chapter, "new energy production or generating facility" refers to a generation or coal gasification facility that satisfies all of the following:

(1) The facility produces energy primarily from coal or gases from coal from the geological formation known as the Illinois Basin.
(2) The facility is a:
(A) newly constructed or newly repowered energy plant; or
(B) newly constructed capacity expansion at an existing plant;
dedicated primarily to serving Indiana retail customers.
(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.
(4) Except for a facility that is a clean energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines, gas transportation facilities, and associated equipment employed specifically to serve a new energy production or generating facility.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.16; P.L.150-2011, SEC.6.

IC 8-1-8.8-8.5
"Nuclear energy production or generating facility"

Sec. 8.5. (a) As used in this chapter, "nuclear energy production or generating facility" means an energy production or generation facility that:

(1) uses a nuclear reactor as its heat source to provide steam to a turbine generator to produce or generate electricity;
(2) supplies electricity to Indiana retail customers on July 1, 2011;
(3) is dedicated primarily to serving Indiana customers; and
(4) is undergoing a comprehensive life cycle management project to enhance the safe and reliable operation of the facility during the period the facility is licensed to operate by the United States Nuclear Regulatory Commission.

(b) The term includes the transmission lines and other associated equipment employed specifically to serve a nuclear energy production or generating facility.

As added by P.L.150-2011, SEC.7.

IC 8-1-8.8-8.7
"Qualified utility system expenses"

Sec. 8.7. As used in this chapter, "qualified utility system expenses" means the costs associated with the study, analysis, or development of a life cycle management project for a nuclear energy production or generating facility.

As added by P.L.150-2011, SEC.8.

IC 8-1-8.8-9
"Qualified utility system property"

Sec. 9. As used in this chapter, "qualified utility system property" means any:

(1) new energy production or generating facility; or
(2) nuclear energy production or generating facility;

used, or to be used, in whole or in part, by an energy utility to provide retail energy service (as defined in IC 8-1-2.5-3) regardless of whether that service is provided under IC 8-1-2.5 or another provision of this article.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.17; P.L.150-2011, SEC.9.

IC 8-1-8.8-10
"Renewable energy resources"

Sec. 10. (a) As used in this chapter "renewable energy resources" means the following:

(1) A clean energy resource listed in IC 8-1-37-4(a)(1) through IC 8-1-37-4(a)(16).
(2) Low temperature, oxygen starved gasification of municipal solid waste.
(3) Methane recovered from landfills for the production of electricity.

(b) Except for energy described in subsection (a)(2) and IC 8-1-37-4(a)(9), the term does not include energy from the incinerations, burning, or heating of any of the following:

(1) Tires.

(2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.18; P.L.151-2009, SEC.4; P.L.95-2010, SEC.1; P.L.96-2011, SEC.1; P.L.150-2011, SEC.10; P.L.224-2011, SEC.1; P.L.13-2013, SEC.29.

IC 8-1-8.8-11

Incentives for clean energy projects; application to commission; commission's time for determining eligibility

Sec. 11. (a) The commission shall encourage clean energy projects by creating the following financial incentives for clean energy projects, if the projects are found to be reasonable and necessary:

(1) The timely recovery of costs and expenses incurred during construction and operation of projects described in section 2(1) or 2(2) of this chapter.

(2) The authorization of up to three (3) percentage points on the return on shareholder equity that would otherwise be allowed to be earned on projects described in subdivision (1).

(3) Financial incentives for the purchase of fuels or energy produced by a coal gasification facility or by a nuclear energy production or generating facility, including cost recovery and the incentive available under subdivision (2).

(4) Financial incentives for projects to develop alternative energy sources, including renewable energy projects or coal gasification facilities.

(5) Other financial incentives the commission considers appropriate.

(b) An eligible business must file an application to the commission for approval of a clean energy project under this section. This chapter does not relieve an eligible business of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for one (1) project may file a single application for all necessary certificates. If a single application is filed, the commission shall consider all necessary certificates at the same time.

(c) The commission shall promptly review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

(d) The commission shall, after notice and hearing, issue a determination of a project's eligibility for the financial incentives described in subsection (a) not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

As added by P.L.159-2002, SEC.6. Amended by P.L.150-2011, SEC.11.

IC 8-1-8.8-12
Recovery of costs; rate adjustment mechanisms

Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for:

(1) new energy production or generating facilities; and

(2) nuclear energy production or generating facilities;

in the form of timely recovery of the costs incurred in connection with the study, analysis, development, siting, design, licensing, permitting, construction, repowering, expansion, life cycle management, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

(1) A schedule for the completion of construction, repowering, life cycle management, or expansion of the facility for which rate relief is sought.

(2) Copies of the most recent integrated resource plan filed with the commission, if applicable.

(3) The amount of capital investment by the eligible business in the facility.

(4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover:

(1) the costs associated with qualified utility system property; and

(2) qualified utility system expenses;

if the eligible business provides substantial documentation that the expected costs and expenses and the schedule for incurring those costs and expenses are reasonable and necessary.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels or energy produced by a coal gasification facility or by a nuclear energy production or generating facility if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable and necessary.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

As added by P.L.159-2002, SEC.6. Amended by P.L.175-2007, SEC.19; P.L.150-2011, SEC.12.

IC 8-1-8.8-13

Monthly report to lieutenant governor required

Sec. 13. An eligible business shall file a monthly report with the lieutenant governor stating the following information:

(1) The amount of Illinois Basin coal, if any, purchased during the previous month for use in a new energy production or generating facility.

(2) The amount of any fuel or energy produced by:

(A) a coal gasification facility; or

(B) a nuclear energy production or generating facility;

that is purchased by the eligible business during the previous month.

(3) Any other information the lieutenant governor may reasonably require.

As added by P.L.159-2002, SEC.6. Amended by P.L.1-2006, SEC.151; P.L.175-2007, SEC.20; P.L.150-2011, SEC.13.

IC 8-1-8.8-14

Annual study of renewable energy resources

Sec. 14. The group shall conduct an annual study on the use, availability, and economics of using in Indiana the clean energy resources listed in IC 8-1-37-4(a)(1) through IC 8-1-37-4(a)(6). The commission may direct the group to study additional clean energy resources as the commission considers appropriate. Each year, the group shall submit a report on the study to the commission for inclusion in the commission's annual report to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6. The commission shall direct the group concerning the appropriate level of detail for the report. The report must include suggestions from the group to encourage the development and use of clean energy resources and technologies appropriate for use in Indiana.

As added by P.L.159-2002, SEC.6. Amended by P.L.71-2009, SEC.2; P.L.150-2011, SEC.14; P.L.53-2014, SEC.78.

IC 8-1-8.8-15

Commission's power to review approved projects

Sec. 15. The commission may review any project approved under this chapter to determine that the project continues to comply with the commission's order initially approving incentives under this chapter. The commission may revoke any incentive approved in the order if the commission finds that the project no longer complies with the provisions of the order concerning the incentive.

As added by P.L.159-2002, SEC.6.

IC 8-1-8.9

Chapter 8.9. Financing of Substitute Natural Gas Costs

IC 8-1-8.9-0.3

General assembly findings of fact

Sec. 0.3. The general assembly finds the following:

(1) The development of coal gasification facilities in Indiana that would use local coal resources for the production of substitute natural gas is in the public interest for purposes of:

(A) reducing the reliance of Indiana energy utilities on gas imports;

(B) mitigating price and supply risk;

(C) improving price stability; and

(D) promoting economic development and job creation.

(2) Coal gasification is encouraged by federal policies intended to increase the energy independence of the United States, including through the availability of tax incentives and loan guarantees.

(3) Indiana has the necessary resources and infrastructure suitable for development of coal gasification facilities.

(4) The receipt of federal incentives for the development, construction, and financing of new coal gasification facilities in Indiana will be enhanced by Indiana energy utilities entering into long term contracts for the purchase of substitute natural gas produced by such facilities.

(5) It is necessary to allow Indiana energy utilities to recover, through rate adjustments for the utility's customers, costs incurred from entering into supply contracts for substitute natural gas in order to promote the creation of such contracts without causing Indiana energy utilities to incur undue risk.

As added by P.L.220-2011, SEC.186.

IC 8-1-8.9-1

"Assignee" defined

Sec. 1. (a) As used in this chapter, "assignee" means any individual, corporation, or other legal entity to which an SNG property interest is transferred.

(b) The term includes an assignee of a person described in subsection (a).

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-3

"Energy utility" defined

Sec. 3. As used in this chapter, "energy utility" has the meaning set forth in IC 8-1-2.5-2.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-4

"Financing entity" defined

Sec. 4. As used in this chapter, "financing entity" means a person that provides:

(1) equity financing; or

(2) debt financing;

that is secured by an SNG property interest.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-5

"Qualified contract" defined

Sec. 5. As used in this chapter, "qualified contract" means a contract with a term of at least thirty (30) years for the sale of substitute natural gas to an energy utility.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-6

"Qualified cost" defined

Sec. 6. As used in this chapter, "qualified cost" means any cost incurred by an energy utility in purchasing substitute natural gas under a qualified contract.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-7

"Qualified order" defined

Sec. 7. As used in this chapter, "qualified order" means a final and irrevocable order that:

(1) is issued by the commission; and

(2) approves a qualified contract adopted in accordance with this chapter and IC 8-1-2-42.1.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-8

"Substitute natural gas" defined

Sec. 8. As used in this chapter, "substitute natural gas" or "SNG" has the meaning set forth in IC 8-1-2-42.1(a).

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-9

"SNG property interest" defined

Sec. 9. As used in this chapter, "SNG property interest" means the right, title, and interest that:

(1) are held by an energy utility or its assignee;

(2) are created by a qualified order; and
(3) entitle the energy utility or its assignee to recover qualified costs under IC 8-1-2-42.1.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-10
"SNG seller" defined

Sec. 10. As used in this chapter, "SNG seller" means any individual, corporation, or other legal entity that engages in the production and sale of substitute natural gas.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-11
Qualified order for cost recovery

Sec. 11. (a) Notwithstanding any other law, the commission may, in accordance with this chapter and IC 8-1-2-42.1, issue a qualified order that:
(1) approves the terms of a qualified contract; and
(2) authorizes the recovery of qualified costs by an energy utility from its customers.

(b) A qualified order issued under this section may not be:
(1) rescinded;
(2) nullified; or
(3) modified;

in such a manner that reduces or otherwise impairs the value of an SNG property interest.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-12
SNG property interest; property rights

Sec. 12. (a) An SNG property interest, including any right to future purchases of substitute natural gas during the term of a qualified contract, constitutes a present property right.

(b) Qualified costs recovered by an energy utility under a qualified order constitute proceeds of only the SNG property interest that is created by the qualified order.

(c) If the commission issues a qualified order under section 11 of this chapter, the state covenants and agrees, for the benefit of the energy utility and any assignee or financing entity involved, that the state will not take or permit any action that would:
(1) reduce or otherwise impair the value of the SNG property interest created by the qualified order; or
(2) limit, alter, or impair:
(A) the qualified order;
(B) the SNG property interest created by the qualified order; or
(C) qualified costs that are:
(i) imposed on and collected by the energy utility; and

(ii) remitted to the SNG seller;

under the terms of the qualified contract;

until the qualified contract has been performed in full.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-13

SNG property interest; assignability

Sec. 13. (a) An energy utility may assign an SNG property interest to an assignee, including:

(1) another party to the qualified contract; or

(2) a financing entity.

An assignee may in turn assign an SNG property interest to a financing entity that provides financing to the assignee.

(b) An assignment to a financing entity under this section may be:

(1) an absolute assignment of the SNG property interest; or

(2) an assignment of the SNG property interest as collateral for an obligation owed to the financing entity.

(c) An assignee under this section may enforce the SNG property interest by all applicable legal and equitable means.

(d) Any amounts collected by an energy utility in connection with the sale, transfer, or disposition of substitute natural gas under a qualified contract that forms the basis of an SNG property interest assigned under this section constitute the property of the assignee. Pending the transfer of the SNG property interest to the assignee, the amounts described in this subsection shall be:

(1) segregated by the energy utility; and

(2) held in trust for the benefit of the assignee;

subject to the terms of the qualified contract that forms the basis of the SNG property interest that is being assigned.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-14

SNG property interest; bankruptcy setoff

Sec. 14. The interests of an assignee in:

(1) an SNG property interest transferred to the assignee under section 13 of this chapter; and

(2) any revenues or collections arising from the SNG property interest transferred;

are not subject to setoff by the energy utility that transferred the SNG property interest, or by any other person, in connection with any bankruptcy proceeding involving the energy utility.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-15

SNG property interest; true sale

Sec. 15. (a) If an agreement by an energy utility or an assignee to assign an SNG property interest expressly states that the assignment is a sale or is otherwise an absolute transfer:

(1) the resulting transaction:
(A) is a true sale; and
(B) is not a secured transaction; and
(2) title, both legal and equitable, passes to the person to which the SNG property interest is assigned.

(b) A transaction resulting from an agreement described in subsection (a) is a true sale regardless of whether:
(1) the assignee has recourse against the assignor; or
(2) the agreement provides for any of the following:
(A) The assignor's retention of an equity interest in the SNG property interest transferred.
(B) Continuing obligations of the energy utility under the qualified contract, including the obligation of the energy utility to serve as the collector of qualified costs.
(C) The treatment of the transfer as a financing for tax, financial reporting, or other purposes.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-16
SNG property interest; security interests

Sec. 16. (a) An SNG property interest does not constitute an account or a general intangible under IC 26-1-9.1-102. The creation, granting, perfection, and enforcement of liens and security interests in SNG property interests are governed by this chapter and not by IC 26-1-9.1.

(b) A valid and enforceable lien and security interest in an SNG property interest may be created only by the execution and delivery of a security agreement with a financing entity in connection with the issuance of indebtedness. The security interest attaches automatically from the time that value is received for the indebtedness secured by the SNG property interest and, upon perfection through the filing of notice with the secretary of state:
(1) constitutes a continuously perfected lien and security interest in the SNG property interest and all proceeds of the SNG property interest, whether or not accrued;
(2) has priority in the order of its filing; and
(3) takes precedence over any subsequent judicial lien or other creditor's lien.

If notice is filed with the secretary of state not later than ten (10) days after value is received for the indebtedness, the security interest is perfected retroactive to the date the value was received. If notice is not filed with the secretary of state within ten (10) days after value is received for the indebtedness, the security interest is perfected as of the date of filing.

(c) Transfer of an SNG property interest to an assignee is perfected against all third parties, including subsequent judicial or other lien creditors, upon:
(1) the delivery of transfer documents to the assignee; and

(2) the filing of notice with the secretary of state in accordance with subsection (b).

However, if notice of the transfer is not filed with the secretary of state within ten (10) days after the delivery of the transfer documentation, the transfer of the SNG property interest is not perfected against third parties until the notice is filed.

(d) The priority of a lien and security interest under this section is not impaired by either of the following:

(1) A later modification of the qualified order creating the SNG property interest being transferred.

(2) The commingling of other funds with funds collected in connection with a qualified contract. Any other security interest that may apply to funds collected in connection with a qualified contract terminates when the funds are transferred to a segregated account for the benefit of the assignee or a financing entity. If an SNG property interest has been transferred to an assignee, any proceeds from the SNG property interest shall be held in trust for the assignee.

(e) If a default or termination occurs in connection with a financing secured by an SNG property interest, the financing entity or its representative may foreclose on or otherwise enforce its lien and security interest in the SNG property interest as if the financing entity were a secured party under IC 26-1-9.1. Amounts arising from the qualified contract that is the basis of the SNG property interest shall be transferred to a separate account for the financing entity's benefit and are subject to the financing entity's security interest and lien.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-17

SNG property interest; status of parties to transaction

Sec. 17. An assignee or a financing party is not considered an energy utility solely by virtue of its participation in any transaction described in this chapter.

As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-18

SNG property interest; successor obligations

Sec. 18. Any entity that becomes a successor to an energy utility as the result of:

(1) any bankruptcy, reorganization, or other insolvency proceeding;

(2) any merger, sale, or transfer involving the energy utility; or

(3) the operation of law;

or for any other reason, shall perform and satisfy any obligations of the energy utility incurred under this chapter in the same manner and to the same extent as the energy utility would have been obligated to perform, including the obligation to pay to an assignee any funds

collected by the energy utility in connection with the SNG property interest assigned to the assignee.
As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-19
SNG property interest; SNG seller contract with energy utility

Sec. 19. An SNG seller that is an assignee may contract with the energy utility, in the qualified contract or in another contract, for the performance of services related to the sale of substitute natural gas under the qualified contract, including:

(1) the transportation and distribution of substitute natural gas; and

(2) billing, collection, and other related services;

according to terms and conditions that reasonably compensate the energy utility for its services and adequately secure payment to the SNG seller.
As added by P.L.175-2007, SEC.21.

IC 8-1-8.9-20
SNG property interest; SNG seller rights

Sec. 20. If an energy utility makes a true sale of an SNG property interest to an SNG seller under section 15 of this chapter, the SNG seller:

(1) retains title to all substitute natural gas distributed by the energy utility to the energy utility's retail end use customers;

(2) is entitled to all amounts collected by the energy utility from its retail end use customers for the distribution of the substitute natural gas, subject to the terms of the qualified contract; and

(3) has the same rights to payments made by the energy utility's retail end use customers as does the energy utility that provides the substitute natural gas to those customers.

As added by P.L.175-2007, SEC.21.

IC 8-1-9

Chapter 9. Relocation of Utilities in Highway Rights-of-Way

IC 8-1-9-1

Public policy

Sec. 1. Recognizing that (a) part of the national system of interstate and defense highways located in Indiana are used by persons residing throughout Indiana and the United States for intrastate and interstate travel; (b) the cost of relocation of utility facilities necessitated by construction, reconstruction, change or modification of said highways is presently subject to being borne by utility rate payers only; and (c) existing federal legislation makes available a substantial portion of the funds with which said highways will be constructed, reconstructed, changed or modified, it is hereby declared that it is inequitable for rate payers of utilities to bear the cost of relocation of utility facilities necessitated by said highway construction, reconstruction, change or modification and that such cost of relocation of utility facilities should constitute a cost of construction of all of said highway projects in Indiana.

(Formerly: Acts 1961, c.112, s.1.)

IC 8-1-9-2

Definitions

Sec. 2. When used in this chapter, the term:

(a) "Utility" shall include all privately, municipally, publicly, or cooperatively owned systems for supplying communications, power, light, heat, electricity, gas, water, pipeline, sewer, sewage disposal, drain, or like service, directly or indirectly, to the public.

(b) "Cost of relocation" shall include the entire amount paid by a utility properly attributable to such relocation, after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(c) "Highway" when used in this chapter shall mean only those routes which are included within the national system of interstate and defense highways.

(Formerly: Acts 1961, c.112, s.2.) As amended by P.L.59-1984, SEC.62.

IC 8-1-9-3

Audits

Sec. 3. The cost of relocation of a utility facility is a cost of highway construction and shall be paid by the state in the same manner other costs of construction of the highway are paid. All relevant books, records, and accounts of any public utility to which a payment for a relocation has been made by the state shall be audited by the Indiana department of transportation auditor and the utility, following the audit, shall refund any portion of the payment the state determines was not properly compensable.

(Formerly: Acts 1961, c.112, s.3; Acts 1965, c.321, s.1.) As amended by Acts 1980, P.L.74, SEC.34; P.L.18-1990, SEC.25.

IC 8-1-9-4
New location; right to operate

Sec. 4. In the case of any such relocation of facilities, the utility owning or operating the same, its successors, or assigns, may maintain and operate such facilities, with the necessary appurtenances in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

(Formerly: Acts 1961, c.112, s.4.)

IC 8-1-9-5
Certain projects; payment of initial cost

Sec. 5. Notwithstanding any other provisions of this chapter, the Indiana department of transportation may pay the initial cost of relocating a utility facility if all of the following conditions have been met:

(1) The utility facility is owned by a political subdivision of this state.

(2) The removal of the utility facility is incurred as the result of a federally funded highway or railroad-highway improvement project.

(3) The relocation qualifies for initial cost of construction with state funds as a part of the federal-aid project cost.

(4) A federal-aid project agreement is entered into with the Federal Highway Administration.

(5) The department has been assured reimbursement for all costs by the Federal Highway Administration, the political subdivision, or both.

As added by Acts 1982, P.L.73, SEC.1. Amended by P.L.18-1990, SEC.26.

IC 8-1-10
Chapter 10. Public Utility Accounting Practices

IC 8-1-10-1
Payments unlawful

Sec. 1. Whenever an order has been lawfully made upon any public utility by the commission under the provisions of IC 8-1-2 or by the state department of health under the provisions of IC 16-41-24, it shall be unlawful for such public utility, or any officer thereof, to pay any funds from its treasury to any other public utility for the purpose of concealing its income or assets or otherwise diverting the funds from their proper uses.

(Formerly: Acts 1915, c.57, s.1.) As amended by P.L.59-1984, SEC.63; P.L.23-1988, SEC.41; P.L.2-1992, SEC.81; P.L.2-1993, SEC.62.

IC 8-1-10-2
Fines and penalties

Sec. 2. Any person, firm, limited liability company, or corporation violating any provision of section 1 of this chapter shall become liable to a penalty of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each offense, to be recovered in an action in the proper circuit or superior court, by the state of Indiana on the relation of the attorney general or any prosecuting attorney, and such penalty, when recovered, shall be paid into the state treasury, for the use of the state.

(Formerly: Acts 1915, c.57, s.2.) As amended by P.L.59-1984, SEC.64; P.L.8-1993, SEC.121.

IC 8-1-11
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-1-11.1

Chapter 11.1. Department of Public Utilities of Consolidated City

IC 8-1-11.1-1

Creation; board of trustees; directors; membership; appointment; qualifications; tenure; proceedings

Sec. 1. (a) In addition to the other executive departments of a consolidated city, there is hereby created in any such city a department of public utilities, which shall have as its head and be under the general supervision and control of a board of seven (7) members, to be known as the "Board of Directors for Utilities," to be appointed annually by the board herein provided for and designated as the "Board of Trustees for Utilities."

(b) Said board of trustees for utilities shall consist of five (5) members.

(c) All such trustees and all successors thereof shall hold over after the expiration of their terms until their respective successors have been duly appointed and have qualified.

(d) At the expiration of the respective terms of each of the members of the board of trustees, the said board of trustees shall nominate the successors thereof to membership on such board, each of which nominees shall be appointed by the mayor of the consolidated city within ten (10) days after receiving such nominations, and such succeeding members shall serve for a term of four (4) years. In the event any person who has been appointed at any time as a member of such board of trustees shall fail to qualify within ten (10) days after the mailing to him of notice of his appointment; or if any member after qualifying shall die, resign, vacate such office by becoming a nonresident of such city, or be removed as hereinafter provided; new members of such board of trustees shall be chosen to fill such vacancy in the same manner as is provided for the member as to whom such vacancy occurs, and the member so chosen shall serve for the remainder of the term for which the member whose place is so filled was appointed.

(e) No person shall be appointed as trustee who is less than thirty-five (35) years of age, and who has not been a resident of such city for at least five (5) years immediately preceding his appointment. If any such trustee shall cease to be a legal resident of said city his membership on said board shall thereby terminate and become vacant.

(f) Each member of such board of trustees for utilities, before entering upon his duties, shall take and subscribe an oath of office in the usual form, to be indorsed upon the certificate of his appointment, which shall be promptly filed with the clerk of the city-county council.

(g) A majority of all the members of said board of trustees for utilities shall be necessary to constitute a quorum.

(h) Said board of trustees shall elect one (1) member thereof as president, one (1) as vice-president, and one (1) as secretary, who shall serve from the date of their election until one (1) year from the first day of January next following their election and until their successors are elected and have qualified.

(i) Said board of trustees shall keep a record of their proceedings. The expense of the meetings and proceedings of said board and of keeping a record thereof and the salary of the members thereof shall be paid upon a written request of the presiding officer and secretary thereof by the board of directors for utilities out of the funds belonging to said utility district. Each member of said board of trustees for utilities shall receive as compensation for his services as such a salary in the sum of fifty dollars ($50) per year.

(j) The board of trustees for utilities shall meet annually on the first Monday of December of each year, at the principal office of said department of public utilities, for the purpose of transacting any business pertaining to their duties, and for the purposes of electing officers of such board of trustees and of selecting and appointing members of the board of directors for utilities, who shall serve for one (1) year from the first day of January following and until their successors are appointed and qualified.

(k) All persons so selected and appointed as such directors and all the successors thereof appointed at any time shall be chosen by a majority vote of all the members of said board of trustees. Said board of trustees shall have power to remove summarily and at any time any director and in such event, or if a vacancy occurs in said board of directors from any cause, said board of trustees shall appoint a successor in like manner who shall serve for the balance of the term for which the member whose place is so filled was appointed.

(l) No person shall be appointed a member of said board of directors for utilities unless he is a bona fide resident of said city and has been such for five (5) years immediately preceding such appointment, and is at least thirty-five (35) years of age. If any such director shall cease to be a legal resident of said city during the term for which he was appointed, his membership on such board shall thereby terminate and become vacant.

(m) Each member of said board of directors for utilities before entering upon his duties shall take and subscribe an oath, to be indorsed upon the certificate of his appointment, which shall be promptly filed with the clerk of the city-county council.

(n) Each of said members of said board of directors, before entering upon his duties, shall execute a bond payable to the state of Indiana, with surety to be approved by the mayor of said city, in the penal sum of fifteen thousand dollars ($15,000), conditioned upon the faithful performance of the duties of his office and the accounting for all moneys and property that may come into his hands or under his control. The cost of all such bonds shall be paid by the department of public utilities of said city.

(o) Any trustee may be removed from office for neglect of duty, incompetency, disability to perform his duties, or other good cause, by an order and judgment of the circuit or superior court of the county in which such city is located, in the following manner, to wit: An original complaint may be filed by either the mayor, or by a majority of the city-county council against any such trustee setting forth the charges preferred, and 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. If such charges be sustained, the court shall declare such office vacant. The judgment of said court shall be final and no appeal shall lie therefrom by any party.

(p) Said board of trustees shall have power to adopt rules, regulations and by-laws for their own governance, and may meet regularly or specially as often as necessary to transact any business or duties imposed upon them under this chapter or any other statute.

(q) In the event such city shall acquire in any manner herein provided more than one (1) such public utility and the property thereof, said board of trustees may add to such board of directors from time to time one (1) or more additional members, increasing such board to not exceed a total of eleven (11) members; which members shall be appointed and shall serve under all the provisions herein governing the appointment, terms and duties of such board of directors for utilities.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-2

Board of directors; appointment of officers; compensation; meetings; employee bonds

Sec. 2. (a) The members of such board of directors for utilities shall hold a meeting on the second Monday of January of each year for the purpose of organization and to elect officers for the ensuing year. They shall choose one (1) of their members president, another vice-president, another secretary, and another treasurer, who shall perform the duties usually pertaining to those offices. Such officers so chosen shall serve from the date of their election until their successors are duly elected and qualified.

(b) The members of such board of directors for utilities shall each be paid a salary for their services as such directors at the rate of six hundred dollars ($600) per annum during the period of service. A majority of the members of said board of directors shall constitute a quorum, and the concurrence of a majority of such membership shall be necessary to any action of such board. Such board of directors shall hold an annual meeting on the second Monday of January of each year, at the general offices of such board, and such other regular meetings at such times as it may determine, and upon such notice as it may fix, by rule or regulation. It shall be authorized to make such by-laws and regulations as it may deem necessary for the safe, economical and efficient management and protection of the

properties entrusted to its care. Such board of directors shall require any officer or employee having custody of funds to give bond in such reasonable amount as the board may prescribe, the expense of which bonds shall be paid by the department of public utilities of such city. *As added by Acts 1981, P.L.11, SEC.43.*

IC 8-1-11.1-3
Board of directors; powers and duties

Sec. 3. (a) The board of directors for utilities shall have, within and outside such city as provided in this chapter, the exclusive government, management, regulation, and control of all public utilities consisting of any waterworks, gasworks, electric light works, heating and power plants of any kind or character, telephone and other systems of communication, and local transportation systems of any kind operated upon, above, or below any street or territory within the city, or outside the city within the limits authorized by law, and all property held by and relating or belonging thereto. Any of which public utilities any such city may acquire or construct for the service of the public as consumers, users, or patrons, and including any public utility and all property which such city may hold as trustee for the benefit of the inhabitants of such city. Such board of directors may furnish and sell service and products of and make all necessary construction, reconstruction, repairs, renewals, enlargements, extensions, or additions to any such plant or property of any such public utility so owned or at any time so held in trust, which in the judgment of the board of directors is desirable or necessary for the proper conduct of such business and the proper serving of the inhabitants of the city and adjacent, contiguous, or suburban communities or territory within the county wherein such city is situated and served, or reasonably capable of being served, in any manner by or with respect to any such utility.

(b) The board of directors may lease any such utility property for a term not exceeding thirty-five (35) years to any person, partnership, limited liability company, or corporation, and without the approval of the commission, such lease to be upon such terms and conditions as the board may deem to be to the best interest of such city and the city's inhabitants. No such lease shall be valid or effective until it has been approved by the board of trustees and duly ratified and approved by an ordinance of the city. The board and the city-county legislative body must each vote such approval by a two-thirds (2/3) vote of their total membership. In any such lease an option may be given to such lessee to extend the same for a period not to exceed ten (10) additional years.

(c) In connection with the duties devolving upon such board of directors in the government, management, regulation, control, and operation of all such utilities, it may act as follows:

(1) To condemn, appropriate, lease, rent, purchase, and hold any real estate, rights-of-way, materials, or personal property

within such city or within five (5) miles of the corporate limits of the city needed for the proper giving of service by any such utility to the inhabitants of the city and the community contiguous thereto and served from any such utility plant.

(2) To design, order, contract for, and construct any and all necessary or desirable extensions of or additions to any utility plant and property owned or so held in trust by the city, and to enter into all necessary contracts with reference thereto, and with reference to the purchase of materials and supplies needed for the operation of any such plant or plants, in accordance with such rules as may be adopted by such board of directors, and without the necessity of advertising for bids, or without such other restrictions as are imposed by any law of Indiana with reference to the letting of contracts for work, material, or supplies by municipal bodies or other governmental agencies.

(3) To sell any products or byproducts, and enter into executory contracts for the sale, to anyone whatsoever and without any restriction concerning the taking of bids therefor or otherwise.

(4) To operate any such plant or plants, to receive and collect all money due on account of such operation or otherwise relating to such plant or plants or business and in connection therewith to employ such managers, superintendents, assistant managers, assistant superintendents, engineers, attorneys, auditors, clerks, foremen, and other employees necessary for the proper carrying on and operation of any such utility plant or plants and the business and to fix the compensation of all such employees. No contract of employment shall be made for a longer fixed period than four (4) years. However, a contract of employment may be extended or renewed from time to time thereafter. The directors may elect from their membership an executive committee consisting of not more than three (3), who may be assigned to the supervision of any one (1) or more of such utilities and who shall, in the intervals between the meetings of the directors, exercise all the powers and duties of the directors, all of their acts to be subject, however, to the approval of the directors, and to fix any such additional compensation to the members of the executive committee, in addition to their salaries as directors, as shall be reasonable. The additional compensation shall be fixed by a resolution of the directors entered of record at the time of the appointment of the executive committee. Whenever any such city shall acquire, hold, own, or so hold in trust for the city's inhabitants more than one (1) such public utility and the property of the city, such board of directors shall have power to select additional executive committees from their membership in the same manner and with the same power as the executive committee first selected, which committee may be assigned by such board to any such utilities deemed necessary. In the selection of

employees, other than managers, superintendents, assistant managers, assistant superintendents, engineers, attorneys, and auditors, the board of directors shall provide for a merit system of employment to be determined by competitive examination, except as to unskilled and common laborers, in which political, religious, or other personal affiliations may not be considered. In selecting managers the directors shall consider character, training, and general expert and executive fitness and experience for the position in the particular utility to which such manager is to be assigned, as the necessary requirements for appointment.

(5) To rent such offices and other real estate and property for the conduct of the business of such utility or utilities as may be deemed needful and enter into contracts with reference to the rental and use of the offices, real estate, and property. No such contract shall be made for a longer period than ten (10) years.

(6) In the event there be an open mortgage upon any utility property acquired by any such city, either in absolute ownership or in trust, by the terms of which mortgage additional bonds may be taken down from the trustee under such mortgage to meet in whole or in part the cost of extensions and improvements to the mortgaged property, the board of directors may perform all things necessary in order to secure the benefit of such mortgage provisions and to enable the escrow bonds held by the trustee under any such mortgage to be taken down and sold in order to defray the cost of any extensions and betterments to such property and to sell any such bonds so taken down for the purpose of assisting in defraying the costs of any such extensions or betterments to such property.

(7) To take over, adopt, and assume the performance of the provisions of any lease under which any utility property may be held at the time of the acquisition of any utility by any such city, either in absolute ownership or in trust and to take any and all steps necessary to perform and fulfill the terms of any such lease, and to obtain and preserve the benefits from the lease. In the event there be any outstanding open mortgage upon the property covered by such lease so taken over under the provisions of which bonds may be withdrawn from the trustee under such mortgage for the purpose of paying all or part of the cost of additions to the property covered by such mortgage, to do all things necessary in order to secure the benefit of such mortgage provisions and to enable the escrow bonds held by the trustee under any such mortgage to be taken down and sold in order to defray the cost of any extensions and betterments to such leased property and to sell any such bonds so taken down for the purpose of assisting in defraying the costs of any such extensions or betterments to such leased property.

(8) To preserve the corporate organization of any company

engaged in the mining of coal, or any other commercial or manufacturing business, the stock of which may be owned by any utility whose property and assets may be taken over by any such city, either in absolute ownership or in trust and in connection with the taking of the property by the city to cause the stock of any such company to be issued in the name of the board of directors for utilities except as to qualifying shares for directors and to cause such qualifying shares to be issued in the names of such individuals as the board of directors may name and to vote any such stock for the election of directors, who may be members of such board of trustees for utilities. However, no member of such board of directors shall receive any compensation, directly or indirectly, as a director, officer, or employee of any such company, other than the compensation provided in this chapter as a member of the board of directors for utilities. Through the control thus given of any company, the board of directors for utilities shall be authorized to do all things necessary to cause any such coal mining company or other company efficiently to carry on its operations and to conduct its business in the same manner as if its stocks were owned by private individuals.

(9) To adopt rules for service and rates for service in connection with the furnishing of any public utility service by the city to consumers, users, or patrons. However, any such rules and rates for service shall be in effect only after the rules and rates have been filed with and approved by the commission and such approval shall be granted by the commission only after notice of hearing and hearing as provided by IC 8-1-1 and IC 8-1-2, and only after determining compliance of the rates of service with IC 8-1.5-3-8 and IC 8-1.5-3-10 and only after determining compliance of the rules of service with IC 8-1-1 and IC 8-1-2, along with the rules and standards of service for municipal utilities of Indiana approved by the commission.

(10) To take over all contracts and rights of any kind or character, and to fulfill and perform all obligations relating to the property and business of any utility company whose property may be taken over by any such city, either in absolute ownership or in trust.

(11) To make all rules and bylaws customary in private corporations for their own conduct of business and necessary for the proper government and supervision of the utilities under their control. Any such rules and bylaws shall be subject to the approval of the board of trustees.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.23-1988, SEC.42; P.L.3-1989, SEC.57; P.L.8-1993, SEC.122.

IC 8-1-11.1-3.1

Board of directors; certain powers and duties pertaining to

municipally owned utilities

Sec. 3.1. In addition to the other powers specified by this chapter and notwithstanding IC 8-1.5-3-1, the board of directors for utilities has all rights and powers conferred on a municipally owned utility by IC 8-1.5-3-4(b), IC 8-1.5-3-6, and IC 8-1.5-3-7. Furthermore, the board of directors for utilities shall operate as both the board and the municipal legislative body for the purposes of IC 8-1.5-3-8.

As added by Acts 1982, P.L.74, SEC.4.

IC 8-1-11.1-3.5

Retirement, survivor, or other benefits; increase

Sec. 3.5. (a) Every person who is receiving retirement benefits, survivor benefits or other benefits from any fund or funds established by, or under the authority of, the board of directors for utilities of the department of public utilities may have such retirement benefits, survivor benefits or any other benefits increased by an amount not to exceed two dollars ($2) per month for each year of active service prior to retirement. Such increase may be made if the board of directors for utilities of the department of public utilities shall by resolution so provide which said board of directors is hereby given power to do.

(b) Any person who is receiving a retirement, survivor or other benefit which commenced prior to January 1, 1976, shall receive such increased retirement benefits, survivor benefits or other benefits as long as he or she shall live.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-4

Directors or trustees; adverse interest in contracts

Sec. 4. No contract shall be made for the purchase or sale of any materials or supplies on behalf of said board of directors for utilities with any trustee or director, and no trustee nor director shall have any pecuniary interest in any such contract.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-5

Actions to protect rights of cities

Sec. 5. The board of directors for utilities in every such city may, in the name of the city, bring any such action which it deems proper in order to protect the property rights of said city with reference to any such utility property so under the control of such board, or to secure the more effective carrying out of the purposes of this chapter with reference to the erection, maintenance and operation of any such utility property or properties.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-6

Utility districts; creation

Sec. 6. All of the territory included within the corporate limits of any said city shall become and constitute a utility district for the purpose of providing for the furnishing of utility service in such lines of utility operation as may be taken over or owned by said city, and thereafter said utility district shall be deemed duly created and established under and pursuant to the provisions of this chapter.
As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-7
Expenses; procedure for payment

Sec. 7. All preliminary expenses actually incurred by such board of directors in providing necessary records, the employment of clerks, engineers, attorneys and other employees, the making of surveys, and all other expenses of whatsoever nature necessary to be paid prior to the actual taking over and operation of any utility plant and the collection of revenues therefrom, shall be met and paid in the following manner: Said board of directors for utilities shall from time to time certify such items of expense to the controller of such city, directing him to pay the several amounts thereof, and thereupon said controller shall at once draw his warrant or warrants upon the county treasurer, which warrant or warrants shall be paid out of the general funds of such city not theretofore appropriated, without a special appropriation being made therefor by the city-county council; or in case there are no such general funds of said city not otherwise appropriated, the city controller shall recommend to the city-county council the temporary transfer of other funds of such city as is necessary to meet such items of expense, or the making of a temporary loan for such purpose, and such council shall thereupon at once make such transfer of funds or authorize such temporary loan in the same manner that other temporary loans are made by such city: Provided, however, That the fund or funds of such city from which such payments are made shall be fully reimbursed and repaid with six percent (6%) interest by such board of directors for utilities out of the first receipts from the operation of any such utility by said board which are not needed to defray current operating expenses and the expenses of imperative betterments.
As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-8
Bonds authorized; purposes; terms; sale procedures; disposition of proceeds; mortgage bonds; temporary loans; execution

Sec. 8. (a) For the purpose of raising money to pay for the acquisition of any utility property which said city shall have the right to and shall determine to acquire, or which any such city may take over as trustee for the inhabitants thereof, including any money required to be paid for the purpose of redeeming or extinguishing the capital stock of any utility whose property may be so taken over and for the purpose of paying any outstanding obligations of any utility

company subject to which the property of any such utility may be taken over by any such city, or held by it in trust for the inhabitants thereof; or for the purpose of making necessary betterments, improvements, extensions or additions to any utility property owned, or so held in trust, by said city, the board of directors for utilities shall cause to be issued in the name of the said city the bonds of said utility district not to exceed in amount the total cost of any such utility so purchased, or so held in trust, and for the outstanding obligations of any utility subject to which the property is to be taken over and which it is desired to pay off and discharge and/or of any such additions, betterments, improvements, extensions or additions to any utility owned, or so held in trust, and including all expenses necessarily incurred in connection with the acquisition of any such property, the paying off of any such indebtedness or the making of any such improvements, extensions or additions thereto. Such bonds shall be issued in any denominations not more than one thousand dollars ($1,000) each, and shall be payable at such period not longer than thirty (30) years after date, and in such series or series as such board of directors may by resolution determine. Said bonds shall be negotiable as inland bills of exchange, and shall bear interest at any rate, payable semiannually. On adopting a resolution ordering said bonds, said board of directors shall certify a copy of the same to the city controller of said city, who shall thereupon prepare said bonds and the same shall be executed by the mayor of said city and attested by the city controller. Such bonds shall be exempt from taxation for any and all purposes. All of said bonds so issued by the board of directors shall be sold by the city controller to the highest bidder therefor, but in no event for less than par, after giving notice of sale of such bonds by publication in accordance with IC 5-3-1. Any bonds issued pursuant to the provisions of this chapter, whether bonds of said utility district, or mortgage bonds, certificates of indebtedness, or other obligations, as hereinafter provided for in this chapter, shall be valid and binding without obtaining the approval of the commission or the department of local government finance of the state of Indiana. It shall be unlawful for said board of directors for utilities to cause to be issued under this chapter any bonds of said utility district payable by special taxation when the total issue for that purpose, including the bonds already issued and outstanding and those proposed to be issued, is in excess of two percent (2%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15, and all bonds or obligations issued in violation of this provision shall be void. Said bonds shall not in any respect be a corporate obligation or indebtedness of said city, but shall be and constitute an indebtedness of said utility district as a special taxing district, and said bonds and interest thereon shall be payable out of a special tax levy upon all of the property of said utility district, or from surplus earnings as in this chapter provided; and said bonds shall recite such terms upon their face, together with the purpose for

which they are issued. No suit to question the validity of said bonds so issued for said utility district or to prevent their issue and sale shall be instituted after the date set for the sale of said bonds, and all said bonds from and after said date shall be incontestable for any cause whatsoever.

(b) In event any such city shall, pursuant to any contract right so to do, determine to take over the property and business of any utility company by the payment to it of the amount necessary to pay off the stock of such company, the proceeds of any such utility district bonds issued and sold as herein provided may, so far as is necessary, be paid over to any such utility company at the time of the conveyance, transfer, or taking over of its property, for the purpose of enabling such company to discharge its obligations to its stockholders in accordance with the provisions of any such contract.

(c) In addition to the authority granted to issue utility district bonds the board of directors of any such utility district for the purpose of providing necessary funds with which to pay the cost of acquiring any utility property, or paying off any existing indebtedness of or upon any utility property, so acquired, or to pay the expenses of operation of any such utility property, including the cost of any betterments or extensions, may make temporary loans in the form of certificates of indebtedness, which shall be a charge solely against either the particular utility property or against the earnings thereof, or both, on behalf of which the same is borrowed; or said board of directors may authorize the issuance of mortgage bonds secured by a mortgage upon the property or upon the earnings, or both, of the particular utility for whose benefit such moneys are borrowed; and any such certificates of indebtedness and mortgages shall constitute charges as may be indicated aforesaid by the directors when authorizing the same and shall contain such terms and provisions and shall be sold at such price and shall bear such rate of interest as such board of directors may approve.

(d) Such mortgage indebtedness shall not constitute a general obligation of such city, or of such utility district, but the holders thereof shall be entitled to look solely to the mortgaged property and the revenues derived from the operation thereof for the repayment of such indebtedness.

(e) All such certificates of indebtedness and mortgage bonds shall be signed by the mayor of such city and attested by the city controller, and shall on their face show the purpose for which they are issued and the character of the obligation created thereby. All such certificates of indebtedness and mortgage bonds, or either thereof, shall be exempt from all taxation.

As added by Acts 1981, P.L.11, SEC.43. Amended by Acts 1981, P.L.45, SEC.6; P.L.23-1988, SEC.43; P.L.6-1997, SEC.130; P.L.90-2002, SEC.310.

IC 8-1-11.1-9

Disposition of bond revenues

Sec. 9. All proceeds from the sale of said bonds under and pursuant to section 8 of this chapter shall be kept as a separate and specific fund to pay the cost of the acquisition of any utility property which said city shall have the right to and shall determine to acquire or the payment of obligations of any such utility subject to which its property is purchased, or the cost of making necessary betterments, improvements, extensions or additions to any utility property owned by said city, as hereinabove provided, and no part of the same shall be used for any other purpose whatsoever. Such funds shall be deposited at interest with the depository or depositories of other public funds of such city, and all interest collected therefrom shall belong to such fund. Any surplus of funds remaining out of the proceeds of said bonds after all of said costs and expenses are fully paid shall be paid into and become a part of the utility district bond fund as hereinbefore referred to.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-10

Tax levy to pay for bonds; utility district bond fund

Sec. 10. For the purpose of raising money to pay all bonds issued as provided in section 8 of this chapter, and the interest thereon, to the extent that moneys are not available therefor in the judgment of the board of directors for utilities from the operations of said utility plant or plants so owned by said city, the board of directors for utilities, as an official board of said utility district, is hereby empowered to levy, and shall levy each year, a special tax upon all the property of said utility district in such manner as to meet and pay the principal of said bonds as they severally mature, together with all accruing interest thereon. Said board of directors shall cause said tax so levied each year to be certified to the city controller of said city and the auditor of the county in which said utility district is located, on or before the first day of October of each year. Such tax so levied and certified shall be estimated and entered upon the tax duplicate by the auditor, and shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected and enforced; and as such tax is so collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the "Utility District Bond Fund," and shall be applied to the payment of the aforesaid utility district bonds and interest as they severally mature, and for no other purpose whatsoever: Provided, That all accumulations of said fund prior to their use for the payment of such bonds and interest shall be deposited, at interest, with the depository or depositories of other public funds in such city, and all interest collected thereon shall belong to such fund.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-11

Surplus earnings; disposition

Sec. 11. Within sixty (60) days after the end of each calendar year, if there be at any time any bonds outstanding issued on account of said utility district, payable in whole or in part through a tax levy against the property in said utility district, said board of directors for utilities shall cause any surplus earnings arising from the operation of any such utility property, which are not pledged to secure the payment of any obligation of, or on account of said utility district, and which are not, in the opinion of such board of directors, necessary to provide against possible unfavorable results from operation, or to provide for contemplated betterments, extensions, improvements, or additions, to be paid over to the county treasurer and to be added to and become a part of said utility district bond fund, and to be used for the same purposes and in the same manner as funds derived from levy of taxes, as in this chapter hereinbefore provided. In event there are no such utility district bonds at the time outstanding, any such surplus operating revenues not needed for the purposes aforesaid shall be paid over to and become a part of the general funds of such city.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-12

Expenditures of current income; vouchers

Sec. 12. The current receipts and all other moneys derived from the operation of any such utility property shall be expended by said board of directors upon vouchers in a form to be determined by them, and any such funds shall be deposited in such bank or banks as may be determined by said board to the credit of said board of directors for utilities, and any interest earned on any such deposits shall be added to the principal thereof. No appropriation in any form shall be necessary for the expenditure of any of such current income or for the expenditure of the proceeds of any sale of bonds, or of any other obligations, as hereinbefore authorized, but all funds arising under the provisions hereof shall be deemed appropriated for the respective purposes herein named and shall be under the control of the board of directors for utilities as herein provided, and said board of directors shall have full, complete and exclusive authority to expend such funds for the purposes herein provided.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-13

Separate books of account for separate utilities

Sec. 13. In event more than one (1) utility property is operated by said board of directors, separate books of account and records shall be kept for each utility, and the funds of each shall be kept segregated.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-14
Quarterly accounting and report to city controller

Sec. 14. The board of directors for utilities shall make quarterly accounting and reports to the city controller of such city, of all funds received and expended by it, and not less than sixty (60) days after the end of each calendar year the city controller shall make publication in not less than two (2) newspapers of general circulation printed and published within said city of the material facts as set forth in the report of said board of directors for the preceding calendar year.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-15
Board of directors free from control of department of local government finance

Sec. 15. This chapter being necessary for and intended to secure efficient and economical management and operation of utility properties in any consolidated city taking advantage of the provisions hereof, the said board of directors shall have full power to transact all the business pertaining to said management and operation of each and all such utilities, including the issuance of bonds, mortgages, and other forms of indebtedness, free from all control and supervision of the department of local government finance of Indiana. This chapter shall be liberally construed to effectuate the purpose hereof, and if any one (1) or more sections, clauses, phrases, or parts thereof, of this chapter shall be held invalid, the remaining sections, clauses, phrases, or parts thereof, shall not be affected thereby, and the legislature declares that it would have enacted all other parts of said chapter even if any or all of the aforesaid portions thereof had not been included therein.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.90-2002, SEC.311.

IC 8-1-11.1-16
Budgets; nonapplication of chapters; fixing and review of budgets, tax rates, and levies; limitations on property tax rates or appropriations

Sec. 16. The provisions of IC 6-1.1-17 and IC 6-1.1-18 shall not apply to the board of directors created by this chapter, but such board of directors shall annually, on or before the thirty-first day of December, furnish to the city controller an estimate of the moneys to be expended by them for the succeeding calendar year.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-17
Examination and audit of books and accounts

Sec. 17. The books, accounts, records and transactions of said utility district and of the board of directors thereof shall be subject

to examination, audit and supervision by the state board of accounts to the same extent as the books, accounts, records and transactions of other municipal governments or officers or departments of municipal governments are subject thereto.
As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-18
Application of chapter to currently held or acquired utilities

Sec. 18. Whenever in any sections of this chapter any provisions are made applying or relating to any public utility or utility property owned, held, or acquired by said city, all such provisions shall apply and relate also to any public utility and utility property which said city may hold, possess, be entitled to, or in any manner acquire in trust for the use and benefit of the inhabitants thereof.
As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-19
"Revenue obligations" defined

Sec. 19. As used in this chapter, "revenue obligations" shall mean any obligations, including bonds, notes, temporary, interim or permanent certificates of indebtedness, debentures or other obligations payable out of the income and revenues derived from utility property.
As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-20
Revenue obligations; issuance; authorized purposes

Sec. 20. The board of directors for utilities may issue revenue obligations for any one or more of the following purposes:

(1) For the purpose of obtaining funds with which to pay for the acquisition of any utility property which any such city shall have acquired or shall have the right to and shall determine to acquire, or which any such city may have taken over as trustee for the inhabitants thereof, including any money required to be paid for the purpose of redeeming or extinguishing the capital stock of any utility whose property has been or may be so taken over and for the purpose of paying any outstanding obligations of any utility subject to which the property is or may be held in trust for the inhabitants thereof, or for the purpose of making necessary betterments, improvements, extensions or additions to any utility property owned or held in trust by any such city, including all costs necessarily incurred in connection with the acquisition of any such property or taking it over in trust or the paying off of any such indebtedness or the making of any such betterments, improvements, extensions, or additions thereto.

(2) For the purpose of reimbursing the department of public utilities, or its board of directors for utilities for funds borrowed, expended or advanced for interim financing of the

cost of any utility property, or any betterments, improvements, extensions or additions thereto.

(3) Subject to covenants and agreements with the holders of outstanding obligations, for the purpose of funding or refunding revenue obligations. If the board of directors for utilities determines that it would be advantageous to the department of public utilities to exchange funding or refunding obligations for the revenue obligations being funded or refunded, such exchange may be made, provided the actual interest cost is not increased.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-21

Security for revenue obligations; issuance of additional obligations authorized

Sec. 21. Such revenue obligations shall be secured by a pledge of the unobligated income and revenues of any one (1) or more of the utility properties of the department of public utilities. In addition, the board of directors for utilities may in its discretion secure the payment of such revenue obligations by a mortgage upon the property of the particular utility for whose benefit the proceeds of the revenue obligations are to be used. In authorizing the issuance of such obligations for any particular property or properties, the board of directors for utilities of the department of public utilities may limit the amount of such obligations that may be issued as a first lien and charge against such property or properties and the income and revenues therefrom, or such board of directors for utilities may authorize the issuance from time to time thereafter of additional obligations secured by the same pledge or lien to provide funds for the completion of the property, properties, betterments, improvements, extensions or additions thereto, on account of which the original obligations were issued, or to provide funds to pay the cost of additional utility properties, betterments, improvements, extensions or additions thereto, or for both such purposes. Such additional obligations shall be issued on such terms and conditions as such board may determine, and may be secured equally and ratably, without preference, priority or distinction, with the original issue of obligations or may be made junior thereto.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-22

Resolution authorizing revenue obligations; trust indenture; terms of obligations

Sec. 22. (a) Such revenue obligations shall be authorized by resolution adopted by the board of directors for utilities and the terms, conditions and form thereof shall be set out in such resolution or in a form of trust indenture between the corporation and a designated corporate trustee, or both.

(b) Such revenue obligations shall bear interest, not to exceed a maximum rate to be determined by the board of directors for utilities, payable annually or at shorter intervals and shall mature at such time or times as may be determined in such resolution or indenture. The obligations may be made redeemable before maturity at the option of the board of directors for utilities under such terms and conditions as may be fixed by the resolution or indenture.

(c) The principal and interest of the revenue obligations may be made payable in any lawful medium. The resolution or indenture shall determine the form of obligations, including the interest coupons if any to be attached thereto, and shall fix the denomination or denominations of the obligations and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the state.

(d) Provision may be made for the registration of any of the obligations in the name of the owner as to principal alone, or as to both principal and interest, but fully registered obligations shall be made convertible to coupon obligations at the option of the registered owner. The obligations including interest shall be exempt from all taxation: state, county and municipal.

(e) Such resolution or the indenture may also include provisions for protecting and enforcing the rights and remedies of the holders of the obligations being issued and covenants setting forth the duties of the department of public utilities and its officers in relation to the acquisition, construction, operation and maintenance of and insurance to be carried on the property or properties on account of which the obligations are being issued, and, to the fullest extent permitted by law, the maintenance of rates and charges to be collected on account hereof; also, provisions for the custody, safeguarding and application of all moneys and the rights and remedies of the trustee and the holders of the obligations being issued, and for the issuance of additional parity obligations or junior lien obligations secured by a pledge of the revenues or by a pledge or mortgage of the revenues and property described in said resolution or indenture; also, such other terms, conditions, limitations and covenants as the board of directors for utilities shall deem proper. Such obligations and any interest coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes under the laws of this state, subject only to the provisions for registration of the obligations.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-23

Temporary loans authorized

Sec. 23. For the purpose of providing necessary funds with which to pay the cost of acquiring any utility property, or paying off any indebtedness of or upon any utility property, so acquired, or to pay for interim costs of construction prior to long term financing,

including the costs of any betterments, improvements, additions or extensions, or to pay the expenses of operation of any such utility property the board of directors for utilities may also make temporary loans, which shall mature within one (1) year from date of issuance, in the form of certificates of indebtedness, which shall be a charge solely against the income and revenue of the utility, or upon the proceeds of revenue obligations to be issued, or any combination thereof.
As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-24
Revenue obligations; approval or validation; facsimile signatures; sale; actions to contest validity; certificates of indebtedness; execution

Sec. 24. (a) All such revenue obligations shall be valid without the necessity of any approval of or ratification by either the commission or the department of local government finance. The board of directors for utilities, upon adopting a resolution authorizing such revenue obligations, shall certify a copy thereof to the city controller of such city who shall thereupon prepare said revenue obligations, and the same shall be issued in the name of the city and shall be executed by the mayor of said city and attested by the city controller and the clerk of the city-county council. Facsimile signatures may be used in executing such revenue obligations, provided that one or more of the signatures on the revenue obligations shall be manually signed, except that all signatures on interest coupons may be facsimile signatures.

(b) Certificates of indebtedness issued under section 23 of this chapter shall be executed solely by the president of the board of directors without the execution of the mayor. The signature of the president must be attested by the secretary of the board.

(c) Such revenue obligations shall be sold by the city controller of said city subject to the requirements of IC 5-1-11; provided, that any revenue obligations maturing within one (1) year of date of issuance need not be sold at public sale but may be sold in such manner as the board of directors for utilities may determine; and, provided further, that any revenue obligations may be offered for sale and sold to the United States or to any corporation owned or controlled by the United States without notice by publication. No suit to question the validity of any revenue obligations so issued or to prevent their issuance or sale shall be instituted after the date fixed for the sale of such revenue obligations and all such revenue obligations from and after such date shall be incontestable, except for fraud, forgery, or violation of constitutional provisions.
As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.23-1988, SEC.44; P.L.90-2002, SEC.312.

IC 8-1-11.1-25

Revenue obligations; eligible investments; deposit of securities

Sec. 25. Any revenue obligations issued pursuant to the provisions of this chapter shall be eligible investments for the funds of any kind or character of every financial institution, insurance company or private trust, and such obligations shall be eligible for deposit by any financial institution, insurance company or trustee under any law of this state providing for the deposit of securities or funds.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.2

Chapter 11.2. Purchase of Public Utility Property by Consolidated City

IC 8-1-11.2-1

Power to purchase; ordinance requirement; price; revenue bonds

Sec. 1. Any consolidated city shall have the power to purchase the whole or any part of the property of a public utility, when but only when its city-county council by an ordinance signed and approved by the mayor, and its board of trustees for utilities of its department of public utilities by a resolution, have each determined and declared it expedient so to do; which officials are hereby duly empowered so to do; in which event such city may acquire such property, notwithstanding a portion of it may be located anywhere outside of the corporate limits of such city, for the price and upon the terms and conditions stated in such ordinance and resolution, but not otherwise. The power hereby conferred shall include the power to purchase the capital stock of the corporation owning such property, or sufficient of such stock to enable such city to cause the liquidation of such corporation, payment of its debts, and vesting of title to its remaining property in such city; and in the event of purchase of such stock, such city, by its board of directors for utilities of its department of public utilities, is empowered to vote such stock so as to cause the liquidation of such corporation, the payment of its debts, and the vesting of title to its remaining property in the city. Funds with which to pay such purchase-price may be obtained from the sale of revenue bonds issued and sold under the authority of IC 8-1-11.1 or under any other statute relevant thereto.

As added by Acts 1981, P.L.11, SEC.44.

IC 8-1-11.2-2

Control and operation of acquired utility

Sec. 2. When any consolidated city shall have thus acquired utility property, the control and operation of such utility property shall be in the board of directors for utilities of the department of public utilities of such city under IC 8-1-11.1 or under any other statutes relating to such matters; subject, however, to all valid terms and conditions upon which such utility property shall have been so purchased.

As added by Acts 1981, P.L.11, SEC.44.

IC 8-1-11.2-3

Utility service furnished city; payment

Sec. 3. Such city shall not be obligated to pay for any utility service furnished it by the operation of utility property acquired under this chapter except according to and by virtue of such agreement, if any, as may be made therefor between the board of directors for utilities of the department of public utilities of such city,

on the one part, and said city by its mayor, city controller, and board of public works, on the other part.
As added by Acts 1981, P.L.11, SEC.44.

IC 8-1-12

Chapter 12. Utility Service to Certain Hospitals

IC 8-1-12-1

Consent of commission

Sec. 1. Any public utility operating in any city or town, and any city or town in this state which owns or operates or which may hereafter own or operate any public utility, is hereby authorized, with the consent of the commission, to furnish utility service, free of charge, to any hospital located within such city or town or immediately adjacent thereto which accepts and cares for charity patients.

(Formerly: Acts 1929, c.87, s.1.) As amended by P.L.23-1988, SEC.45.

IC 8-1-13

Chapter 13. Rural Electric Membership Corporation Act

IC 8-1-13-1

Short title

Sec. 1. This chapter may be known and referred to as the "rural electric membership corporation act".

(Formerly: Acts 1935, c.175, s.1.) As amended by P.L.59-1984, SEC.65.

IC 8-1-13-2

Incorporation; purpose

Sec. 2. Any number of natural persons not less than eleven (11) may, by executing, filing and recording articles of incorporation as hereinafter provided, form a corporation not organized for pecuniary profit for the purpose of promoting and encouraging the fullest possible use of electric energy in the state by making electric energy available to inhabitants of rural areas of the state at the lowest cost consistent with sound economy and prudent management of the business of such corporations and/or by rendering other services to its members.

(Formerly: Acts 1935, c.175, s.2; Acts 1937, c.258, s.1.)

IC 8-1-13-3

Definitions

Sec. 3. The following terms whenever used or referred to in this chapter have the following meanings, unless a different meaning clearly appears from the context:

(a) "Corporation" means a corporation formed under this chapter.

(b) "Municipality" means any county, city, or town of this state.

(c) "Person" or "inhabitant" means natural persons, firms, associations, corporations, limited liability companies, business trusts, partnerships, and bodies politic.

(d) "Energy" means all electric energy no matter how generated or produced.

(e) "System" means any plant, works, system, facilities, or properties, together with all parts thereof and appurtenances thereto, used or useful in the furnishing of services.

(f) "Obligations" means negotiable bonds, interim certificates or receipts, notes, debentures, and all other evidences of indebtedness, either issued or the payment thereof assumed by the corporation.

(g) "Law" means any law of this state.

(h) "Federal agency" means the United States of America, the President of the United States of America, the federal emergency administrator of public works and any other authority, agency, or instrumentality of the United States of America, heretofore or hereafter created.

(i) "Acquire" means construction, obtaining by purchase, lease,

devise, or gift, the exercise of the right of eminent domain in the manner provided by law for the exercise thereof, or other mode of acquisition.

(j) "Improve" means to construct, reconstruct, improve, extend, enlarge, alter, better, or repair.

(k) "Board" means board of directors of a corporation formed under this chapter.

(l) "Member" means each person signing the articles of incorporation of a corporation and each person admitted to membership therein pursuant to law or the corporation's bylaws.

(m) "Service" or "services" means the furnishing of energy or other utility services incidental to development, operation, or maintenance of utility infrastructure and the rendering of related engineering, financial, accounting, economic development, or community development services, or educational services and related materials or equipment assisting in the establishment and maintenance of better communication between corporations and their members, or any of the same.

(n) As used in this chapter, the word "territory" when modified by the phrase "already being served with energy by any public or municipally owned utility" shall not be construed to include territory served by an electric distribution line or lines:

(1) acquired prior to March 1, 1980, from a public or municipally owned utility by a corporation formed or admitted to do business in this state under this chapter; or

(2) acquired on or after March 1, 1980, from a public or municipally owned utility by such a corporation;

if the Indiana utility regulatory commission, after public hearing, finds that public convenience and necessity would be best served by, and authorizes, such acquisition, and if the electric distribution line or lines, together with all other facilities proposed to be purchased, have a reproduction cost new, less depreciation, of not more than three hundred thousand dollars ($300,000) and are not located in whole or in part in any city or town having a population in excess of one thousand five hundred (1,500); however, the dollar and population limitations do not apply if the acquisition is agreed to in all respects by all affected electricity suppliers and is approved by the commission.

(o) As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

(Formerly: Acts 1935, c.175, s.3; Acts 1937, c.258, s.2; Acts 1945, c.155, s.1; Acts 1951, c.162, s.1; Acts 1953, c.23, s.1; Acts 1969, c.116, s.1.) As amended by Acts 1980, P.L.69, SEC.3; P.L.121-1987, SEC.1; P.L.8-1993, SEC.123; P.L.95-1993, SEC.1; P.L.1-1994, SEC.33; P.L.109-1995, SEC.1; P.L.81-1998, SEC.1; P.L.198-1999, SEC.1.

IC 8-1-13-4

Articles of incorporation

Sec. 4. (a) The articles of incorporation shall be entitled and endorsed either "Articles of Incorporation of _____ Rural Electric Membership Corporation" or Articles of Incorporation of _____ Rural Electric Cooperative, Inc." (the blank space being filled in with the distinguishing part of the name of the corporation) and shall state the following:

(1) The name of the corporation, which name shall be such as to distinguish it from any other corporation.

(2) A reasonable description of the territory in which its operations are to be conducted, and which shall not include any incorporated city or town having a population in excess of fifteen hundred (1500) inhabitants at the time such articles are first approved by the commission, or any territory, whether within or without any incorporated city or town, already being served with energy by any public or municipally owned utility.

(3) The location of its principal offices and the post office address thereof.

(4) The maximum number of directors, not less than three (3).

(5) The names and post office addresses of the directors, not less than three (3), who are to manage the affairs of the corporation for the first year of its existence, or until their successors are chosen.

(6) The period, if any, limited for the duration of the corporation. If the duration of the corporation is to be perpetual, this fact should be stated.

(7) The terms and conditions upon which members of the corporation shall be admitted.

(b) The articles of incorporation of a corporation may also contain any provision not contrary to law which the incorporators may choose to insert for the regulation of its business and for the conduct of the affairs of the corporation; and any provisions creating, defining, limiting, or regulating the powers of the corporation, its directors and members.

(Formerly: Acts 1935, c.175, s.4; Acts 1937, c.258, s.3; Acts 1939, c.105, s.2; Acts 1953, c.48, s.1.) As amended by P.L.23-1988, SEC.46.

IC 8-1-13-5

Articles of incorporation; action by commission

Sec. 5. (a) The natural persons executing the articles of incorporation shall be residents of the territory in which the operations of the corporation are to be conducted who are desirous of using electric energy to be furnished by the corporation. The articles of incorporation shall be executed in as many copies as there are counties, any part or parts of which are included in the territory in which the operations of the corporation are to be conducted and shall be acknowledged by the subscribers before an officer

authorized by the laws of this state to take acknowledgments of deeds. When so acknowledged the articles of incorporation shall be submitted to the commission together with a petition executed by one (1) or more of the natural persons executing the said articles of incorporation praying the commission to grant a certificate of public convenience and necessity for the organization and operations of the proposed corporation. Upon the filing of such articles and petition with the commission, said commission shall set the said petition for public hearing and shall give notice of the time and place of such hearing by publication one (1) time in at least one (1) newspaper printed and published in each of the counties in which the said corporation proposes to carry on its operations, which publication shall be had at least ten (10) days prior to the date set for such hearing, the cost of such publications to be paid by the petitioners at the time of filing said petition. Any interested person may appear at such hearing either in person or by attorney and oppose the prayer of said petition. The commission, after hearing the evidence introduced at said hearing, shall enter a finding either that the convenience and necessity of the public proposed to be served in the territory in which the operations of the corporation are to be conducted will or will not be served by the organizations and operations of the proposed corporation. If such finding be in the affirmative, the commission shall enter an order approving the organization of such corporation and the proposed articles of incorporation and shall attach a copy of said order to each copy of the said articles of incorporation. If the said finding be in the negative, the commission shall enter an order denying the approval of the said articles of incorporation.

(b) If the commission approve the said articles of incorporation as herein above provided, the same shall be filed together with the attached copy of the order of the commission in the office of the secretary of state who shall forthwith endorse his approval thereon and file one (1) of said copies in his office and deliver all other copies thereof with his approval endorsed thereon to the incorporators who shall thereupon file one (1) of the said approved copies of said articles in the office of the county recorder in each county in which a portion of the territory proposed to be served by the corporation is located. As soon as the provisions of this section have been complied with, the proposed corporation described in the articles so filed, under its designated name, shall be and constitute a body corporate.

(Formerly: Acts 1935, c.175, s.5.) As amended by P.L.23-1988, SEC.47.

IC 8-1-13-6

Board of directors

Sec. 6. (a) Each corporation formed under this chapter shall have a board of directors that constitutes the governing body of the corporation. The directors must be members, or if the corporation's

bylaws so provide, a member's officers, directors, or partners, or the owner of a member that is a sole proprietorship may be directors of the corporation. Directors other than those named in the corporation's articles of incorporation shall be elected by the members entitled to vote for the directors. Unless the bylaws of the corporation provide otherwise, the directors shall be elected annually. The bylaws may provide that:

(1) the directors may hold office for any stated period not exceeding three (3) years;

(2) the directors be elected so that the terms of only part of the directors expire at any one time; and

(3) only enough directors to succeed those whose terms are about to expire are elected in any year.

(b) The bylaws may provide that the territory where the members of the corporation reside be apportioned into districts and prescribe the procedure by which the members residing in any one (1) district may nominate a director.

(c) The bylaws may specify a fair remuneration for the time actually spent by its officers, directors, and members of its executive committee in the performance of their duties and provide that the remuneration be paid to the officers, directors, and members of the executive committee. The officers, directors, and members of the executive committee are entitled to reimbursement for expenses incurred in the performance of their duties whether or not the bylaws provide that they be remunerated for their time spent in the performance of those duties. The board shall annually designate and elect those officers it considers necessary.

(Formerly: Acts 1935, c.175, s.6; Acts 1939, c.105, s.1.) As amended by P.L.109-1989, SEC.1; P.L.198-1999, SEC.2.

IC 8-1-13-7

Board of directors; powers and duties

Sec. 7. The board shall have power to do all things necessary or convenient in conducting the business of the corporation, including but not limited to:

(a) The power to make, alter, amend or repeal by-laws for the regulation and management of the affairs of the corporation not inconsistent with law or with the articles of incorporation.

(b) To appoint agents and employees and to fix their compensation and the compensation of the officers of the corporation.

(c) To execute instruments.

(d) To delegate to one (1) or more of the directors or to the agents and employees of a corporation such powers and duties as it may deem proper.

(e) To make its own rules and regulations as to its procedure.

(Formerly: Acts 1935, c.175, s.7; Acts 1937, c.258, s.4.)

IC 8-1-13-8
Membership certificates; meetings of members

Sec. 8. (a) A corporation may issue to its members certificates of membership and each member shall be entitled to only one (1) vote at any regular or special meeting of the corporation.

(b) Meetings of members may be held at such place as may be provided in the by-laws. An annual meeting of the members shall be held at such time as may be provided by the by-laws. Special meetings may be called by the president, by the board of directors, by a petition signed by not less than one-twentieth (1/20) of all the members or by such other officers or persons as may be provided in the articles of incorporation or the by-laws.

(c) Written or printed notice stating the place, day and hour of the meeting of members, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the president or the secretary, or the officers or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mails in a sealed envelope addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid. Notice of meetings of members may be waived in writing.

(d) Unless otherwise provided in the articles of incorporation, one-fiftieth (1/50) of all the members of the corporation present in person at any meeting of members, of which meeting notice shall have been given as provided in the foregoing subdivision (c) of this section, shall constitute a quorum for the transaction of business at such meeting.

(e) Except as otherwise specifically provided in this chapter, a majority vote of those members who are voting at any regular meeting, or at any special meeting of the members called for that purpose, shall be necessary for the taking of any action, adoption of any resolution, or the election of any directors, or otherwise, as the case may be. Provided, that if more than two (2) persons are running for election as a director from the same district then the person receiving the most votes shall be elected.

(Formerly: Acts 1935, c.175, s.8; Acts 1937, c.258, s.5.) As amended by Acts 1977, P.L.102, SEC.1.

IC 8-1-13-9
Conditions of membership; restrictions to providing services

Sec. 9. (a) The corporate purpose of each corporation formed under this chapter shall be to render services to or for the benefit of its members and no person shall become or remain a member of any local district corporation, defined in section 23 of this chapter, unless such person shall use energy supplied by such corporation and shall

have complied with the terms and conditions in respect to membership contained in the bylaws of such corporation.

(b) Notwithstanding IC 8-1-2.7, a corporation or any subsidiary or affiliate thereof may not begin water service in any area unless both of the following apply:

(1) The corporation has filed a petition with the commission seeking authority to begin water service.

(2) The commission has found after a hearing that public convenience and necessity require the proposed service.

In connection with the petition, the commission may adopt conditions and restrictions on the area and consumers to be served that the commission finds consistent with the public interest. The commission may revoke, modify, or amend a finding of public convenience and necessity upon a showing of good cause after a hearing.

(Formerly: Acts 1935, c.175, s.9; Acts 1937, c.258, s.6.) As amended by P.L.59-1984, SEC.66; P.L.109-1995, SEC.2; P.L.81-1998, SEC.2.

IC 8-1-13-10

Powers of corporation

Sec. 10. Each corporation formed under this chapter is hereby vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the general assembly of the state of Indiana, and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power contained in this section, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

(Formerly: Acts 1935, c.175, s.10.) As amended by P.L.59-1984, SEC.67.

IC 8-1-13-11

Enumerated powers of corporation

Sec. 11. A corporation created under this chapter may do any and all acts or things necessary or convenient for carrying out the purpose for which it was formed, including the following powers:

(1) To sue and be sued.

(2) To have a seal and alter the same at pleasure.

(3) To acquire, hold and dispose of property, real and personal, tangible and intangible, or any interest in the property and to pay in cash or on credit, and to secure and procure payment of all or any part of the purchase price on the terms and conditions as the board shall determine.

(4) To acquire, own, exchange, operate, maintain, and improve a system or systems.

(5) To pledge all or any part of its revenues or mortgage or otherwise encumber all or any part of its property for the purpose of securing the payment of the principal of and interest

on any of its obligations.
(6) To construct, operate, and maintain works across or along any street or public highway, or over any lands which are now or may be the property of this state or any political subdivision thereof, after obtaining the necessary franchise or permit therefor. Before any works are constructed across or along a highway in the state highway system, the corporation shall obtain the permit of the Indiana department of transportation to do so, and the location and setting of the works shall be approved by and subject to the supervision of the Indiana department of transportation. Before any works are constructed on or across lands belonging to the state, the corporation shall first obtain the permit of the department of the state having charge of the lands to do so, and the location and setting of the works shall be approved by and subject to the supervision of the department. The works shall be erected and maintained so as not to interfere with the use and maintenance of the streets, highways, and lands, and no pole or appliance shall be located so as to interfere with the ingress or egress from any premises on the street or highway. Nothing in this section shall deprive the body having charge of the street or highway to require the relocation of any pole or appliance which may affect the proper use of the street or highway for public travel, for drainage or for the repair, construction, or reconstruction of the street or highway. The corporation shall restore the street, highway, or lands to its former condition or state as near as may be and shall not use the same in a manner to impair unnecessarily its usefulness or to injure the property of others.
(7) To accept gifts or grants of property, real or personal, from any person, municipality, or federal agency and to accept voluntary and uncompensated services.
(8) To make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, without limiting the generality of the foregoing, contracts with any person, federal agency, or municipality for the purchase of energy needed by the corporation to supply its members; for the management and conduct of the business of the corporation; for the fixing of the rates, fees, or charges for service rendered or to be rendered by the corporation subject, however, to the approval of the commission as to all the rates, fees, or charges for energy in the same manner and to the same extent as is provided by law for the regulation of the rates, fees, or charges of public utilities.
(9) To sell, lease, mortgage, or otherwise encumber or dispose of all or any part of its property as provided in this chapter.
(10) To contract debts, borrow money, and to issue or assume the payment of obligations.
(11) To levy and collect reasonable fees, rents, tolls, and other

charges for service rendered, subject to the approval of the commission.

(12) To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents, and employees, or by contracts with any person, federal agency, or municipality.

(13) To exercise the right of eminent domain in the manner provided by law.

(14) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and are the result of distributable savings of the corporation returned to the members on a pro rata basis pursuant to section 17 of this chapter.

(Formerly: Acts 1935, c.175, s.11; Acts 1937, c.258, s.7.) As amended by Acts 1977, P.L.102, SEC.2; Acts 1980, P.L.74, SEC.35; Acts 1981, P.L.106, SEC.1; P.L.23-1988, SEC.48; P.L.18-1990, SEC.27.

IC 8-1-13-12

Sale, encumbrance, or other disposition of property

Sec. 12. (a) No corporation may sell, lease, or otherwise dispose of all, or substantially all, the property of the corporation unless (1) the same shall be authorized by a resolution duly adopted at a meeting of its members duly called and held as provided in section 8 of this chapter, which resolution shall have received the affirmative vote of at least a majority of all its members and unless (2) the same shall be approved by the commission.

(b) The board of directors of a corporation shall have full power and authority, without authorization by the members thereof, to authorize the execution and delivery of a mortgage, or mortgages, or a deed or deeds of trust of, or the pledging or encumbering of, any of or all the property, assets, rights, privileges, licenses, franchises and permits of the corporation, whether acquired or to be acquired and wherever situated, as well as the revenues therefrom, for the purpose of financing the construction or maintenance of the corporations' distribution or transmission system or systems, and for general plant as defined in the uniform system of accounts prescribed by the commission, all upon such terms and conditions as the board of directors shall determine, to secure any indebtedness of the corporation to any federal agency or to any financial institution, which action of the board of directors shall not be subject to the approval of the commission if the corporation has a mortgage with any federal agency.

(Formerly: Acts 1935, c.175, s.12; Acts 1937, c.258, s.8; Acts 1953, c.47, s.1; Acts 1969, c.117, s.1; Acts 1971, P.L.83, SEC.1.) As amended by Acts 1977, P.L.102, SEC.3; P.L.23-1988, SEC.49.

IC 8-1-13-13
Obligations in anticipation of revenue; authority to issue

Sec. 13. (a) Subject to the approval of the commission, a corporation formed under this chapter may, from time to time, issue its obligations in anticipation of its revenues for any corporate purpose.

(b) Those obligations may be authorized by resolution of the board and may bear a date, mature at a time not exceeding forty (40) years from their respective dates, bear interest at a rate, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at a place, and be subject to terms of redemption as provided in the resolution. The obligations may be sold in a manner and upon terms as determined by the board.

(c) Notwithstanding any other law, any obligations and the interest coupon pertaining to the obligation, if any, issued under this chapter, possess all of the qualities of negotiable instruments. However, approval of the commission is not required when a corporation has a mortgage with any federal agency.

(Formerly: Acts 1935, c.175, s.13; Acts 1969, c.117, s.2; Acts 1971, P.L.83, SEC.2.) As amended by Acts 1977, P.L.102, SEC.4; P.L.23-1988, SEC.50; P.L.109-1989, SEC.2.

IC 8-1-13-14
Obligations; covenants or agreements

Sec. 14. In connection with the issuance of any obligations, a corporation may make such covenants or agreements and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its obligations or which, in the absolute discretion of the board tend to make the obligations more marketable, notwithstanding that such covenants, agreements, acts and things may constitute a limitation on the exercise of the powers herein granted.

(Formerly: Acts 1935, c.175, s.14.)

IC 8-1-13-15
Purchase; own obligations

Sec. 15. A corporation may, out of any funds available for that purpose, purchase any obligations issued by it at a price determined by resolution of the board together with accrued interest on the obligations. All obligations purchased in that manner shall be cancelled.

(Formerly: Acts 1935, c.175, s.15.) As amended by P.L.109-1989, SEC.3.

IC 8-1-13-16
Consolidation or merger; mutual benefit corporations

Sec. 16. (a) Any corporation created under the provisions of this

chapter may enter into an agreement for the consolidation or merger of such a corporation with:

(1) any other corporation organized under this chapter; or

(2) any mutual benefit corporation that was organized before 1964 under Acts 1935, c. 157, that engages in the generation, transmission, or distribution of electric energy.

(b) An agreement under subsection (a) must set forth the terms and conditions of the consolidation or merger, the name of the proposed consolidated or merged corporation, the number of its directors, not less than five (5), the time of the annual election and the names of the persons, not less than five (5), to be directors upon completing the consolidation or merger. The agreement must specify the terms the directors will serve. A corporation organized under this chapter shall duly call and hold a meeting of its members, as provided in section 8 of this chapter, at which the proposal of such consolidation or merger shall be presented. A mutual benefit corporation must approve the merger in accordance with IC 23-17-19-3. With respect to such a merger, the agreement may provide that the surviving corporation may have one (1) or more members that are incorporated under the laws of a state other than Indiana. If at each such meeting, the aforesaid agreement is approved by a resolution duly adopted and receiving the affirmative vote of at least a majority of all the members of the respective corporation voting at the meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation, except that it shall be entitled and endorsed "Articles of consolidation (merger) of _____" (the blank space being filled in with the names of the corporations being consolidated or merged) and shall state:

(1) The names of the corporations being consolidated or merged.

(2) The name of the consolidated or merged corporation.

(3) The other items required or permitted to be stated in original articles of incorporation.

(c) Articles of consolidation or merger under this section or a certified copy or copies thereof shall be filed in the office of the secretary of state and thereupon the proposed consolidated or merged corporation, under its designated name, shall be and constitute a body corporate with all the powers of a corporation as originally formed hereunder. In the case of a merger of a corporation organized under this chapter and a mutual benefit corporation, IC 23-17-19-5 applies.

(Formerly: Acts 1935, c.175, s.16; Acts 1937, c.258, s.9.) As amended by Acts 1977, P.L.102, SEC.5; P.L.83-1997, SEC.1.

IC 8-1-13-17

Services, facilities, and charges; sinking fund; REA borrowers

Sec. 17. (a) A corporation shall furnish reasonably adequate

services and facilities. The charge made by any corporation for any service rendered or to be rendered, either directly or in connection therewith, shall be nondiscriminatory, reasonable, and just, and every discriminatory, unjust, or unreasonable charge for the service is prohibited.

(b) A reasonable and just charge for service within the meaning of this section are charges that produce sufficient revenue:

(1) to pay all legal and other necessary expense incident to the operation of its system, to include maintenance cost, operating charges, upkeep, depreciation and amortization, repairs, and interest charges on bonds or other obligations;

(2) to provide a sinking fund for the liquidation of bonds or other evidences of indebtedness;

(3) to provide adequate funds to be used as working capital, as well as funds for making extensions and replacements (to the extent not provided for through depreciation);

(4) to meet reasonable financial agreements entered into by the corporation in the process of securing capital; and

(5) for the payment of any taxes that may be assessed against the corporation or its property.

(c) The purpose of this section is to ensure that the charges produce an income sufficient to maintain the corporation property in a sound physical and financial condition to render adequate and efficient service. Any rate too low to meet the requirements of this section is unlawful.

(d) Revenues and receipts not needed for the purposes of this section shall be returned to the members on an equitable basis, either in cash or in abatement of current charges for energy, as the board may decide.

(e) As used in subsections (g) and (h), "financial assistance" means:

(1) a loan or loan guarantee; or

(2) a lien accommodation provided to secure a loan made by another lender;

that is made by the Rural Electrification Administration of the United States Department of Agriculture (REA).

(f) As used in subsections (g) and (h), "REA borrower" means a corporation created under this chapter that is the recipient of financial assistance.

(g) In determining rates under this section, once the commission determines that property of an REA borrower is reasonably necessary for the provision of electric service and has been placed in service, the commission shall approve rates to be charged by the REA borrower sufficient to enable the REA borrower to:

(1) satisfy its reasonable expenses and obligations; and

(2) repay the full amount of any financial assistance and the interest thereon.

(h) So long as there remains any unpaid portion of any financial

assistance associated with the property of an REA borrower determined under subsection (g) to be reasonably necessary and placed in service, the rates of the REA borrower shall be set at a level sufficient to repay the financial assistance, regardless of any change in the regulatory status of the property, including, without limitation, the full or partial retirement of the property or any other change in the status of the property as reasonably necessary or used and useful.

(i) Subsections (g) and (h) do not apply to a corporation that is not created under this chapter, whether or not the rates of the corporation are set by the commission under this section.

(Formerly: Acts 1935, c.175, s.17.) As amended by P.L.121-1987, SEC.2; P.L.109-1989, SEC.4; P.L.74-1991, SEC.2; P.L.1-1992, SEC.31.

IC 8-1-13-18

Rates and charges; jurisdiction and powers of commission

Sec. 18. A corporation is subject to the jurisdiction of the commission for the purpose of fixing rates to be charged to members of the corporation for energy, and for the purpose of service area assignments under IC 8-1-2.3.

(Formerly: Acts 1935, c.175, s.18; Acts 1937, c.258, s.10; Acts 1939, c.105, s.3; Acts 1951, c.162, s.2.) As amended by Acts 1980, P.L.69, SEC.4; P.L.121-1987, SEC.3; P.L.23-1988, SEC.51.

IC 8-1-13-18.5

Withdrawal from jurisdiction of commission

Sec. 18.5. (a) Except as provided in subsection (i), a corporation organized under this chapter or a corporation organized under IC 23-17 whose membership includes one (1) or more corporations organized under this chapter may withdraw from the jurisdiction of the commission. A corporation organized under this chapter that withdraws from the jurisdiction of the commission must comply with all provisions of this chapter that do not directly concern the commission and must continue to pay the public utility fee required under IC 8-1-6. A member of a corporation that has withdrawn from the commission's jurisdiction shall have reasonable access to the meetings and the minutes of the meetings of the corporation's board of directors, except for executive sessions that concern personnel matters and confidential or proprietary matters that may:

(1) invade the privacy of a member or an employee of the corporation; or

(2) impair the corporation's bargaining, legal, or competitive position;

if the matter is disclosed to the member.

(b) A corporation that proposes to withdraw under this chapter from the jurisdiction of the commission must first obtain the approval of the members.

(c) The board of a corporation that proposes to withdraw under this chapter from the jurisdiction of the commission must conduct a referendum of the members of the corporation to determine whether the members approve of the removal of the corporation from the jurisdiction of the commission.

(d) A board must send written notice of the board's intent to conduct a referendum to the commission before the board may conduct the referendum.

(e) A referendum may be conducted at an annual or special meeting of the members held under section 8 of this chapter if a quorum is present.

(f) Written notice of a meeting at which a referendum is to be conducted must be sent to every member not less than thirty (30) days before the date of the meeting. The notice must contain the following information:

(1) The place, date, and hour of the meeting.

(2) The fact that a referendum will be conducted at the meeting to determine whether the members approve of the removal of the corporation from the jurisdiction of the commission.

(3) The fact that no proxies will be permitted to determine whether the members approve of the removal of the corporation from the jurisdiction of the commission.

(g) A board shall distribute secret ballots to the members present at the meeting. The ballots must be in a form substantially equivalent to the following:

___ YES. I want the corporation to withdraw from the jurisdiction of the commission.

___ NO. I want the corporation to remain under the jurisdiction of the commission.

Only those members present in person at the meeting may vote. Each member is entitled to one (1) vote on the question of the corporation's withdrawal from jurisdiction of the commission. If a majority of the members present vote in favor of withdrawing from the jurisdiction of the commission, the withdrawal is effective thirty (30) days after the date of the vote. If less than a majority of the members vote in favor of withdrawing the corporation from jurisdiction of the commission, the corporation is prohibited from conducting another referendum concerning withdrawal for eighteen (18) months following the date of the meeting at which the vote was taken. Parties aggrieved by the conduct of the referendum must file an action in the circuit or superior court with jurisdiction in the county where the corporation has the corporation's principal office to allege noncompliance with this section not more than thirty (30) days after the date of the vote.

(h) If a corporation withdraws from jurisdiction of the commission, the corporation's secretary shall not more than five (5) days after the date of the vote send a verified certification of the vote to the commission affirming that all the requirements of this section

were met and include all of the following:

(1) The total membership of the corporation.

(2) The total number of members voting in the referendum.

(3) The actual vote, for and against withdrawal.

(i) If a corporation withdraws from the jurisdiction of the commission, the commission shall continue to exercise jurisdiction over the corporation only as to the following:

(1) Electric service area assignments under IC 8-1-2.3.

(2) Certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2, IC 8-1-8.5, or IC 8-1-8.7.

(j) Whenever two (2) or more corporations organized under this chapter consolidate or merge under section 16 of this chapter, and one (1) but not all of the corporations has withdrawn from the jurisdiction of the commission under this section, the consolidated or merged corporation is under the jurisdiction of the commission until the consolidated or merged corporation withdraws from jurisdiction of the commission under this section, unless the agreement for consolidation or merger approved under section 16 of this chapter includes the withdrawal from the jurisdiction of the commission under this section.

(k) A board of a corporation that has withdrawn from the jurisdiction of the commission under this section must conduct a referendum of the corporation's members to determine whether the corporation should return to the jurisdiction of the commission upon receipt of:

(1) a petition for a referendum signed by not less than fifteen percent (15%) of the corporation's members; or

(2) a resolution ordering a referendum adopted by a majority vote of the board of directors of the corporation.

Upon receipt of the petition or adoption of the resolution by the board, the board shall inform the commission of the petition or resolution and shall thereafter conduct a referendum at the next annual meeting of the corporation held under section 8 of this chapter, or if the next annual meeting is more than ninety (90) days after the date the petition was received or resolution for referendum was adopted by the board, then at a special meeting called by the board and held not more than ninety (90) days after receipt of the petition or adoption of the resolution. The process provided in subsections (d), (e), (f), (g), and (h) shall be followed when conducting a referendum under this subsection, except the form of the ballots must be as follows:

___ YES. I want the corporation to return to the jurisdiction of the commission.

___ NO. I want the corporation to remain outside the jurisdiction of the commission.

If a corporation returns to the jurisdiction of the commission, the commission shall resume all the jurisdiction it would have if the

corporation had not withdrawn, effective thirty (30) days following the date the referendum was conducted. If less than a majority of the members voting at the referendum vote in favor of returning to the jurisdiction of the commission, a referendum on the question presented at the referendum may not be conducted for eighteen (18) months following the date of the vote.
As added by P.L.109-1995, SEC.3. Amended by P.L.42-2005, SEC.1; P.L.213-2014, SEC.4.

IC 8-1-13-19
Repealed
(Repealed by Acts 1980, P.L.69, SEC.5.)

IC 8-1-13-20
Repealed
(Repealed by Acts 1980, P.L.69, SEC.5.)

IC 8-1-13-21
Dissolution of corporation
Sec. 21. Any corporation created under this chapter may be dissolved by filing in the office of the secretary of state articles of dissolution which shall be entitled and indorsed "Articles of dissolution of _____" (the blank space being filled in with the name of the corporation) and shall state:

(a) Name of the corporation and, if such corporation is a corporation resulting from a consolidation as provided in this chapter, the names of the original corporations.

(b) The date of filing of the articles of incorporation in the office of secretary of state and, if such corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the original corporations were filed in the office of secretary of state.

(c) That the corporation elects to dissolve.

(d) The name and post office address of each of its directors, and the name, title, and post office address of each of its officers.

Such articles shall be subscribed and acknowledged in the same manner as original articles of incorporation by the president or vice president and the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted by the members of each corporation at meetings thereof duly called and held as provided in section 8 of this chapter. Articles of dissolution and/or a certified copy or copies thereof shall be filed in the same places as original articles of incorporation and thereupon the corporation shall be deemed to be dissolved. Such corporation shall continue for the purpose of paying, satisfying, and discharging any

existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued, in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall pass to and become the property of the state.

(Formerly: Acts 1935, c.175, s.19; Acts 1937, c.258, s.11.) As amended by P.L.59-1984, SEC.68.

IC 8-1-13-22

Articles of incorporation; amendment; change of name; change of territory

Sec. 22. (a) A corporation created under this chapter may amend its articles of incorporation to change its corporate name, to increase or reduce the number of its directors or change any other provisions therein; however, no corporation shall amend its articles of incorporation to embody therein any purpose, power, or provision which would not be authorized if its original articles of incorporation, including such additional or changed purpose, power, or provision were offered for filing at the time articles under this section are offered. Such amendment may be accomplished by filing articles of amendment in the office of the secretary of state which shall be entitled and endorsed "Articles of amendment of _____" (the blank space being filled in with the name of the corporation) and state:

(1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated.

(2) The date of filing the articles of incorporation in each public office where filed.

(3) Whether the territory served or to be served by the corporation is to be changed and, if so, whether it is to be increased or decreased.

(4) The purposes, powers, or provisions, if any, to be amended or eliminated and the purposes, powers, or provisions, if any, to be added or substituted.

(b) Such articles shall be subscribed in the name of the corporation by the president or a vice president, and by the secretary or the assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted at a meeting of the corporation duly called and held as provided in section 8 of this chapter, or upon waiver of notice signed by all the members of the corporation. If by any such amendment to articles of incorporation, the territory proposed to be served by the corporation is to be increased or decreased, the articles of amendment, together with a petition executed by the secretary or assistant secretary of the corporation and praying for the permission of the commission shall be submitted to such commission. Thereupon, the commission shall set said petition

for public hearing and shall give notice of the time and place thereof one (1) time in at least one (1) newspaper published in each of the counties in which lies any of the territory proposed to be added or omitted by such amendment, which publication shall be at least ten (10) days before such hearing; the cost of such publication shall be paid by the petitioner when filing such petition.

(c) Any interested person may appear, personally or by attorney, at such hearing and aid or oppose the prayer of the petition. After such hearing, the commission shall grant or deny the petition and make its order accordingly.

(d) No amendment increasing or decreasing the territory to be served by such corporation shall be filed in the office of the secretary of state unless there be attached thereto a certified copy of an order from the commission consenting to such increase or decrease. Such articles shall be filed in the office of the secretary of state and thereupon the amendment shall be deemed to have been effected.

(Formerly: Acts 1935, c.175, s.20; Acts 1937, c.258, s.12; Acts 1939, c.105, s.4.) As amended by Acts 1977, P.L.102, SEC.6; P.L.23-1988, SEC.52.

IC 8-1-13-23

Classification of corporations; general district corporation and local district corporation distinguished

Sec. 23. Any corporation to be formed under this chapter shall be either a general district corporation or a local district corporation.

(a) A general district corporation is a corporation formed under this chapter for the purpose of furnishing services to local district corporations. A general district corporation may be formed to do business in all, or a stated number of the counties of this state. No such corporation shall have the authority or right to do business with a local district corporation in any county already named as a part of the territory of another general district corporation unless, prior to its incorporation, consent for it to transact business in that county shall have been given by the existing general district corporation or corporations then authorized to furnish services to the local district corporations in that county. However, nothing in this chapter shall be construed to allow such a newly formed general district corporation to engage in the business to acquire, own, operate, maintain, and improve a system or systems. A general district corporation may be organized by:

(1) a group consisting of one-third (1/3) of the heads of farm families in all the counties included;

(2) the directors of an association of agricultural producers, the members of which reside in nine-tenths (9/10) of the counties named within the said corporation's territorial limits;

(3) the directors of the county or regional stockholder corporations within the state having as stockholders or members more than seventy-five thousand (75,000) producers of

agricultural products within the state of Indiana; or

(4) the board of directors of another general district corporation organized under this chapter.

(b) A local district corporation is a corporation formed under this chapter for the purpose of furnishing services to its members. A local district corporation shall not be permitted to exercise any of the powers granted under this chapter until at least one-half (1/2) of the heads of farm families residing in the territory described in its proposed articles of incorporation shall have agreed in writing to become members of the corporation and made a minimum payment for such membership as in said articles provided.

(Formerly: Acts 1935, c.175, s.21; Acts 1937, c.258, s.13.) As amended by Acts 1980, P.L.70, SEC.1.

IC 8-1-13-24

Commission decisions or orders; appeal

Sec. 24. Any person or legal entity adversely affected by any final decision, ruling, or order of the commission made pursuant to this chapter may appeal that decision, ruling, or order under the same appeal procedures as in IC 8-1-3.

(Formerly: Acts 1935, c.175, s.22.) As amended by Acts 1977, P.L.102, SEC.7; P.L.23-1988, SEC.53.

IC 8-1-13-25

Construction of chapter

Sec. 25. This chapter is to be liberally construed, and the enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.

(Formerly: Acts 1935, c.175, s.23.) As amended by P.L.59-1984, SEC.69.

IC 8-1-13-26

Foreign corporation; admittance to do business within state; finding of convenience and necessity

Sec. 26. Any foreign corporation organized as a nonprofit corporation for the purpose of making electric energy available to the inhabitants of rural areas may be admitted to do business within this state and shall have the same powers, restrictions, and liabilities as a corporation organized under this chapter. Whenever such foreign corporation desires to be admitted to operate in this state, it shall file with the commission a petition in as many original counterparts as there are counties in Indiana, in which it requests permission to make electric energy available, plus five (5). Said petition shall describe the territory in Indiana in which its operations are to be conducted and pray the said commission to grant to it a certificate of public convenience and necessity for such operations. To each such original petition, there shall be attached a copy of the articles of incorporation

of said corporation, with all amendments thereto, duly authenticated by the proper officer of the state wherein it is incorporated. Said petition shall be acted upon by the commission in accordance with the provisions of section 18 of this chapter. The commission shall enter a finding that the convenience and necessity of the public proposed to be served in the Indiana territory in which the operations of the corporation are proposed to be conducted either will or will not be served by such operations. If said finding be in the negative, said commission shall enter an order denying the petition. If such finding be in the affirmative, said commission shall enter an order granting a certificate of public convenience and necessity for the proposed operations of said corporation in Indiana and shall attach a copy of said order, duly certified by the secretary of said commission, to each of the originals of said petition, filed as aforesaid, except two (2) and deliver the same to the petitioner. The corporation shall then present to the secretary of state all such sets of authenticated copy of articles, original petition, and order of the commission, together with such application for admission to do business in this state, if any, as the secretary of state may require and tender to the said secretary of state six dollars and fifty cents ($6.50) to cover his fees for filing, certificate, and seal. If the secretary of state shall approve the same, he shall endorse his approval upon each of the aforesaid sets of documents, file one (1) thereof in his office, return the remaining ones to the corporation, and issue to the corporation his certificate of admission to do business in this state. Thereupon, and before the corporation shall do any business in this state, it shall file in the office of the recorder of each county in Indiana in which it is to make electric energy available, one (1) of said sets of documents bearing the approval of the secretary of state endorsed thereon.

(Formerly: Acts 1935, c.175, s.26; Acts 1939, c.106, s.2.) As amended by P.L.59-1984, SEC.70; P.L.23-1988, SEC.54.

IC 8-1-13-27

Liability of members and directors

Sec. 27. (a) No member of any corporation shall be liable or responsible for its debts or liabilities.

(b) A director of a distribution cooperative corporation or a director of a power supplier whose members are corporations as defined in this chapter is not personally liable while acting in good faith for the acts or omissions of the distribution cooperative corporation or the power supplier.

(Formerly: Acts 1935, c.175, s.27; Acts 1939, c.106, s.3.) As amended by P.L.59-1984, SEC.71; P.L.121-1987, SEC.4.

IC 8-1-13-28

Rules; customer relations; adoption; complaints; procedures

Sec. 28. (a) The commission shall adopt rules to govern the

relations between corporations and any or all classes of their customers. Those rules shall cover the following subjects:

(1) Extension of service.
(2) Extension of credit.
(3) Deposits, including interest.
(4) Billing procedures.
(5) Termination of service.
(6) Complaints.
(7) Information and notice to customers of their rights under the rules.

(b) The commission may investigate and enter orders on complaints filed by individual customers arising under this section. The commission may establish an appeals division to act on its own behalf regarding individual customer complaints. The decision of the division is binding on all parties to the complaint. The commission shall review decisions of the appeals division upon timely request by an affected party.

(c) This section does not invalidate any rule adopted by the commission before September 1, 1987, to govern the relations between corporations and their customers if the rule is consistent with this section.

As added by P.L.121-1987, SEC.5.

IC 8-1-13-29

Rates, tolls, and charges; schedules; filing; approval

Sec. 29. (a) Every corporation shall file with the commission, within a time fixed by the commission, schedules showing all rates, tolls, and charges that it has established and that are enforced at the time for any service performed by it within the state, or for any service in connection with the rates, tolls, and charges.

(b) The schedules of rates, tolls, and charges shall be open for public inspection.

(c) Every corporation shall file, with and as a part of the schedule, all rules that in any manner affect the rates charged or to be charged for any service.

(d) It is unlawful for a corporation to charge any amount for any service that varies from the schedules approved by the commission.

As added by P.L.121-1987, SEC.6.

IC 8-1-13-30

Changes in schedules of rates, tolls, and charges; requests for increases; approval; factors considered; required procedures

Sec. 30. (a) No change shall be made in any schedule, including schedules of joint rates, except upon thirty (30) days notice to the commission, and approval by the commission, and all changes shall be plainly indicated upon existing schedules or by filing new schedules in place of existing schedules thirty (30) days before the time the same are to take effect. The commission may prescribe a

shorter time within which a change may be made. A corporation may not file a request for a general increase in its basic rates and charges within fifteen (15) months after the filing date of its most recent request for a general increase in its basic rates and charges, except that the commission may order a more timely increase if:

(1) the requested increase relates to a different type of utility service;

(2) the commission finds that the corporation's financial integrity or service reliability is threatened; or

(3) the increase is based on:

(A) a rate structure previously approved by the commission; or

(B) orders of federal courts or federal regulatory agencies having jurisdiction over the corporation.

The phrase "general increase in basic rates and charges" does not include changes in rates related solely to the cost of fuel or purchased electricity or adjustments in accordance with tracking provisions approved by the commission.

(b) No schedule of rates, tolls, and charges of a corporation which includes or authorizes any changes in charges based upon costs is effective without the approval of the commission. Before the commission approves any changes in the schedule of rates, tolls, and charges of a corporation that generates and sells electricity, based upon the cost of fuel to generate electricity or upon the cost of fuel included in the cost of purchased electricity, the utility consumer counselor shall examine the books and records of the public generating corporation to determine the cost of fuel upon which the proposed charges are based. In addition, before a fuel cost charge becomes effective, the commission shall hold a summary hearing on the sole issue of the fuel charge. The utility consumer counselor shall conduct a review and make a report to the commission within twenty (20) days after the corporation's request for the fuel cost charge is filed. The commission shall hold the summary hearing and issue its order within twenty (20) days after it receives the utility consumer counselor's report. The provisions of this chapter concerning the filing, printing, and changing of rate schedules and the time required for giving notice of hearing and requiring publication of notice do not apply to the fuel cost charge or the summary hearing.

(c) Regardless of the pendency of any request for a fuel cost charge by any corporation, the books and records pertaining to cost of fuel of all corporations that generate electricity shall be examined by the utility consumer counselor not less often than quarterly, and the books and records of all electric nongenerating corporations shall be examined by the utility consumer counselor not less often than annually. The utility consumer counselor shall provide the commission with a report as to the examination of the books and records within a reasonable time following the examination. The utility consumer counselor may, if appropriate, request of the

commission a reduction or elimination of the fuel cost charge. Upon such request, the commission shall immediately hold a hearing in the manner provided in this chapter.

(d) An electric generating corporation may apply for a change in its fuel charge not more often than each three (3) months. When the application is filed the petitioning corporation shall show to the commission its cost of fuel to generate electricity and the cost of fuel included in the cost of purchased electricity, for the period between its last order from the commission approving fuel costs in its basic rates and the latest month for which actual fuel costs are available. The petitioning corporation shall also estimate its average fuel costs for the three (3) calendar months subsequent to the expiration of the twenty (20) day period allowed the commission in subsection (b). The commission shall conduct a formal hearing solely on the fuel cost charge requested in the petition subject to the notice requirements of IC 8-1-1-8 and shall grant the electric corporation the requested fuel cost charge if it finds that:

(1) the electric corporation has made every reasonable effort to acquire fuel and generate or purchase power or both so as to provide electricity to its customers at the lowest fuel cost reasonably possible;

(2) the actual increases in fuel cost through the latest month for which the actual fuel costs are available since the last order of the commission approving basic rates and charges of the electric corporation have not been offset by actual decreases in other operating expenses;

(3) the corporation's estimate of its prospective average fuel costs for each of the three (3) calendar months are reasonable after taking into consideration:

(A) the actual fuel costs experienced by the corporation during the latest three (3) calendar months for which actual fuel costs are available; and

(B) the estimated fuel costs for the same latest three (3) calendar months for which actual fuel costs are available.

(e) Should the commission at any time determine that an emergency exists that could result in an abnormal change in fuel costs, it may, in order to protect the public from the adverse effects of such change, suspend the provisions of subsection (d) as to the corporation affected by the emergency and initiate such procedures as may be necessary to protect both the public and the corporation from harm. The commission shall lift the suspension when it is satisfied the emergency no longer exists.

(f) Any change in the fuel cost charge granted by the commission under the provisions of this section shall be reflected in the rates charged by the corporation in the same manner as any other changes in rates granted by the commission in a case approving the basic rates and charges of the corporation. However, the corporation may file the change as a separate amendment to its rate schedules with a

reasonable reference in the amendment that the charge is applicable to all of its filed rate schedules.
As added by P.L.121-1987, SEC.7.

IC 8-1-13-31
Production of corporate books, accounts, papers, or records; order or subpoena; penalty for failure to comply

Sec. 31. (a) The commission may require, by order or subpoena, a corporation to produce within the state (at a time and place the commission may designate) any books, accounts, papers, or records (or verified copies) kept by the corporation anywhere, to allow an examination to be made by the commission or under its direction.

(b) The order or subpoena shall be served on the corporation in the same manner as a summons is served in a civil action.

(c) Any corporation that does not comply (after reasonable written notice) with any order or subpoena shall be assessed a civil penalty of not less than fifty dollars ($50) and not more than five hundred dollars ($500) for each day that it does not comply. Any penalty assessed under this subsection shall be deposited in the state general fund.
As added by P.L.121-1987, SEC.8.

IC 8-1-13-32
Investigations; agents; powers; recommendations

Sec. 32. (a) The commission may appoint, by written order, an agent to investigate any corporation. The commission shall prescribe the duties of the agent in the order, and the agent has all of the inquisitorial powers granted the commission under this chapter.

(b) The commission may conduct any number of investigations contemporaneously through different agents and may delegate to the agent the taking of all testimony bearing upon any investigation or hearing. The commission's decision must be based on its examination of all the testimony and records.

(c) The recommendations made by any agent are advisory and do not preclude the taking of further testimony, if ordered by the commission, or further investigation.
As added by P.L.121-1987, SEC.9.

IC 8-1-13-33
Uniform accounts; requisites

Sec. 33. Every corporation shall keep and render to the commission, in the manner and form prescribed by the commission, uniform accounts of all business transacted. In formulating a system of accounting for a corporation, the commission shall consider any system of accounting established by any federal law, commission, or department and any system authorized by a national association of such corporations.
As added by P.L.121-1987, SEC.10.

IC 8-1-13-34
Furnishing of information; requirement

Sec. 34. Every corporation shall furnish to the commission all information required by it to carry into effect this chapter and shall make specific answers to all questions submitted by the commission.
As added by P.L.121-1987, SEC.11.

IC 8-1-13-35
Blank forms received; verification; delivery of documents, books, and papers

Sec. 35. Any corporation receiving from the commission any blank forms with directions to complete them shall answer fully and correctly each question in the form, and if it is unable to answer any question, it shall give a good and sufficient reason for failing to answer the questions. The answers shall be verified under oath by the president, secretary, superintendent, or general manager, or person in charge of the corporation and returned to the commission at its office within the period fixed by the commission. Whenever required by the commission, every corporation shall deliver to the commission for examination any relevant documents, books, accounts, papers, and records (or copies), with a complete inventory of all its property in a form prescribed by the commission.
As added by P.L.121-1987, SEC.12.

IC 8-1-13-36
Complaints against corporation; discriminatory rates or charges; inadequate service; investigation; hearing; order

Sec. 36. Upon a complaint made against any corporation by:

(1) any mercantile, agricultural, or manufacturing society;
(2) any body politic or municipal organization;
(3) ten (10) or more persons, firms, corporations, limited liability companies, or associations;
(4) ten (10) or more complainants of any or all of the classes described in subdivision (3); or
(5) any public utility or corporation;

that any of the rates, tolls, charges, schedules, or joint rates (with which the petitioner is directly interested) are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice, or act affecting or relating to the service of a corporation is in any respect unreasonable, unsafe, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed to investigate with or without notice. However, the commission may not enter an order affecting those rates, tolls, charges, schedules, regulations, measurements, practices, or acts complained of without a formal public hearing.
As added by P.L.121-1987, SEC.13. Amended by P.L.8-1993, SEC.124.

IC 8-1-13-37
Investigation by commission on its own motion; rates, service, or territory

Sec. 37. Whenever the commission believes that:

(1) any rate or charge may be unreasonable or unjustly discriminatory;

(2) any service is inadequate or cannot be obtained; or

(3) an investigation of any matter relating to rates or territory for a corporation should be made;

it may, on its own motion, conduct an investigation with or without notice.

As added by P.L.121-1987, SEC.14.

IC 8-1-13-38
Complaints by corporation affecting its own rates or service; notice and hearing requirements; consent orders

Sec. 38. (a) Any corporation may make complaint as to any matter affecting its own rates or service. The corporation shall publish a notice of the filing of the petition or complaint in a newspaper of general circulation published in any county in which the corporation renders service. An order affecting rates or service may be entered by the commission without a formal public hearing, if the corporation has obtained written consent to obtain an order affecting its rates from the commission without a formal hearing from any agency of the federal government with which the corporation has outstanding evidence of indebtedness to the federal government. The commission may, however, on its own motion require a formal public hearing, and shall, upon a motion filed by the utility consumer counselor, by any public or municipal corporation, by ten (10) individuals, firms, corporations, limited liability companies, or associations, or by ten (10) complainants of any or all of these classes, hold a formal public hearing with respect to any petition or complaint.

(b) In any general rate proceeding under subsection (a) which requires a public hearing and in which an increase in revenues is sought which exceeds the sum of two million five hundred thousand dollars ($2,500,000), the commission shall conduct at least one (1) public hearing in the largest municipality located within the corporation's service area.

As added by P.L.121-1987, SEC.15. Amended by P.L.8-1993, SEC.125.

IC 8-1-13-39
Distribution cooperatives with less than 5,000 customers; rate orders; hearing requirement

Sec. 39. (a) Except as provided in subsection (b), an order affecting rates of service may be entered by the commission without a formal public hearing in the case of a distribution cooperative with less than five thousand (5,000) customers.

(b) The commission shall require a formal public hearing on any petition or complaint filed concerning a distribution cooperative with less than five thousand (5,000) customers upon motion of any of the following:

(1) The utility consumer counselor.

(2) A public or municipal corporation.

(3) Ten (10) individuals, firms, corporations, limited liability companies, or associations.

(4) Ten (10) complainants of any class described in subdivision (3).

As added by P.L.121-1987, SEC.16. Amended by P.L.8-1993, SEC.126.

IC 8-1-13-40

Subpoena power of commissioners and authorized agents; enforcement

Sec. 40. Each of the commissioners and every authorized agent has the power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and compel the production of books, accounts, papers, records, documents, and testimony in pending proceedings of corporations and where relevant. In case of disobedience on the part of any person to comply with any order of the commission or any commissioner or any subpoena, or on the refusal of any witness to testify to any matter regarding which the person may be lawfully interrogated before the commission, or its authorized agent, it shall be the duty of the circuit or superior court of any county, on application of a commissioner, to compel the obedience to the requirements of a subpoena issued from that court or a refusal to testify in that court.

As added by P.L.121-1987, SEC.17.

IC 8-1-13-41

Violations of chapter; findings; just and reasonable orders to be made

Sec. 41. Whenever, upon the investigation made under this chapter, the commission finds any regulations, measurements, practices, acts, or services are unjust, unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, or otherwise in violation of this chapter, or finds that any service is inadequate or that any service which can be reasonably demanded cannot be obtained, the commission shall determine and by order fix just and reasonable measurements, regulations, acts, practices, or service to be furnished, imposed, observed, and followed in the future in lieu of those found to be unjust, unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, inadequate, or otherwise in violation of this chapter. In addition, the commission shall make other orders concerning the measurement, regulation, act, practice, or service as are just and

reasonable.
As added by P.L.121-1987, SEC.18.

IC 8-1-13-42
Rules; adoption; prior rules validated

Sec. 42. (a) The commission may adopt rules under IC 4-22-2 to carry out this chapter.

(b) This section does not invalidate any rule adopted by the commission before September 1, 1987.
As added by P.L.121-1987, SEC.19.

IC 8-1-13-43
Maximum borrowing and expenditures for economic development

Sec. 43. (a) A corporation may not expend more than fifteen percent (15%) of its total utility plant for economic development.

(b) A corporation that is not an REA borrower (as defined in section 17(f) of this chapter) may not borrow any funds for an economic development project without approval of the Indiana utility regulatory commission.
As added by P.L.95-1993, SEC.2.

IC 8-1-13.1

Chapter 13.1. Alternative Energy Projects by Rural Electric Membership Corporations

IC 8-1-13.1-1

Findings

Sec. 1. The general assembly makes the following findings:

(1) Alternative energy projects result in quantifiable reductions in, or the avoidance of, regulated air pollutants and carbon emissions produced by traditional electric generating facilities that use fossil fuels as their fuel source.

(2) Corporations and cooperatively owned power suppliers should plan and implement alternative energy projects on behalf of and at the request of their members.

(3) Incentives that encourage corporations and their cooperatively owned power suppliers to:

(A) develop alternative energy projects; and

(B) apply for, and contribute matching funds to, state or federal grants and programs for alternative energy projects;

are in the public interest of the state and its citizens and are crucial to the state's economic development efforts.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-2

"Alternative energy project"

Sec. 2. As used in this chapter, "alternative energy project" means a project that:

(1) develops or makes use of:

(A) clean energy projects (as defined in IC 8-1-8.8-2);

(B) renewable energy resources (as defined in IC 8-1-8.8-10) for the production of electricity;

(C) integrated gasification combined cycle (IGCC) technology to produce synthesis gas that is used:

(i) to generate electricity; or

(ii) as a substitute for natural gas;

regardless of the fuel source used to produce the synthesis gas;

(D) methane recovered from landfills for the production of electricity;

(E) demand side management, energy efficiency, or conservation programs; or

(F) coal bed methane;

(2) results in quantifiable reductions in, or the avoidance of:

(A) the use of electricity produced by traditional electric generating facilities that use fossil fuels as their fuel source; or

(B) regulated air pollutants and carbon emissions produced by traditional electric generating facilities that use fossil

fuels as their fuel source; and

(3) is implemented under a plan approved by:

(A) the office; and

(B) a corporation's or a cooperatively owned power supplier's board of directors.

As added by P.L.151-2009, SEC.5. Amended by P.L.150-2011, SEC.15.

IC 8-1-13.1-3
"Cooperatively owned power supplier"

Sec. 3. As used in this chapter, "cooperatively owned power supplier" means:

(1) an energy utility (as defined in IC 8-1-2.5-2) that is a general district corporation organized under IC 8-1-13; or

(2) an energy utility that is organized under IC 23-17 and whose membership includes one (1) or more corporations organized under IC 8-1-13.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-4
"Corporation"

Sec. 4. As used in this chapter, "corporation" means a corporation organized under IC 8-1-13 as a local district corporation (as defined in IC 8-1-13-23(b)).

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-5
"Director"

Sec. 5. As used in this chapter, "director" refers to the director of the office of alternative energy incentives serving under section 9(b) of this chapter.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-6
"Fund"

Sec. 6. As used in this chapter, "fund" refers to the alternative energy incentive fund established by section 10 of this chapter.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-7
"Office"

Sec. 7. As used in this chapter, "office" refers to the office of alternative energy incentives established by section 9 of this chapter.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-8
"Retail energy service"

Sec. 8. As used in this chapter, "retail energy service" has the

meaning set forth in IC 8-1-2.5-3.
As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-9
Office of alternative energy incentives; director

Sec. 9. (a) The office of alternative energy incentives is established within the Indiana office of energy development established by IC 4-3-23-3.

(b) The:

(1) director of the Indiana office of energy development; or

(2) designee of the Indiana office of energy development, who must be qualified by knowledge of or experience in the electric utility industry;

shall serve as the director of the office.

(c) The director:

(1) serves at the pleasure of and is responsible to the director of the Indiana office of energy development, if the director is a designee of the director of the Indiana office of energy development;

(2) may receive compensation in an amount determined by the director of the Indiana office of energy development, subject to the approval of the budget agency, if the director is a designee of the director of the Indiana office of energy development;

(3) serves as the chief executive and administrative officer of the office; and

(4) may, to the extent appropriate, delegate the director's authority under this chapter, subject to the approval of:

(A) the director of the Indiana office of energy development, if the director is a designee of the director of the Indiana office of energy development; and

(B) the budget agency.

(d) The director of the Indiana office of energy development may:

(1) establish; and

(2) appoint members to;

an advisory board to advise the office in the administration of this chapter.
As added by P.L.151-2009, SEC.5. Amended by P.L.34-2013, SEC.12.

IC 8-1-13.1-10
Alternative energy incentive fund; sources of funds; appropriation; expenditures; expenses; investment; nonreverting fund

Sec. 10. (a) The alternative energy incentive fund is established for the purpose of providing funds to corporations for use in the development of alternative energy projects. The fund shall be administered by the office.

(b) The fund consists of:

(1) money appropriated to the fund by the general assembly;

(2) money received from state or federal grants or programs for alternative energy projects; and

(3) donations, gifts, and money received from any other source, including transfers from other funds or accounts.

(c) Money in the fund is continuously appropriated for the purposes of this section.

(d) Money in the fund may be spent only in accordance with this chapter and to carry out the purposes of this chapter.

(e) The expenses of administering the fund shall be paid from money in the fund.

(f) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(g) 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.151-2009, SEC.5. Amended by P.L.35-2012, SEC.94.

IC 8-1-13.1-11

Office to establish account in fund for each corporation

Sec. 11. The office shall establish an account within the fund for each corporation.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-12

Application by corporation to office for access to funds; access amount; application and documentation; review and dispute resolution; installments

Sec. 12. (a) Beginning in 2009, not later than August 1 of each year, a corporation may apply to the office to have access to a percentage of the total funds that are, as of July 1 of the year, in the account established for the corporation under section 11 of this chapter, as follows:

(1) A corporation may have access to not more than forty percent (40%) of the total funds in the corporation's account if the corporation certifies to the office that alternative energy projects accounted for five percent (5%) or less of the corporation's total sales from the provision of retail energy service during the preceding calendar year.

(2) A corporation may have access to not more than seventy percent (70%) of the total funds in the corporation's account if the corporation certifies to the office that alternative energy

projects accounted for:

(A) more than five percent (5%); and

(B) not more than ten percent (10%);

of the corporation's total sales from the provision of retail energy service during the preceding calendar year.

(3) A corporation may have access to one hundred percent (100%) of the total funds in the corporation's account if the corporation certifies to the office that:

(A) alternative energy projects accounted for at least ten percent (10%) of the corporation's total sales from the provision of retail energy service during the preceding calendar year;

(B) at least fifty percent (50%) of the sales attributed to alternative energy projects under clause (A) were made to Indiana customers; and

(C) at least fifty percent (50%) of the alternative energy projects that:

(i) under clause (A) accounted for at least ten percent (10%) of the corporation's total sales from the provision of retail energy service during the preceding calendar year; and

(ii) are energy production or generating facilities;

are located in Indiana.

(b) A corporation that seeks access to a percentage of the total funds in the corporation's account under subsection (a) shall submit:

(1) an application to the office on a form prescribed by the office; and

(2) any documentation required by the office to support the corporation's certification of the percentage of its total sales from the provision of retail energy service that is attributable to alternative energy projects during the preceding calendar year.

An application submitted under this section must be signed under penalty of perjury by an officer of the corporation or another person authorized to bind the corporation.

(c) The application form prescribed by the office and described in subsection (b)(1) must require the applicant to identify:

(1) each planned or existing alternative energy project in which the applicant plans to invest money drawn from the applicant's account under this section;

(2) the amount of money the applicant plans to invest in each alternative energy project identified under subdivision (1); and

(3) any other corporations, cooperatively owned power suppliers, or other persons that have invested or will invest money in each alternative energy project identified under subdivision (1), to the extent known by the applicant.

(d) Upon receiving an application and any supporting documents from a corporation under subsection (b), the office shall review the application and documents for accuracy and completeness. If the

office determines that the application and documents are accurate, complete, and properly verified, the office shall notify the corporation as soon as practicable, but in any case not later than thirty (30) days after the date of the corporation's application, that the corporation may have access to the percentage of funds for which the corporation qualifies under subsection (a). If the office determines that the application and documents are inaccurate or incomplete, or are not properly verified, the office shall immediately notify the corporation of any additional information or verifications required. If there is disagreement between a corporation and the office about:

(1) the accuracy or completeness of an application or any documents submitted in conjunction with an application; or

(2) the determination of, or the method used to determine, the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects;

the corporation may request a hearing or any other procedure for resolving disputes established by the office in rules adopted under section 15 of this chapter.

(e) A corporation may receive the percentage of funds for which it qualifies under subsection (a) for a particular year in one (1) or more installments. However, any money received by a corporation under this section may be used only for one (1) or more alternative energy projects in accordance with section 14 of this chapter.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-13

Joint development of alternative energy projects

Sec. 13. (a) Two (2) or more corporations that are members of the same cooperatively owned power supplier may:

(1) develop alternative energy projects jointly; and

(2) share money drawn from their respective accounts in the fund with the corporations' cooperatively owned power supplier, as long as the cooperatively owned power supplier uses the money for one (1) or more alternative energy projects in accordance with section 14 of this chapter.

(b) For purposes of determining the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter, any joint project described in subsection (a)(1) shall be allocated among the participating corporations according to each corporation's respective investment in the joint project.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-14

Corporation's board of directors determines use of money; permissible uses of money; limitations

Sec. 14. (a) A corporation's board of directors is entitled to

determine how money drawn from the corporation's account under section 12 of this chapter is used, subject to the following:

(1) Money drawn from the corporation's account under section 12 of this chapter must be used for an alternative energy project that is approved by:

(A) the office; and

(B) the corporation's board.

(2) If the money will be used to develop or invest in an alternative energy project that involves:

(A) the construction of a new energy production or generating facility; or

(B) the expansion or extension of an existing energy production or generating facility;

the facility to be constructed, expanded, or extended as part of the alternative energy project must be located in Indiana.

(3) Money drawn from the corporation's account under section 12 of this chapter may not be used to purchase electricity produced from an alternative energy project, unless the alternative energy project:

(A) is located in Indiana; and

(B) first came online after July 1, 2009.

(4) If the money will be used for a demand side management, energy efficiency, or conservation program, the money must be dedicated to Indiana customers participating in the demand side management, energy efficiency, or conservation program.

(b) Subject to subsection (a), money drawn from the corporation's account under section 12 of this chapter may be used for:

(1) reimbursement to the corporation for money invested by the corporation:

(A) within the thirty-six (36) month period immediately preceding the date funds are applied for by the corporation under section 12 of this chapter; and

(B) for the expansion or extension of an alternative energy project; and

(2) contributions of matching funds to state or federal programs for alternative energy projects.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-15

Adoption of rules by office

Sec. 15. (a) The office may adopt rules under IC 4-22-2 to implement this chapter. Any rules adopted by the office under this section must include:

(1) requirements for plans for alternative energy projects submitted by corporations and cooperatively owned power suppliers to the office under this chapter;

(2) standards by which the office evaluates plans described in subdivision (1);

(3) standards or methodologies for determining the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter;

(4) standards and procedures to ensure that a corporation does not receive money from the fund for an investment in, or a purchase of electricity from, an alternative energy project if money has been received from the fund by another applicant for the same or an equivalent investment or purchase;

(5) procedures for resolving disputes that arise between a corporation and the office concerning:

(A) the accuracy or completeness of an application or any documents submitted to the office by a corporation under section 12(b) of this chapter; or

(B) the determination of, or the method used to determine, the percentage of a corporation's total sales from the provision of retail energy service that is attributable to alternative energy projects under section 12 of this chapter; and

(6) any other standards, methodologies, or requirements necessary to implement this chapter.

(b) In adopting rules under this section, the office may consult with the Indiana office of energy development.

As added by P.L.151-2009, SEC.5.

IC 8-1-13.1-16

Federal economic stimulus funds and programs

Sec. 16. This chapter shall not be construed to constrain a corporation's access to and immediate use of federal economic stimulus funds for alternative energy projects. Notwithstanding any provision of this chapter, any money that may become available to a corporation in connection with federal economic stimulus programs may not become part of the fund or an account established under this chapter without the consent of the corporation, which shall have access to federal economic stimulus funds:

(1) for the same uses; and

(2) in accordance with the same processes;

as any other energy utility (as defined in IC 8-1-2.5-2) may have access to or use federal economic stimulus money.

As added by P.L.151-2009, SEC.5.

IC 8-1-14

Chapter 14. Electric Transmission Lines Over Railroads

IC 8-1-14-1

Plans and specifications

Sec. 1. The commission is hereby authorized and empowered to regulate the crossings of steam, street and interurban railroad tracks by electric power transmission and distribution wires, and every such crossing shall conform to the orders and specifications of said commission. The commission may examine existing crossings and require their alteration to conform to its specifications, provided that in no event shall it be lawful to maintain such wires less than twenty-two (22) feet above the top of the rails of any such railroad tracks.

(Formerly: Acts 1923, c.69, s.1.) As amended by P.L.23-1988, SEC.55.

IC 8-1-15
Chapter 15. Water Utilities–Vacation or Relocation of Roads

IC 8-1-15-1
Petition for vacation

Sec. 1. Any corporation organized under the laws of the state of Indiana and authorized by its articles of incorporation to furnish water to any town or city or the inhabitants thereof, through or adjoining whose land any highway has heretofore been located and established, which desires to vacate or to relocate such highway or a portion thereof, may file with the circuit or a superior court in the county in which such lands or the major part thereof are located, its petition setting forth the following:

(a) The name of the petitioner.

(b) A distinct description of the highway or part thereof which petitioner seeks to be vacated or relocated and in case of relocation, a distinct description of the proposed new route, which may be over existing highways or right-of-way.

(c) A statement that petitioner has determined that such vacation or relocation is reasonably necessary or desirable in connection with petitioner's construction or maintenance of an impounding water reservoir.

(d) A statement that said vacation or relocation of said highway or portion thereof will not increase by more than four (4) miles the distance necessary for anyone to travel over highways which are or will be substantially similar to that proposed to be vacated or relocated.

(e) In case of vacation, the names and addresses of owners of the abutting land affected by the vacation proceedings.

(Formerly: Acts 1959, c.196, s.1.)

IC 8-1-15-2
Hearing on petition

Sec. 2. Upon the filing of the petition described in section 1 of this chapter, the court shall set a time for hearing not less than fourteen (14) days nor more than twenty-one (21) days thereafter and notice shall be given of the filing of said petition and the time set for hearing thereof by publication for two (2) full weeks in some newspaper, daily or daily except Sunday, of general circulation in each county wherein any portion of said highway is located. The notice shall be directed to the inhabitants of said county or counties and shall set forth a description of the highway or portion thereof which petitioner seeks to be vacated or relocated and in case of relocation, a distinct description of the proposed new route shall be given. A copy of the notice shall be personally served on the board of commissioners of each county in which said highway or any portion thereof is located in the same manner as a summons is served in civil cases. In case of vacation, the clerk of the court shall also

send a copy of the published notice by registered mail to each of the owners of the abutting land affected by the vacation proceedings as set out in the petition, provided that the attorney of record who files said vacation proceedings shall deliver to said clerk sufficient postage and copies of the published notice to cover the mailing to such abutting owners.
(Formerly: Acts 1959, c.196, s.2.) As amended by P.L.59-1984, SEC.72.

IC 8-1-15-3
Aggrieved persons; filing written remonstrance

Sec. 3. Any person feeling himself aggrieved by the proposed vacation or relocation may file a written remonstrance with the court at any time prior to the time set forth for hearing upon any one or more of the following grounds and no other to wit:

(a) That the highway or portion thereof proposed to be vacated or relocated is necessary to the growth of the county or counties in which it is located.

(b) That the proposed vacation or relocation will leave the real estate of the remonstrant without means of ingress or egress by a public highway.

(c) That such vacation or relocation will deny the public access to some public building, church or school or public grounds.

(d) That the material allegations of the petition or any of them are not true.
(Formerly: Acts 1959, c.196, s.3.)

IC 8-1-15-4
Order granting or denying petition

Sec. 4. If no such remonstrance shall be filed in writing with the court before the time set for hearing, the court shall grant the prayer of the petition. If remonstrance thereto be made, the court shall set the time for hearing and trial by the court and if the facts alleged in said petition are found true and the facts in said remonstrance are found not true the court shall overrule the remonstrance and grant the prayer of the petition. In either case, all costs of the proceedings shall be paid by the petitioner.
(Formerly: Acts 1959, c.196, s.4.)

IC 8-1-16
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-1-17

Chapter 17. Telephones–Rural Telephone Cooperative Act

IC 8-1-17-1

Short title

Sec. 1. This chapter may be known and referred to as the "Rural Telephone Cooperative Act".

(Formerly: Acts 1951, c.193, s.1.) As amended by P.L.59-1984, SEC.73.

IC 8-1-17-2

Formation of corporation

Sec. 2. Any number of natural persons not less than eleven (11) may, by executing, filing and recording articles of incorporation, as hereinafter provided, form a cooperative corporation, not organized for pecuniary profit, for the purpose of: (1) if such corporation be local in its scope, promoting and encouraging the fullest possible use of telephone service in the state by making telephone service and educational services incident to telephone service available to inhabitants of rural areas of the state at the lowest cost consistent with sound economy and prudent management of the business of the cooperative corporation or (2) if such corporation be general in its scope, furnishing engineering, financial, accounting, and/or educational services, incident to telephone service.

(Formerly: Acts 1951, c.193, s.2.)

IC 8-1-17-2.1

Not-for-profit corporations formed under Acts 1935, c. 157; amended articles of incorporation

Sec. 2.1. (a) If the requirements of subsection (b) are met, a local cooperative telephone corporation formed under Acts 1935, c.157 is considered to have been formed under this chapter and is subject to its requirements and not the requirements of IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(b) A local cooperative telephone corporation described in subsection (a) shall amend its articles of incorporation in accordance with IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17 to conform to the requirements of this chapter and shall submit a copy of its amended articles to the commission for approval. After examining the articles, the commission shall approve the amended articles if they conform to the requirements of this chapter. The commission may approve the amended articles without conducting a hearing. The secretary of state may not issue a certificate of amendment before the commission approves the amended articles under this subsection.

(c) The certificate of public convenience and necessity or certificate of territorial authority previously issued to a local cooperative telephone corporation described in subsection (a) shall

serve as the certificate required under section 6 of this chapter (before its repeal July 1, 2009).

(d) Subsection (a) applies to a local telephone cooperative corporation as of the date the secretary of state issues a certificate of amendment under IC 23-7-1.1-26 (before its repeal August 1, 1991) or IC 23-17-17.

(e) The local cooperative telephone corporation shall record the amended articles of incorporation in the county where the local cooperative telephone corporation has its principal office.

As added by P.L.122-1987, SEC.1. Amended by P.L.179-1991, SEC.13; P.L.96-1993, SEC.1; P.L.27-2006, SEC.40.

IC 8-1-17-3
Definitions

Sec. 3. As used in this chapter, the following terms have the following meanings unless a different meaning clearly appears from the context:

(1) "Acquire" means to obtain by construction, purchase, lease, devise, gift, eminent domain, or by any other lawful means.

(2) "Board" means the board of directors of a cooperative corporation.

(3) "Cooperative corporation" means a corporation formed under this chapter.

(4) "Facilities based local exchange carrier" has the meaning set forth in IC 8-1-32.4-5.

(5) "General cooperative corporation" means a cooperative corporation formed to render services to local cooperative corporations.

(6) "Improve" includes construct, reconstruct, extend, enlarge, alter, better, or repair.

(7) "Local cooperative corporation" means a cooperative corporation formed to render telephone services within Indiana.

(8) "Member" includes each individual signing the articles of incorporation of a cooperative corporation and each person admitted to membership of the cooperative corporation under law or the corporation's bylaws.

(9) "Obligations" includes negotiable bonds, notes, debentures, interim certificates or receipts, and other evidences of indebtedness, either issued or the payment of which is assumed by a cooperative corporation.

(10) "Person" or "inhabitant" includes an individual, a firm, an association, a corporation, a limited liability company, a business trust, and a partnership.

(11) "Service" or "services", when not accompanied by the word "telephone", means construction, engineering, financial, accounting, or educational services incidental to telephone service.

(12) "System" includes any plant, works, system, facilities, or

properties, together with all parts of and appurtenances to the plant, works, system, facilities, or properties, used or useful in telephone service.

(13) "Telephone facilities" includes all buildings, plants, works, structures, improvements, fixtures, apparatus, materials, supplies, machinery, tools, implements, poles, posts, crossarms, conduits, ducts, underground or overhead lines, wires, cables, exchanges, switches, desks, testboards, frames, racks, motors, generators, batteries, and other items of central office equipment, paystations, protectors, instruments, connections, and appliances, office furniture and equipment, work equipment, and all other property used in connection with the provision of telephone and other telecommunications services.

(14) "Telephone service" refers to telecommunications service (as defined in 47 U.S.C. 153) provided by a telephone cooperative corporation. The term includes all facilities or systems used in the rendition of the service.

(Formerly: Acts 1951, c.193, s.3.) As amended by P.L.59-1984, SEC.74; P.L.23-1988, SEC.56; P.L.97-1993, SEC.1; P.L.8-1993, SEC.127; P.L.27-2006, SEC.41; P.L.7-2015, SEC.11.

IC 8-1-17-4

Articles of incorporation

Sec. 4. The articles of incorporation shall be entitled and endorsed "Articles of Incorporation of _____ (the blank space to be filled in with the name of the corporation) and shall state:

(1) The name of the cooperative corporation, which shall be such as to distinguish it from any other corporation, and a statement whether it is to be a general or a local cooperative corporation.

(2) A statement of the county or counties within which its operations are to be conducted. If it is a local cooperative corporation, the rural area or areas in which its operations are to be conducted shall be further described and limited from time to time by certificate issued by the commission.

(3) Location of its principal office and post office address.

(4) The maximum number of directors, not less than three (3).

(5) The names and post office addresses of the directors who are to manage the affairs of the cooperative corporation for the first year of its existence or until their successors are chosen.

(6) The period, if any, limited for the duration of the cooperative corporation or a statement that the duration of the cooperative corporation is to be perpetual.

(7) The terms and conditions upon which members of the corporation shall be admitted.

(8) The articles of incorporation of a cooperative corporation may contain also any provision not contrary to law which the incorporators may desire for the regulation of its business and

the conduct of its affairs; and any provisions creating, defining, limiting or regulating the powers of the cooperative corporation, its directors and members.

(Formerly: Acts 1951, c.193, s.4.) As amended by P.L.119-1987, SEC.2.

IC 8-1-17-5

Articles of incorporation; certificate of territorial authority; commission review; notice to facilities based local exchange carriers; issuance of certificate; request for additional information; filing with secretary of state; status as body corporate

Sec. 5. (a) The individuals executing the articles of incorporation of a local cooperative corporation shall be residents of the area in which the operations of the cooperative corporation are to be conducted and shall be persons desirous of using telephone service to be furnished by the cooperative corporation.

(b) The individuals executing the articles of incorporation of a general cooperative corporation shall be members or prospective members of one (1) or more local cooperative corporations which are prospective members of such general cooperative corporation.

(c) The articles shall be executed in at least six (6) originals and shall be acknowledged by the subscribers before an officer authorized by law to take acknowledgments of deeds. When so acknowledged, three (3) originals of said articles shall be submitted to the commission. At the time the articles of incorporation are filed, an application for a certificate of territorial authority under IC 8-1-32.5 shall be filed with the commission if the applicant will operate as a local cooperative corporation. The application shall be executed by one (1) or more of the individuals executing the articles, and shall comply with the requirements of IC 8-1-32.5-6, as applicable.

(d) Upon the receipt of any articles of incorporation and application for a certificate of territorial authority, the commission shall conduct the review required under IC 8-1-32.5-8. If the applicant is a local cooperative corporation, the commission shall give written notice, by United States registered mail, of the filing of the application to each facilities based local exchange carrier operating in territory contiguous to the area in which the cooperative corporation proposes to render telephone service. The commission shall use the record maintained by the commission under IC 8-1-32.5-13 to determine which facilities based local exchange carriers are entitled to notice under this subsection.

(e) If the commission, after conducting the review required by IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines that the applicant meets the requirements for the issuance of a certificate of territorial authority under IC 8-1-32.5-8, the commission shall:

(1) issue a certificate of territorial authority under IC 8-1-32.5;

and

(2) enter an order approving the organization of the cooperative corporation and the proposed articles of incorporation.

(f) If the commission, after conducting the review required by IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines that the applicant does not meet the requirements for the issuance of a certificate of territorial authority under IC 8-1-32.5-8, the commission shall:

(1) request the applicant to provide additional information; or

(2) notify the applicant of the applicant's right to:

(A) appeal the commission's determination under IC 8-1-3; or

(B) file another application at a later date, without prejudice; under IC 8-1-32.5-8.

(g) If the commission approves the articles of incorporation under subsection (e), the cooperative corporation shall submit the following documents, along with two (2) copies of each, to the secretary of state for filing:

(1) One (1) of the original articles of incorporation executed by the corporation under subsection (c).

(2) A certified copy of the order of the commission under subsection (e)(2).

(3) A certified copy of the certificate of territorial authority issued by the commission under subsection (e)(1).

If the secretary of state determines that the documents described in subdivisions (1) through (3) comply with law, the secretary of state shall endorse the documents and file one (1) set of the documents in the secretary of state's office and deliver the other two (2) sets, endorsed with the secretary of state's approval, to the incorporators. The incorporators shall record one (1) of the approved original or certified copies of the documents in the office of the recorder of the county in which the cooperative corporation has, or will have, its principal office.

(h) As soon as the provisions of this section have been complied with, the proposed cooperative corporation, described in the articles of incorporation recorded under subsection (g), under its designated name, is a body corporate.

(Formerly: Acts 1951, c.193, s.5.) As amended by P.L.97-1993, SEC.2; P.L.27-2006, SEC.42.

IC 8-1-17-6
Repealed

(Formerly: Acts 1951, c.193, s.6. As amended by P.L.59-1984, SEC.75; P.L.97-1993, SEC.3; P.L.145-1999, SEC.1 and P.L.198-1999, SEC.3. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-17-7
Board of directors

Sec. 7. (a) Each cooperative corporation formed under this chapter shall have a board of directors, which board shall constitute the governing body of the cooperative corporation. The directors of a local cooperative corporation must be members, or if the cooperative corporation's bylaws so provide, a member's officers, directors, or partners, or the owner of a member that is a sole proprietorship may be directors of the cooperative corporation. Directors other than those named in the cooperative corporation's articles of incorporation shall be elected by the cooperative corporation's members.

(b) Unless the bylaws of the cooperative corporation provide otherwise, such directors shall be elected annually. The bylaws may provide that the directors may hold office for any stated period not exceeding three (3) years, and be so elected that the terms of only part of such directors shall expire at any one (1) time and that only enough directors to succeed those whose terms are about to expire need be elected in any year.

(c) The bylaws may provide that the area in which the members of the cooperative corporation reside shall be apportioned into districts and prescribe the procedure by which the members residing in any one (1) district may nominate a director.

(d) The bylaws may specify a fair remuneration for the time actually spent by its officers, directors, and members of its executive committee in the performance of their duties as such and provide that the same be paid them respectively. The officers, directors, and members of the executive committee shall be entitled to reimbursement for expenses incurred by them in the performance of their duties whether or not the bylaws provide that they be remunerated for their time spent in such performance.

(e) The board shall annually designate and elect those officers it considers necessary.

(Formerly: Acts 1951, c.193, s.7.) As amended by P.L.97-1993, SEC.4; P.L.145-1999, SEC.2; P.L.198-1999, SEC.4; P.L.14-2000, SEC.25.

IC 8-1-17-8

Board of directors; powers and duties

Sec. 8. The board shall have power to do all things necessary or convenient in conducting the business of the cooperative corporation, including but not limited to:

(a) The power to make, alter, amend or repeal by-laws for the regulation and management of the affairs of the cooperative corporation not inconsistent with law or with the articles of incorporation.

(b) To appoint agents and employees and to fix their compensation and the compensation of the officers of the cooperative corporation.

(c) To execute instruments.

(d) To delegate to one or more of the directors or to the agents and

employees of the cooperative corporation such powers and duties as it may deem proper.

(e) To make its own rules and regulations as to its procedure.

(Formerly: Acts 1951, c.193, s.8.)

IC 8-1-17-9

Certificates of membership; meetings of members; notice; quorum; votes required for action; elections

Sec. 9. (a) A cooperative corporation may issue to its members certificates of membership and each member shall be entitled to only one (1) vote on each question or election at any regular or special meetings of the cooperative corporation.

(b) Meetings of members may be held at such place as may be provided in the bylaws. An annual meeting of the members shall be held at such time as may be provided by the bylaws. Special meetings may be called by the board of directors, by a petition signed by not less than five percent (5%) of all the members, or by such other officers or persons as may be provided in the articles of incorporation or by the bylaws.

(c) Written or printed notice stating the place, day, and hour of the meeting of members, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the officers or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mails in a sealed envelope addressed to the member at the member's address as it appears on the records of the cooperative corporation, with postage prepaid. Notice of meetings of members may be waived in writing.

(d) Unless otherwise provided in the articles of incorporation, two percent (2%) of all the members of the cooperative corporation present in person at any meeting of members, of which meeting notice shall have been given as provided in subsection (c), shall constitute a quorum for the transaction of business at such meeting.

(e) Except as provided in subsection (f), a majority vote of those members who are present in person and voting at any regular meeting, or at any special meeting of the members called for that purpose, shall be necessary for the taking of any action, adoption of any resolution, or the election of any directors or officers, or otherwise, as the case may be.

(f) This subsection applies to an election for a director of a cooperative corporation held after March 20, 2006. A cooperative corporation may provide in the corporation's bylaws that if more than two (2) persons run for election as a director from the same district, the person receiving the most votes is elected, regardless of whether that person receives a majority of the total votes cast by those

members present in person and voting at the meeting at which the election occurs.
(Formerly: Acts 1951, c.193, s.9.) As amended by P.L.97-1993, SEC.5; P.L.145-1999, SEC.3 and P.L.198-1999, SEC.5; P.L.14-2006, SEC.1.

IC 8-1-17-10
Corporate purpose; local cooperative corporation

Sec. 10. (a) The corporate purpose of each local cooperative corporation shall be to render telephone service to its members and to such other persons in the specific instances as expressly provided in this chapter, and no person shall become or remain a member unless such person shall use telephone service supplied by such cooperative corporation and shall have complied with the terms and conditions in respect to membership contained in the bylaws of such cooperative corporation.

(b) A local cooperative corporation is one formed under this chapter for the purpose of furnishing telephone service to its patrons.
(Formerly: Acts 1951, c.193, s.10.) As amended by P.L.59-1984, SEC.76.

IC 8-1-17-11
General cooperative corporation and local cooperative corporation distinguished

Sec. 11. Any cooperative corporation to be formed under this chapter shall be either a general cooperative corporation or a local cooperative corporation.

(a) A general cooperative corporation is one formed under this chapter for the purpose of furnishing engineering, financial accounting, or educational services to its members or to persons expecting to form a local cooperative corporation, and having for its members only its incorporators or local cooperative corporations. It shall not render telephone service and the commission shall not allocate to it any territory for such purpose.

(b) A general cooperative corporation may be formed to have as members, and serve, local cooperative corporations in all, or certain named, counties of this state, not including any county theretofore named as part of the territory to be served by another general cooperative corporation then organized and existing, unless such other general cooperative corporation duly consents in writing, filed with the commission, to such inclusion.

(c) A general cooperative corporation, before obtaining the approval of its articles of incorporation, must prove to the commission that it has written consent to its incorporation signed by or on behalf of:

(1) the local cooperative corporations then existing and contemplated to be members of the general cooperative corporation; and

(2) the incorporated agricultural association or associations, including in its or their members at least one-third (1/3) of the members residing in the territory in which the general cooperative proposes to operate and reasonably anticipated to become members of local cooperative corporations which will become members of such general cooperative corporation.

Such signatures of said local cooperative corporations and of such agricultural associations shall be made by their respective presidents or vice presidents, and secretaries or assistant secretaries, and shall be supported by certified copies of resolutions authorizing the same and duly adopted by their boards of directors, respectively.

(Formerly: Acts 1951, c.193, s.11.) As amended by P.L.59-1984, SEC.77; P.L.97-1993, SEC.6.

IC 8-1-17-12

General grant of powers to corporation

Sec. 12. Each cooperative corporation is hereby vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the general assembly of the state of Indiana; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

(Formerly: Acts 1951, c.193, s.12.)

IC 8-1-17-13

Powers of corporation enumerated

Sec. 13. A cooperative corporation may do any and all acts or things necessary or convenient for carrying out the purpose for which it was formed, including the following:

(1) To sue and be sued.

(2) To have a seal and alter the same at pleasure.

(3) To acquire, hold, and dispose of property, real and personal, tangible and intangible, or any interest in the property and to pay in cash or credit, and to secure and procure payment of all or any part of the purchase price on the terms and conditions as the board shall determine.

(4) If it is a local cooperative corporation, to furnish, improve, and expand telephone service to its members, to governmental agencies and political subdivisions, and to other persons.

(5) If it is a local cooperative corporation, to construct, purchase, lease as lessee, or otherwise acquire, and to improve, expand, install, equip, maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber telephone facilities or systems, lands, buildings, structures, plants and equipment, exchanges, and any other real or personal property, tangible or intangible which is necessary or appropriate to accomplish the purpose for which the local

cooperative corporation is organized.
(6) To cease doing business and to dissolve and surrender its corporate franchise.
(7) If it is a local cooperative corporation, to construct, operate, and maintain its telephone facilities across or along any street or public highway, or over lands that are the property of this state or a political subdivision of the state. Before telephone facilities are constructed across or along a highway in the state highway system, the local cooperative corporation shall first obtain the permit of the Indiana department of transportation to do so, and the location and setting of the telephone facilities shall be approved by and subject to the supervision of the Indiana department of transportation. Before telephone facilities are constructed on or across land belonging to the state, the local cooperative corporation shall first obtain the permit of the department of state having charge of the lands to do so, and the location and setting of the telephone facilities shall be approved by and subject to the supervision of the department. The telephone facilities shall be erected and maintained so as not to interfere with the use and maintenance of the streets, highways, and lands, and no pole or appliance shall be located so as to interfere with the ingress or egress from any premises on the street or highway. Nothing in this section contained shall deprive the body having charge of the street or highway of the right to require the relocation of any pole or appliance which may affect the proper use of the street or highway for public travel, for drainage, or for the repair, construction, or reconstruction of the street or highway. The local cooperative corporation shall restore the street, highway, or lands to their former condition or state as near as may be and shall not use the same in a manner to impair unnecessarily their usefulness or to injure the property of others.
(8) To accept gifts or grants of property, real or personal, from any person, municipality, or federal agency and to accept voluntary and uncompensated services.
(9) If it is a local cooperative corporation, to connect and interconnect its telephone facilities or systems with other telephone facilities or systems. A connection or interconnection shall be in a manner and according to specifications as will avoid interference with or hazards to existing telephone facilities or systems.
(10) To issue membership certificates.
(11) To borrow money and otherwise contract indebtedness, and to issue or guarantee notes, bonds, and other evidences of indebtedness and to secure the payment thereof by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of its then owned or after-acquired real or personal property, assets, franchises, or revenues.

(12) To make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, without limiting the generality of the foregoing, contracts with any person, federal agency, municipality, or other corporation for the interconnection of telephone service; for the management and conduct of the business of the cooperative corporation; and for the fixing of the rates, fees, or charges for service rendered or to be rendered by the local cooperative corporation.
(13) To levy and collect reasonable fees, rents, tolls, and other charges for telephone service rendered.
(14) If it is a local cooperative corporation, to exercise the right of eminent domain in the manner provided by law for the exercise thereof by communications service providers (as defined in IC 8-1-2.6-13(b)).
(15) To adopt, amend, and repeal bylaws.
(16) If it is a local cooperative corporation, to become a member of a general cooperative corporation and if it is a general cooperative corporation, to have local cooperative corporations as its members.
(17) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and are the result of distributable savings of the corporation returned to the members on a pro rata basis pursuant to section 20 of this chapter.

(Formerly: Acts 1951, c.193, s.13.) As amended by Acts 1980, P.L.74, SEC.36; Acts 1981, P.L.106, SEC.2; P.L.18-1990, SEC.28; P.L.97-1993, SEC.7; P.L.27-2006, SEC.43.

IC 8-1-17-14
Sale, encumbrance, or other disposition of property

Sec. 14. A local cooperative corporation may not sell, lease, exchange, mortgage, pledge, or otherwise sell all, or substantially all, of its property unless the transaction is authorized by a resolution duly adopted at a meeting of the corporation's members duly called and held as provided in section 9 of this chapter. The resolution must receive the affirmative vote of at least three-fourths (3/4) of the corporation's members who are present at the meeting and the affirmative vote of at least three-fourths (3/4) of the corporation's directors who are present at a meeting of the board of directors duly called and held as provided in the corporation's bylaws.

(Formerly: Acts 1951, c.193, s.14.) As amended by P.L.59-1984, SEC.78; P.L.27-2006, SEC.44.

IC 8-1-17-15
Obligations; authority for issuance

Sec. 15. (a) A cooperative corporation shall have power and is

hereby authorized, from time to time, to issue its obligations for any corporate purpose. The obligations may be authorized by resolution or resolutions of the board, and may bear such date or dates, mature at such time or times, not exceeding forty (40) years from their respective dates, bear interest at any rate, payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, not exceeding the principal amount of the obligations plus accrued interest, as the board's resolution or resolutions may provide.

(b) The obligations may be sold in such manner and upon such terms as the board may determine at not less than the principal amount of the obligations plus accrued interest.

(c) Any provision of law to the contrary notwithstanding, any obligations and related interest coupons, if any, issued pursuant to this act shall possess all the qualities of negotiable instruments. The commission's approval shall not be required for the issuance by a cooperative corporation of its bonds, notes, or other evidences of indebtedness.

(Formerly: Acts 1951, c.193, s.15.) As amended by Acts 1981, P.L.11, SEC.46; P.L.27-2006, SEC.45.

IC 8-1-17-16

Obligations; covenants and agreements to secure

Sec. 16. In connection with the issuance of any obligations, a cooperative corporation may make such covenants or agreements and do any and all such acts and things as may be necessary, convenient or desirable in order to secure its obligations or which, in the absolute discretion of the board, tend to make the obligations more marketable, notwithstanding that such covenants, agreements, acts and things may constitute a limitation on the exercise of the powers herein granted.

(Formerly: Acts 1951, c.193, s.16.)

IC 8-1-17-17

Purchase of own obligations

Sec. 17. A cooperative corporation shall have power out of any funds available therefor to purchase any obligations issued by it at a price not exceeding the principal amount thereof and accrued interest thereon. All obligations so purchased shall be canceled.

(Formerly: Acts 1951, c.193, s.17.)

IC 8-1-17-18

Repealed

(Formerly: Acts 1951, c.193, s.18. As amended by P.L.59-1984, SEC.79; P.L.2-2006, SEC.46; P.L.1-2007, SEC.73. Repealed by P.L.3-2008, SEC.269.)

IC 8-1-17-18.1
Repealed

(As added by P.L.3-2008, SEC.71. Repealed by P.L.1-2010, SEC.156.)

IC 8-1-17-18.2
Consolidation of corporations

Sec. 18.2. (a) Any two (2) or more cooperative corporations created under this chapter and operating or authorized to operate in contiguous territory may enter into an agreement for the consolidation of the cooperative corporations, which agreement shall be submitted for the review of the commission in the manner provided for in section 5 of this chapter. The agreement must set forth the terms and conditions of the consolidation, the name of the proposed consolidated cooperative corporation, the number of its directors, not less than three (3), the time of the annual election, and the names of the persons, not less than three (3), to be directors until the first annual meeting. Each cooperative corporation participating in the consolidation shall call and hold a meeting of its members as provided in section 9 of this chapter, at which the proposal of the consolidation shall be presented. If at each meeting the consolidation agreement is approved by a resolution duly adopted and receiving the affirmative vote of at least three-fourths (3/4) of the members who attend each meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation. The new articles shall be entitled and endorsed "Articles of Consolidation of _____" (the blank space being filled in with the names of the cooperative corporations being consolidated) and must state:

(1) the names of the cooperative corporations being consolidated;

(2) the name of the consolidated cooperative corporation;

(3) a statement that each consolidating cooperative corporation agrees to the consolidation;

(4) the names and addresses of the directors of the new cooperative corporation; and

(5) the terms and conditions of the consolidation and the mode of carrying the consolidation into effect, including the manner in which members of the consolidating cooperative corporations may or shall become members of the new cooperative corporation.

The new articles of incorporation may contain any provisions not inconsistent with this chapter that are necessary or advisable for the conduct of the business of the new cooperative corporation.

(b) If the commission approves the articles of consolidation under section 5 of this chapter, the articles of consolidation or a certified copy or copies of the articles shall be filed, together with the attached

copy of the order of the commission under section 5(e)(2) of this chapter, in the same place as the original articles of incorporation. Upon the filings required under section 5(g) of this chapter, the proposed consolidated cooperative corporation, under its designated name, is a body corporate with all the powers of a cooperative corporation as originally formed under this chapter.
As added by P.L.3-2008, SEC.72.

IC 8-1-17-19
Consolidation of corporations; transfer of assets, franchises, and obligations

Sec. 19. (a) In case of a consolidation, the existence of the consolidating cooperative corporations shall cease and the articles of consolidation are considered the articles of incorporation of the new cooperative corporation.

(b) All rights, privileges, immunities, and franchises and all property, real and personal, including without limitation applications for membership, all debts due on whatever account and all other choses in action, of each of the consolidating cooperative corporations are transferred to and vested in the new cooperative corporation without further act or deed.

(c) The new cooperative corporation shall be responsible and liable for all the liabilities and obligations of each of the consolidating cooperative corporations. Any claim existing or action or proceeding pending by or against any of the consolidating cooperative corporations may be prosecuted as if the consolidation had not taken place but the new cooperative corporation may be instituted in its place.

(d) The new cooperative corporation may operate in all the areas in which the consolidating cooperative corporations were authorized to operate. Before the new corporation may operate in any other area, it shall submit to the commission:

(1) an application for a new certificate of territorial authority under IC 8-1-32.5; or

(2) a notice of change under IC 8-1-32.5-12(7), as allowed by the commission.

(e) The rights of creditors and any liens upon the property of any consolidating cooperative corporations shall not be impaired by the consolidation.
(Formerly: Acts 1951, c.193, s.19.) As amended by P.L.59-1984, SEC.80; P.L.97-1993, SEC.8; P.L.27-2006, SEC.47.

IC 8-1-17-20
Rates and charges; revenues and receipts not needed; REA borrowers; rates sufficient to repay financial assistance

Sec. 20. (a) A local cooperative corporation shall be required to furnish reasonably adequate telephone services and facilities. The charge made by any local cooperative corporation for any service

rendered or to be rendered, either directly or in connection with the service, shall be nondiscriminatory, reasonable, and just, and every discriminatory, unjust, or unreasonable charge for telephone service is prohibited and declared unlawful. Reasonable and just charges for telephone service within the meaning of this section are those charges that produce sufficient revenue to pay all legal and other necessary expense incident to the operation of the local cooperative corporation's system, including maintenance costs, operating charges, upkeep, repairs, interest charges on bonds or other obligations, to provide a sinking fund for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions and replacements, and also for the payment of any taxes that may be assessed against the cooperative corporation or its property. Charges described in this section must produce an income sufficient to maintain the local cooperative corporation's property in sound physical and financial condition to render adequate and efficient service. Any rate too low to meet the foregoing requirements is unlawful. Revenues and receipts not needed for the purposes described in this section, or not needed in reserves for those purposes, shall be returned to the patrons on a pro rata basis according to the amounts paid by them for telephone service. Amounts returned under this section shall be either in cash or in abatement of current charges for telephone service, as the board may decide.

(b) As used in subsection (d), "financial assistance" means:

(1) a loan or loan guarantee; or

(2) a lien accommodation provided to secure a loan made by another lender;

including loans made by the Rural Electrification Administration of the United States Department of Agriculture (REA) or by the Rural Telephone Bank.

(c) As used in subsections (d) and (e), "REA borrower" means a corporation created under this chapter that is the recipient of financial assistance.

(d) In determining rates under this section, an REA borrower must charge rates sufficient to enable the REA borrower to:

(1) satisfy its reasonable expenses and obligations; and

(2) repay the full amount of any financial assistance and the interest thereon.

(e) So long as there remains any unpaid portion of any financial assistance associated with the property of an REA borrower, the rates of the REA borrower shall be set at a level sufficient to repay the financial assistance, regardless of the full or partial retirement of the property or any other change in the status of the property.

(Formerly: Acts 1951, c.193, s.20.) As amended by P.L.74-1991, SEC.3; P.L.97-1993, SEC.9; P.L.27-2006, SEC.48.

IC 8-1-17-21

Repealed

(Formerly: Acts 1951, c.193, s.21; Acts 1955, c.89, s.1. As amended by P.L.59-1984, SEC.81; P.L.97-1993, SEC.10. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-17-22

Repealed

(Formerly: Acts 1951, c.193, s.22. As amended by P.L.59-1984, SEC.82; P.L.97-1993, SEC.11. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-17-22.5

Repealed

(As added by P.L.103-1983, SEC.4. Amended by P.L.122-1987, SEC.2; P.L.78-1997, SEC.3. Repealed by P.L.27-2006, SEC.62.)

IC 8-1-17-23

Articles of incorporation; amendment; change in territory served; commission review; notice to facilities based local exchange carriers; issuance of new or amended certificate of territorial authority; request for additional information; filing of amended articles

Sec. 23. (a) A cooperative corporation may amend its articles of incorporation to change its corporate name, to increase or reduce the number of its directors, or to change any other provisions set forth in the articles. However, any change of location of the principal office shall be effected in the manner set forth in section 24 of this chapter. An amendment under this section may be accomplished by filing articles of amendment, along with any notice of change required under IC 8-1-32.5-12, with the commission. The articles of amendment shall be entitled and endorsed "Articles of Amendment of _____" (the blank space being filled in with the name of the cooperative corporation) and must include the following:

(1) The name of the cooperative corporation, and if it has been changed, the name under which it was originally incorporated.

(2) The date of filing the articles of incorporation in each public office where filed.

(3) Whether the statement of counties within which the corporation's operations are to be conducted is to be changed, and if so a new statement of the counties in which the corporation will operate.

(4) An affidavit, signed by the officer executing the articles of amendment, stating that the provisions of this section were complied with.

(b) The amended articles shall be subscribed in the name of the cooperative corporation by the appropriate officers of the cooperative corporation, who shall make and annex an affidavit stating that they have been authorized to execute and file the amended articles by a resolution duly adopted at a meeting of the cooperative corporation

duly called and held as provided in section 9 of this chapter. If by any amendment to the articles of incorporation, the territory proposed to be served by the cooperative corporation is to be increased or decreased, the appropriate officers of the cooperative corporation shall submit to the commission:

(1) an application for a new certificate of territorial authority under IC 8-1-32.5-6; or

(2) a notice of change under IC 8-1-32.5-12(7), as allowed by the commission.

(c) Upon receipt of an application or a notice of change under subsection (b), the commission shall conduct the review required under IC 8-1-32.5-8. If the applicant is a local cooperative corporation, the commission shall give written notice of the proposed change in the corporation's territory to each facilities based local exchange carrier operating in contiguous territory in the manner provided in section 5 of this chapter. If the commission, after conducting the review required by IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines that the amended articles and the application or notice of change under IC 8-1-32.5 are accurate, complete, and properly verified, the commission shall:

(1) issue a new or amended certificate under IC 8-1-32.5 that reflects the increase or decrease in the territory served by the corporation; and

(2) enter an order approving the amended articles of the cooperative corporation.

(d) If the commission, after conducting the review required by IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines that the amended articles or an application or notice of change under IC 8-1-32.5 are inaccurate, incomplete, or not properly verified, the commission shall:

(1) request the corporation to provide additional information; or

(2) notify the corporation of the corporation's right to:

(A) appeal the commission's determination under IC 8-1-3; or

(B) file the amended articles or an application or notice of change under IC 8-1-32.5 at a later date, without prejudice; under IC 8-1-32.5-8.

(e) An amendment increasing or decreasing the territory to be served by a cooperative corporation shall not be filed in the office of the secretary of state or of any county recorder unless there is attached to the amendment a certified copy of an order of the commission under subsection (c)(2). The amended articles shall be filed in the same places as the original articles of incorporation and upon filing the amendment shall be considered to have been effected. *(Formerly: Acts 1951, c.193, s.24.) As amended by P.L.59-1984, SEC.83; P.L.145-1999, SEC.4 and P.L.198-1999, SEC.6; P.L.27-2006, SEC.49.*

IC 8-1-17-24
Principal office; change of location

Sec. 24. A cooperative corporation formed under this chapter may change the location of its principal office by filing in the office of the secretary of state a certificate reciting the change of principal office and setting forth the resolution by its board of directors authorizing the change and stating the time and place of its adoption. The certificate shall be executed and acknowledged by the appropriate officers of the cooperative corporation with the corporate seal attached and attested by the appropriate officer of the cooperative corporation. The cooperative corporation shall also notify the commission of the change as required under IC 8-1-32.5-12(3).
(Formerly: Acts 1951, c.193, s.25.) As amended by P.L.145-1999, SEC.5 and P.L.198-1999, SEC.7; P.L.27-2006, SEC.50.

IC 8-1-17-25
Dissolution of corporation; articles of dissolution; relinquishment of certificate of territorial authority; disposition of assets

Sec. 25. (a) Any cooperative corporation may dissolve by filing in the office of the secretary of state articles of dissolution entitled and endorsed "Articles of Dissolution of _____" (the blank space being filled in with the name of the cooperative corporation). The articles of dissolution shall state the following:

(1) The name of the cooperative corporation, and if the cooperative corporation is a corporation resulting from a consolidation as provided in this chapter, the names of the original cooperative corporations.

(2) The date of filing of the articles of incorporation in the office of secretary of state and, if the cooperative corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the original cooperative corporations were filed in the office of secretary of state.

(3) That the cooperative corporation elects to dissolve.

(4) The name and post office address of each of its directors, and the name, title, and post office address of each of its officers.

The articles shall be subscribed and acknowledged by the appropriate officers of the cooperative corporation who shall make and annex an affidavit stating that they have been authorized to execute and file the articles by a resolution duly adopted by the members of the cooperative corporation at a meeting duly called and held as provided in section 9 of this chapter. Articles of dissolution or a certified copy or copies of the articles shall be filed in the same places as original articles of incorporation. If the dissolving corporation is a local cooperative corporation, any certificate of territorial authority issued under IC 8-1-32.5 shall be relinquished, and the appropriate officers of the corporation shall notify the

commission of the relinquishment under IC 8-1-32.5-12(5).

(b) Upon the filings required by subsection (a), the cooperative corporation is dissolved. However, the cooperative corporation shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities and obligations of the cooperative corporation have been satisfied and discharged shall be refunded pro rata to the patrons, their assignees, personal representatives, heirs, or legatees, who have paid for telephone service rendered by the cooperative corporation within the five (5) year period immediately preceding the dissolution. Any assets not refunded within the two (2) year period after the dissolution is completed shall pass to and become the property of the state.

(Formerly: Acts 1951, c.193, s.26.) As amended by P.L.59-1984, SEC.84; P.L.145-1999, SEC.6 and P.L.198-1999, SEC.8; P.L.27-2006, SEC.51.

IC 8-1-17-26

Foreign nonprofit corporations; application for certificate of territorial authority; review by commission; admission to do business in Indiana

Sec. 26. (a) Any foreign corporation organized as a nonprofit corporation for the purpose of making telephone service available to the inhabitants of rural areas may be admitted to do business in Indiana and shall have the same powers, restrictions, and liabilities as a cooperative corporation organized under this chapter. Whenever a foreign corporation desires to be admitted to operate in Indiana, it shall file with the commission an application for a certificate of territorial authority under IC 8-1-32.5. The appropriate officers of the corporation shall attach to the application a copy of the articles of incorporation of the foreign corporation, and all amendments to the articles, duly authenticated by the proper officer of the state in which the corporation is incorporated. Upon receipt of the application and the articles of incorporation, the commission shall conduct the review required under IC 8-1-32.5-8. The commission shall give written notice of the filing of the application to each facilities based local exchange carrier operating in contiguous territory in the manner provided in section 5 of this chapter.

(b) If the commission, after conducting the review required by IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines that the foreign corporation meets the requirements for the issuance of a certificate of territorial authority under IC 8-1-32.5, the commission shall enter an order granting a certificate of territorial authority under IC 8-1-32.5 for the proposed operations of the foreign corporation in Indiana and shall attach a copy of the order, duly certified by the secretary of the commission, to each

original application filed with the commission and deliver the applications and orders to the petitioner.

(c) If the commission, after conducting the review required by IC 8-1-32.5-8 and any hearing allowed under IC 8-1-32.5-9, determines that the foreign corporation does not meet the requirements for the issuance of a certificate of territorial authority under IC 8-1-32.5, the commission shall:

(1) request the foreign corporation to provide additional information; or

(2) notify the foreign corporation of the foreign corporation's right to:

(A) appeal the commission's determination under IC 8-1-3; or

(B) file another application at a later date, without prejudice; under IC 8-1-32.5-8.

(d) If the commission issues a certificate of territorial authority under subsection (b), the foreign corporation shall present to the secretary of state all sets of authenticated copies of its articles of incorporation, the original applications under IC 8-1-32.5, and the order of the commission under subsection (b), together with any application for admission to do business in Indiana that the secretary of state may require, and shall tender to the secretary of state six dollars and fifty cents ($6.50) to cover the secretary of state's fees under this subsection. If the secretary of state approves the documents submitted, the secretary of state shall endorse the secretary of state's approval upon each of the documents, file one (1) copy in the secretary of state's office, return the remaining copies to the foreign corporation, and issue to the foreign corporation a certificate of admission to do business in Indiana. Before the foreign corporation may do any business in Indiana, it shall file in the office of the recorder of each county in Indiana in which it will make telephone service available one (1) set of the documents bearing the approval of the secretary of state under this subsection.

(Formerly: Acts 1951, c.193, s.27.) As amended by P.L.59-1984, SEC.85; P.L.27-2006, SEC.52.

IC 8-1-17-27

General nonprofit corporation act; application to chapter

Sec. 27. The provisions of IC 23-17 and all rights and powers under IC 23-17 shall apply to cooperative corporations organized under this chapter, except where such provisions are in conflict or inconsistent with the express provisions of this chapter.

(Formerly: Acts 1951, c.193, s.28.) As amended by P.L.59-1984, SEC.86; P.L.179-1991, SEC.14.

IC 8-1-17-28

Construction of chapter

Sec. 28. This chapter is to be liberally construed, and the

enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.
(Formerly: Acts 1951, c.193, s.29.) As amended by P.L.59-1984, SEC.87.

IC 8-1-17-29
Members not liable for corporate debts or liabilities

Sec. 29. No member of any cooperative corporation shall be liable or responsible for its debts or liabilities.
(Formerly: Acts 1951, c.193, s.31.)

IC 8-1-17.5

Chapter 17.5. Merger or Consolidation of Rural Electric Membership Corporations and Telephone Cooperative Corporations

IC 8-1-17.5-1

"Commission"

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-2

"Communications service"

Sec. 2. As used in this chapter, "communications service" has the meaning set forth in IC 8-1-32.5-3.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-3

"Patronage capital"

Sec. 3. As used in this chapter, "patronage capital" means revenues and receipts returned to members under section 24(d) of this chapter.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-4

"Retail electric service"

Sec. 4. As used in this chapter, "retail electric service" has the meaning set forth in IC 8-1-2.3-2(c).

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-5

"Successor corporation"

Sec. 5. As used in this chapter, "successor corporation" means a corporation that is formed from a consolidation of two (2) or more corporations under this chapter.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-6

"Surviving corporation"

Sec. 6. As used in this chapter, "surviving corporation" means the corporation that remains after a merger of two (2) or more corporations under this chapter.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-7

Authority to merge or consolidate; status of surviving or successor corporation

Sec. 7. (a) A corporation organized under IC 8-1-13 may merge or

consolidate with:

(1) one (1) or more cooperative corporations organized under IC 8-1-17; or

(2) one (1) or more corporations formed under this chapter;

if a plan of merger or consolidation that complies with section 8 of this chapter is approved under section 9 of this chapter.

(b) A cooperative corporation organized under IC 8-1-17 may merge or consolidate with:

(1) one (1) or more corporations organized under IC 8-1-13; or

(2) one (1) or more corporations formed under this chapter;

if a plan of merger or consolidation that complies with section 8 of this chapter is approved under section 9 of this chapter.

(c) A surviving corporation or successor corporation formed under this chapter:

(1) has all the rights, powers, privileges, immunities, and exemptions of:

(A) a local district corporation organized under IC 8-1-13; and

(B) a local cooperative corporation organized under IC 8-1-17; and

(2) is considered to be both:

(A) a local district corporation, within the meaning of that term as used in IC 8-1-13; and

(B) a local cooperative corporation, within the meaning of that term as used in IC 8-1-17.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-8

Plan of merger or consolidation; contents

Sec. 8. A plan of merger or consolidation must include the following:

(1) The name of each merging or consolidating corporation.

(2) The name of the surviving corporation or successor corporation.

(3) The terms and conditions of the merger or consolidation and the mode of carrying the merger or consolidation into effect, including the manner in which members of the merging or consolidating corporations may or shall become members of the surviving corporation or successor corporation.

(4) A plan for the retirement of patronage capital accrued by members of the merging or consolidating corporations.

(5) The proposed articles of merger or consolidation or a comprehensive summary of the proposed articles of merger or consolidation.

(6) The effective date of the merger or consolidation.

(7) The number of, and length of terms for, directors of the surviving corporation or successor corporation and, if there will be voting districts in the service areas of the surviving

corporation or successor corporation, a description of the districts and the number of directors to represent each district.

(8) The names and addresses of the directors of the surviving corporation or successor corporation.

(9) Any other provision concerning the planned merger or consolidation considered necessary or appropriate by the boards of directors of the merging or consolidating corporations.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-9

Approval of plan by members; notice of meeting

Sec. 9. The board of directors of each corporation that seeks to merge or consolidate with another corporation, as authorized by section 7 of this chapter, must obtain from the corporation's own membership approval of a plan of merger or consolidation that complies with section 8 of this chapter. A corporation that seeks approval from its membership under this section shall give notice to the corporation's members of the place, date, and time of a meeting at which the members may vote on the plan of merger or consolidation. The notice required by this section:

(1) must be given:

(A) not less than ten (10) days before the date of the meeting, if the notice is given by first class or registered mail; or

(B) not less than thirty (30) days or more than sixty (60) days before the date of the meeting, if the notice is given by a method other than that described in clause (A);

(2) must state that a purpose of the meeting is to consider a plan of merger or consolidation; and

(3) must include or be accompanied by a copy or summary of the plan of merger or consolidation prepared in compliance with section 8 of this chapter, including a copy or summary of the proposed articles of merger or consolidation, as required by section 8(5) of this chapter.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-10

Articles of merger or consolidation; contents; filing with secretary of state; articles of incorporation; abandonment of plan before filing

Sec. 10. (a) If at each meeting of members at which a vote is taken on a plan of merger or consolidation, as required by section 9 of this chapter, the plan of merger or consolidation is approved by a resolution adopted and receiving the affirmative vote of at least a majority of the members present and voting at the meeting, the directors of the surviving corporation or successor corporation, as identified in the plan of merger or consolidation, shall subscribe and acknowledge articles entitled and endorsed "Articles of merger

(consolidation) of _____" (the blank space being filled in with the names of the corporations being merged or consolidated, as appropriate).

(b) The articles of merger or consolidation required by subsection (a) must include the following:

(1) The names of the corporations being merged or consolidated.

(2) The name of the surviving corporation or successor corporation.

(3) A statement that each merging or consolidating corporation agrees to the merger or consolidation.

(4) The maximum number of directors for the surviving corporation or successor corporation, which number may not be less than three (3).

(5) The names and addresses of the directors of the surviving corporation or successor corporation.

(6) The terms and conditions of the merger or consolidation and the mode of carrying the merger or consolidation into effect, including the manner in which members of the merging or consolidating corporations may or shall become members of the surviving corporation or successor corporation.

(7) The location of the surviving corporation's or successor corporation's principal office, along with the mailing address for the surviving corporation or successor corporation.

(8) A specified period for the duration of the surviving corporation or successor corporation or a statement that the duration of the surviving corporation or successor corporation is to be perpetual.

(c) In addition to the items required by subsection (b), the articles of merger or consolidation required by subsection (a) may include:

(1) provisions creating, defining, limiting, or regulating the powers of the surviving corporation or successor corporation; and

(2) any other provision that:

(A) is not contrary to law;

(B) is contained in the plan of merger or consolidation approved by the respective memberships of the merging or consolidating corporations; and

(C) concerns the regulation of the business or conduct of the affairs of the surviving corporation or successor corporation.

(d) Subject to subsection (f), the articles of merger or consolidation, or one (1) or more certified copies of the articles of merger or consolidation, shall be filed in the office of the secretary of state. Upon filing with the secretary of state, the surviving corporation or successor corporation, under its designated name, constitutes a body corporate with all the powers of the merging or consolidating corporations as originally formed under:

(1) IC 8-1-13;

(2) IC 8-1-17; or
(3) this chapter;
as applicable.

(e) Upon being filed with the secretary of state under subsection (d), the articles of merger or consolidation are considered the articles of incorporation of the surviving corporation or successor corporation, and the surviving corporation or successor corporation may subsequently amend the articles of incorporation in accordance with IC 23-17-17.

(f) At any time after a plan of merger or consolidation is approved by the respective memberships of the corporations that seek to merge or consolidate, as described in subsection (a), and before articles of merger or consolidation are filed with the secretary of state under subsection (d), the plan of merger or consolidation may be abandoned without further action by the respective memberships, boards of directors, or other persons who proposed or approved the plan of merger or consolidation for the corporations that sought to merge or consolidate. A plan of merger or consolidation that is abandoned under this subsection must be abandoned:

(1) in accordance with any procedure set forth for that purpose in the plan of merger or consolidation; or
(2) in the manner determined by the boards of directors of the corporations that sought to merge or consolidate, if a procedure described in subdivision (1) is not set forth in the plan of merger or consolidation.

As added by P.L.18-2010, SEC.1. Amended by P.L.42-2011, SEC.18.

IC 8-1-17.5-11

Legal status of merging or consolidating corporations; property; liabilities and obligations; pending proceedings; terms not included in articles

Sec. 11. After a merger or consolidation takes effect under section 10(d) of this chapter, the following apply:

(1) If two (2) or more corporations merge into a surviving corporation, the separate existence of each merging corporation ceases upon the effective date of the merger and only the surviving corporation exists.
(2) If a consolidation of two (2) or more corporations occurs, the separate existence of each consolidating corporation ceases upon the effective date of the consolidation and only the successor corporation exists.
(3) The title to real property and other property owned by each merging or consolidating corporation is vested in the surviving corporation or successor corporation without reversion or impairment, subject to any conditions or liens to which the property was subject before the merger or consolidation.
(4) The surviving corporation or successor corporation assumes all liabilities and obligations of each merging or consolidating

corporation.

(5) A proceeding that:

(A) is initiated against a merging or consolidating corporation before the merger or consolidation becomes effective under section 10(d) of this chapter; and

(B) has not been resolved at the time the merger or consolidation becomes effective under section 10(d) of this chapter;

may be continued as if the merger or consolidation did not occur, or the surviving corporation or successor corporation may be substituted in the proceeding for the corporation whose existence ceases under subdivision (1) or (2) at the time the merger becomes effective under section 10(d) of this chapter.

(6) Any terms of the plan of merger or consolidation that are not included in the articles of merger or consolidation filed with the secretary of state under section 10 of this chapter are considered contract rights only and are not considered part of the governing document of the surviving corporation or successor corporation.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-12

Board of directors; election of directors; terms; districts; remuneration for services; reimbursement; officers

Sec. 12. (a) Each surviving corporation or successor corporation formed under this chapter must have a board of directors that constitutes the governing body of the surviving corporation or successor corporation. Unless otherwise provided in the surviving corporation's or successor corporation's bylaws, or in the surviving corporation's or successor corporation's articles of incorporation, a director of the surviving corporation or successor corporation must be:

(1) a member of the surviving corporation or successor corporation;

(2) an officer, a director, or a partner of a member of the surviving corporation or successor corporation; or

(3) an owner of a member of the surviving corporation or successor corporation, if the member is a sole proprietorship.

(b) Directors, other than those named in the surviving corporation's or successor corporation's bylaws or articles of incorporation, shall be elected by those members entitled to vote for the surviving corporation's or successor corporation's directors. Unless the surviving corporation's or successor corporation's bylaws or articles of incorporation provide otherwise, the directors shall be elected annually.

(c) The surviving corporation's or successor corporation's bylaws or articles of incorporation may provide the following:

(1) That the directors may hold office for any stated period not exceeding three (3) years.

(2) That the directors shall be elected so that the terms of one (1) or more directors expire at any specified time.

(3) That only the number of directors needed to succeed those whose terms are about to expire or to fill vacancies shall be elected in any given year.

(4) That the areas in which the members of the surviving corporation or successor corporation reside shall be apportioned into districts. If the bylaws or articles of incorporation provide for the creation of districts under this subdivision:

(A) the bylaws or articles of incorporation must prescribe the procedure by which the members residing in any one (1) district may nominate a director; and

(B) the bylaws or articles of incorporation may provide that the person receiving the most votes in an election for a director representing a district is the winner of the election, regardless of whether the person receives a majority of the total votes cast by members eligible to vote and voting in the election.

(5) That a fair remuneration may or shall be paid for the time actually spent by the:

(A) officers;

(B) directors; or

(C) members of the executive committee;

of the surviving corporation or successor corporation in the performance of their duties.

(d) The:

(1) officers;

(2) directors; or

(3) members of the executive committee;

of the surviving corporation or successor corporation are entitled to reimbursement for expenses actually incurred in the performance of their duties, regardless of whether the surviving corporation's or successor corporation's bylaws or articles of incorporation provide for remuneration for the performance of those duties under subsection (c)(5).

(e) The board of directors of the surviving corporation or successor corporation shall annually designate and elect those officers the board considers necessary.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-13

Powers of board

Sec. 13. The board of directors of the surviving corporation or successor corporation has the power to do all things necessary or convenient to conduct the business of the surviving corporation or successor corporation, including the following:

(1) The power to make, alter, amend, or repeal bylaws that:

(A) concern the regulation and management of the affairs of

the surviving corporation or successor corporation; and

(B) are not inconsistent with any applicable law or with the articles of incorporation.

(2) The power to appoint agents and employees and to fix their compensation and the compensation of the officers of the surviving corporation or successor corporation.

(3) The power to execute instruments.

(4) The power to delegate to one (1) or more:

(A) directors;

(B) agents; or

(C) employees;

of the surviving corporation or successor corporation the powers and duties the board considers appropriate.

(5) The power to make the board's own rules and regulations concerning the board's procedures.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-14

Certificates of membership; meetings of members; notice; quorum; election of directors from districts

Sec. 14. (a) A surviving corporation or successor corporation may issue to its members certificates of membership and each member is entitled to only one (1) vote on each question or election at any regular or special meeting of the surviving corporation or successor corporation.

(b) Meetings of members may be held at any place provided for in the bylaws. An annual meeting of the members shall be held at the time provided for in the bylaws.

(c) Unless otherwise provided in the bylaws or articles of incorporation of the surviving corporation or successor corporation, the following apply:

(1) Special meetings may be called:

(A) by the board of directors;

(B) upon a petition signed by at least five percent (5%) of all the members; or

(C) by any other officers or persons as may be provided in the articles of incorporation or the bylaws.

(2) Written or printed notice stating the place, date, and time of a meeting of members and, in the case of a special meeting, each purpose for which the meeting is called, shall be delivered not less than ten (10) days or more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the officers or persons calling the meeting, to each member of record entitled to vote at the meeting. If mailed, the notice is considered delivered when deposited in the United States mail in a sealed envelope addressed to the member at the member's address as it appears on the records of the surviving corporation or successor corporation, with postage prepaid.

Notice of meetings of members may be waived in writing.

(3) Two percent (2%) of all members present in person at any meeting for which notice has been given as provided in subdivision (2) constitutes a quorum for the transaction of business at the meeting.

(4) A majority vote of those members who are present in person and voting at any regular meeting, or at any special meeting called at least in part for the purpose of the vote, is necessary for the taking of any action, the adoption of any resolution, or the election of any directors or officers, as applicable.

(d) As provided in section 12(c)(4) of this chapter, the bylaws or articles of incorporation of the surviving corporation or successor corporation may provide that if more than two (2) persons run for election as a director from the same district, the person receiving the most votes is elected, regardless of whether that person receives a majority of the total votes cast by those members present in person and voting at the meeting at which the election occurs.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-15

Requirements for membership

Sec. 15. A person may not become or remain a member of a surviving corporation or successor corporation formed under this chapter unless the person:

(1) uses retail electric service or communications service supplied by the surviving corporation or successor corporation; and

(2) complies with the terms and conditions:

(A) concerning membership; and

(B) set forth in the bylaws or articles of incorporation of the surviving corporation or successor corporation.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-16

Members not liable for debts or liabilities of corporation; director acting in good faith not personally liable

Sec. 16. (a) A member of a surviving corporation or successor corporation formed under this chapter is not liable or responsible for the debts or liabilities of the surviving corporation or successor corporation.

(b) A director of a surviving corporation or successor corporation formed under this chapter is not personally liable for the acts or omissions of the surviving corporation or successor corporation if the director acts in good faith in performing the director's duties under this chapter or under the bylaws or articles of incorporation of the surviving corporation or successor corporation.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-17

Powers of surviving or successor corporation; authorized services

Sec. 17. (a) A surviving corporation or successor corporation formed under this chapter has all the powers and may provide any of the services that any party to the merger or consolidation had or could provide under:

(1) IC 8-1-13;

(2) IC 8-1-17; or

(3) this chapter;

on the effective date of the merger or consolidation.

(b) A surviving corporation or successor corporation formed under this chapter is vested with all powers necessary for the accomplishment of the surviving corporation's or successor corporation's corporate purpose. An enumeration of particular powers granted by this chapter does not:

(1) impair any grant of general power by this chapter; or

(2) limit any grant of a particular power to the same class of powers as the power so enumerated.

(c) As used in this section, "services" shall be interpreted in its broadest sense and includes any services authorized by:

(1) IC 8-1-13;

(2) IC 8-1-17; or

(3) this chapter.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-18

Enumerated powers of surviving or successor corporation

Sec. 18. A surviving corporation or successor corporation formed under this chapter may perform any acts necessary or convenient for carrying out the purpose for which the surviving corporation or successor corporation was formed, including the following:

(1) To sue and be sued.

(2) To have a seal and alter the seal as the board considers appropriate.

(3) To acquire, hold, and dispose of property, real and personal, tangible and intangible, or any interest in property, and to pay for the property or interest in property in cash or on credit, and to secure and procure payment of all or any part of the purchase price on the terms and conditions that the board determines appropriate.

(4) To acquire, own, exchange, operate, maintain, and improve a system or systems for the delivery of retail electric service or communications service.

(5) To borrow money and otherwise contract indebtedness, and to issue or guarantee notes, bonds, and other evidences of indebtedness and to secure the payment of the notes, bonds, and other evidences of indebtedness by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of the

surviving corporation's or successor corporation's then owned or later acquired real or personal property, assets, franchises, or revenues.

(6) To construct, purchase, lease as lessee, or otherwise acquire, and to improve, expand, install, equip, maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber electric or communications facilities or systems, lands, buildings, structures, plants and equipment, exchanges, and any other real or personal property, tangible or intangible that is necessary or appropriate to accomplish the purpose for which the surviving corporation or successor corporation was formed.

(7) To construct, operate, and maintain electric or communications facilities across or along any street or public highway, or over any lands which are now or may be the property of this state or any political subdivision of the state, after obtaining any necessary franchise or permit. Before any electric or communications facilities are constructed across or along a highway in the state highway system, the surviving corporation or successor corporation shall obtain a permit to do so from the Indiana department of transportation, and the permit from the Indiana department of transportation shall not be unreasonably withheld, delayed, or denied. The location and setting of the facilities shall be approved by the Indiana department of transportation and, upon that approval, shall be subject to the supervision of the Indiana department of transportation. Before any electric or communications facilities are constructed on or across lands belonging to the state, the surviving corporation or successor corporation shall first obtain a permit to do so from the department having charge of the lands, and the permit from that department shall not be unreasonably withheld, delayed, or denied. The location and setting of the facilities shall be approved by the department having jurisdiction and, upon that approval, shall be subject to the supervision of that department. The electric or communications facilities shall be erected and maintained so as not to interfere with the use and maintenance of the streets, highways, and lands, and the facilities or any part of the facilities may not be located so as to interfere with the ingress or egress from any premises on a street or highway. This section does not prohibit the body having charge of the street or highway from requiring the relocation of any facility or part of a facility which may affect the proper use of the street or highway for public travel, for drainage, or for the repair, construction, or reconstruction of the street or highway. The surviving corporation or successor corporation shall restore the street, highway, or lands to their former condition or state to the extent possible and shall not use the street, highway, or lands in

a manner that impairs unnecessarily their usefulness or injures the property of others.

(8) To connect and interconnect the surviving corporation's or successor corporation's communications facilities or systems with other communications facilities or systems.

(9) To accept gifts or grants of property, real or personal, from any person, municipality, or federal agency and to accept voluntary and uncompensated services.

(10) To make any contracts necessary or convenient for the full exercise of the powers granted by this chapter, including contracts with any person, federal agency, or municipality for the purchase of energy needed by the surviving corporation or successor corporation to supply its members; for the management and conduct of the business of the surviving corporation or successor corporation; and for the fixing of the rates, fees, or charges for service rendered or to be rendered by the surviving corporation or successor corporation.

(11) To sell, lease, mortgage, or otherwise encumber or dispose of all or any part of the surviving corporation's or successor corporation's property as provided in this chapter.

(12) To levy and collect reasonable fees, rents, tolls, and other charges for services rendered.

(13) To exercise the right of eminent domain in the manner provided by law.

(14) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage capital, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and that are the result of distributable savings of the surviving corporation or successor corporation being returned to the members on a pro rata basis under section 24(d) of this chapter.

(15) To cease doing business and to dissolve and surrender the surviving corporation's or successor corporation's corporate franchise.

(16) To issue membership certificates.

(17) To adopt, amend, and repeal bylaws.

(18) To perform any of the acts set forth in this section under, through, or by means of the surviving corporation's or successor corporation's own officers, agents, or employees, or by contracts with any person, federal agency, or municipality.

As added by P.L.18-2010, SEC.1. Amended by P.L.42-2011, SEC.19.

IC 8-1-17.5-19

Disposal of all of the corporation's property; authorization of members and directors required

Sec. 19. A surviving corporation or successor corporation formed under this chapter may not sell, lease, exchange, mortgage, pledge, or otherwise sell all, or substantially all, of the surviving

corporation's or successor corporation's property unless the transaction is authorized by a resolution adopted at a meeting of the surviving corporation's or successor corporation's members duly called and held as provided in section 14 of this chapter. Unless otherwise provided in the surviving corporation's or successor corporation's bylaws or articles of incorporation, the resolution must receive the affirmative vote of:

(1) at least a majority of the surviving corporation's or successor corporation's members who are present at the meeting held under this section; and

(2) at least a majority of the corporation's directors who are present at a meeting of the board of directors called and held as provided in the surviving corporation's or successor corporation's bylaws or articles of incorporation.

As added by P.L.18-2010, SEC.1. Amended by P.L.42-2011, SEC.20.

IC 8-1-17.5-20

Authority to issue obligations; sale of obligations

Sec. 20. (a) A surviving corporation or successor corporation formed under this chapter has the power and is authorized, from time to time, to issue the surviving corporation's or successor corporation's obligations for any corporate purpose. The obligations may be authorized by one (1) or more resolutions of the board and may bear the date or dates, mature at the time or times, not exceeding forty (40) years from their respective dates, bear interest at any rate, payable semiannually, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption, not exceeding the principal amount of the obligations plus accrued interest, as the board's resolution or resolutions may provide.

(b) The obligations may be sold in the manner and upon the terms as the board may determine at not less than the principal amount of the obligations plus accrued interest.

(c) Notwithstanding any provision of law to the contrary, any obligations and related interest coupons, if any, issued under this chapter must possess all the qualities of negotiable instruments.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-21

Issuing of obligations; right to make covenants and agreements

Sec. 21. In connection with the issuance of any obligations, a surviving corporation or successor corporation formed under this chapter may make any covenants or agreements and do any acts and things that may be necessary, convenient, or desirable in order to secure the surviving corporation's or successor corporation's obligations or which, in the absolute discretion of the board, tend to make the obligations more marketable, notwithstanding that the

covenants, agreements, acts, or things may constitute a limitation on the exercise of the powers granted by this chapter.
As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-22
Right of corporation to purchase its own obligations; cancellation upon purchase

Sec. 22. A surviving corporation or successor corporation formed under this chapter may, out of any funds available for that purpose, purchase:

(1) any obligations issued by the surviving corporation or successor corporation; and

(2) any accrued interest on the obligations;

at a price determined by resolution of the board. Any obligation described in this section shall be cancelled upon its purchase by the surviving corporation or successor corporation.
As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-23
Articles of dissolution; filing with secretary of state; contents; winding up of business; remaining assets

Sec. 23. (a) A surviving corporation or successor corporation formed under this chapter may be dissolved by filing in the office of the secretary of state articles of dissolution that must be entitled and endorsed "Articles of dissolution of _____" (the blank space being filled in with the name of the surviving corporation or successor corporation) and must include the following:

(1) The name of the surviving corporation or successor corporation and the names of the original corporations that were merged or consolidated to form the surviving corporation or successor corporation.

(2) The date of filing the following in the office of the secretary of state:

(A) the surviving corporation's or successor corporation's articles of incorporation, as most recently amended; and

(B) the articles of incorporation of the original corporations that were merged or consolidated to form the surviving corporation or successor corporation.

(3) A statement that the corporation elects to dissolve.

(4) The name and post office address of each of the directors of the surviving corporation or successor corporation, and the name, title, and post office address of each of the officers of the surviving corporation or successor corporation.

(b) The articles of dissolution shall be subscribed and acknowledged by the surviving corporation's or successor corporation's president or a vice president, and by the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file the articles by a

resolution adopted by the members of the surviving corporation or successor corporation at a meeting called and held as provided in section 14 of this chapter.

(c) The articles of dissolution, or one (1) or more certified copies of the articles, shall be filed in the office of the secretary of state and upon that filing, the corporation shall be considered dissolved.

(d) A surviving corporation or successor corporation dissolved under subsection (c) shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name.

(e) Any assets remaining after all liabilities or obligations of the surviving corporation or successor corporation have been satisfied or discharged pass to and become the property of the state.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-24

Corporation to provide reasonably adequate service; reasonable and just charges; return of excess revenues to members; Rural Utility Service borrowers

Sec. 24. (a) A surviving corporation or successor corporation formed under this chapter shall be required to furnish reasonably adequate:

(1) retail electric service or communications service, or both; and

(2) facilities for furnishing any service described in subdivision (1) that is provided by the surviving corporation or successor corporation.

The charge made by a surviving corporation or successor corporation for any service rendered or to be rendered, either directly or in connection with the service, must be nondiscriminatory, reasonable, and just, and every discriminatory, unjust, or unreasonable charge for a service provided under this section is prohibited and declared unlawful.

(b) Reasonable and just charges for service within the meaning of this section are charges that produce sufficient revenue:

(1) to pay all legal and other necessary expense incident to the operation of the surviving corporation's or successor corporation's systems, including maintenance costs, operating charges, upkeep, repairs, depreciation and amortization, and interest charges on bonds or other obligations;

(2) to provide a sinking fund for the liquidation of bonds or other evidences of indebtedness;

(3) to provide adequate funds to be used as working capital, as well as funds for making extensions and replacements; and

(4) for the payment of any taxes that may be assessed against the corporation or its property.

(c) Charges made under this section must produce an income sufficient to maintain the surviving corporation's or successor corporation's property in a sound physical and financial condition to render adequate and efficient service. Any rate too low to meet the requirements of this section is unlawful.

(d) Revenues and receipts not needed for the purposes described in this section, or not needed as reserves for those purposes, shall be returned to the members on a pro rata basis according to the amounts paid by members for:

(1) retail electric service; or

(2) communications service;

as appropriate. Amounts returned under this subsection may be either in cash or in abatement of current charges for the services described in this subsection, as the board may decide.

(e) As used in subsection (f), "financial assistance" means:

(1) a loan or loan guarantee; or

(2) a lien accommodation provided to secure a loan made by another lender;

that is made by the Rural Utility Service of the United States Department of Agriculture (RUS) or by the Rural Telephone Bank.

(f) As used in subsections (g) and (h), "RUS borrower" means a surviving corporation or successor corporation formed under this chapter that is the recipient of financial assistance from the Rural Utility Service of the United States Department of Agriculture (RUS).

(g) In determining rates under this section, an RUS borrower must charge rates sufficient to enable the RUS borrower to:

(1) satisfy the RUS borrower's reasonable expenses and obligations; and

(2) repay the full amount of any financial assistance and the interest on the financial assistance.

(h) As long as there remains any unpaid part of any financial assistance associated with the property of an RUS borrower, the rates of the RUS borrower must be set at a level sufficient to repay the financial assistance, regardless of the full or partial retirement of the property or any other change in the status of the property.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-25

Jurisdiction of commission

Sec. 25. Notwithstanding any other law, the commission may exercise jurisdiction over a surviving corporation or successor corporation formed under this chapter only to do the following:

(1) Ensure compliance with IC 8-1-2.8 concerning the provision of dual party relay services to deaf, hard of hearing, and speech impaired persons in Indiana.

(2) Perform the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for

communications service used to provide access to human services information and referrals.

(3) Enforce rules adopted under IC 8-1-29 to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(4) Conduct proceedings under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(5) Perform the commission's duties under IC 8-1-2.6-1.5 or IC 8-1-2-5.

(6) Issue or maintain certificates of territorial authority for communications service providers under IC 8-1-32.5.

(7) Perform the commission's duties under IC 8-1-34 to issue and maintain certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(8) Perform the commission's duties under IC 8-1-2.6-13(c)(9) concerning the reporting of information by communications service providers.

(9) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(10) Perform the commission's duties under IC 8-1-2.3 with respect to assigned service areas for electricity suppliers.

(11) Issue:

(A) certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2;

(B) certificates of public convenience and necessity under IC 8-1-8.5; or

(C) certificates of public convenience and necessity under IC 8-1-8.7.

(12) Determine territorial disputes between water utilities under IC 8-1.5-6.

As added by P.L.18-2010, SEC.1. Amended by P.L.219-2011, SEC.2; P.L.109-2012, SEC.11; P.L.256-2013, SEC.13; P.L.213-2014, SEC.5.

IC 8-1-17.5-26
Right to appeal

Sec. 26. Any person adversely affected by any final decision, ruling, or order of:

(1) the commission; or

(2) a court with jurisdiction;

under this chapter may appeal the decision, ruling, or order under the same appeal procedures set forth in IC 8-1-3.

As added by P.L.18-2010, SEC.1.

IC 8-1-17.5-27

Applicability of nonprofit corporation law

Sec. 27. IC 23-17 and all rights and powers under IC 23-17 apply to a surviving corporation or successor corporation formed under this chapter, unless the provisions of IC 23-17 are in conflict or inconsistent with the express provisions of this chapter.

As added by P.L.18-2010, SEC.1.

IC 8-1-18
Chapter 18. Small Telephone Companies–Mortgages

IC 8-1-18-1
Authority to encumber

Sec. 1. Any telephone company that does not have more than five thousand (5,000) subscribers and operating within the state of Indiana, may, upon the authorization of its board of directors and without the approval of its shareholders, execute and deliver a mortgage or mortgages, a deed or deeds of trust, pledge or encumber any or all of the property, assets, rights, privileges, licenses, franchises and permits of such telephone company, whether acquired or to be acquired and wherever situated, as well as the revenues therefrom, all upon such terms and conditions as the board of directors shall determine, to secure an indebtedness of such telephone company to the United States of America or any agency or instrumentality thereof: Provided, however, That a notice of the intention to execute such mortgage shall be given by the telephone company in two (2) newspapers of general circulation in the county in which the principal office of such company is located, and if there be only one (1) newspaper published in such county, publication in one (1) newspaper will be sufficient.

(Formerly: Acts 1955, c.193, s.1.)

IC 8-1-19
Chapter 19. Telephone Companies–Receivership

IC 8-1-19-1
Public policy

Sec. 1. Whereas the telephone system of this country is a nationwide interconnected and interrelated system, no part of which may be suspended without seriously and adversely affecting the whole, and whereas the continuous operation of such communications system is essential to the operation of the economic life of the country and is necessary to prevent extreme hardship, now, therefore, it is legislatively determined that the remedy of suspension or revocation of the permit of a telephone company for violation of law or the rules or orders of lawful authority is wholly inadequate and that additional remedy therefor is necessary and proper and that the intrinsic nature of the telephone business justifies such additional remedy for such industry.

(Formerly: Acts 1947, c.270, s.1.)

IC 8-1-19-2
Verified showing; hearing; order for receivership

Sec. 2. If any telephone company shall violate any provision of law, or any rule or order of the commission or of any other lawful authority or shall fail to perform any duty imposed upon it by law or by any such rule or order, then, and in that event, in addition to all other remedies provided by law, the commission may, in a proper case, file a verified showing in any circuit court, superior court, or probate court in this state wherein is located the main or principal office or place of business of any telephone company, that such telephone company has failed, neglected, or refused to comply with such provision of law or with an order or requirement of said commission or other lawful authority and that the users of the telephone service furnished by such telephone company, or the public, will be damaged or injured by the continued noncompliance with such law, order or requirement, and that it would be to the interest of the public, that on ten (10) days notice to such telephone company the court should appoint a receiver to operate said telephone company and to render such service or to comply with such law, order, or requirement of the said commission or other lawful authority. Such court may, upon such showing, appoint a receiver for such purpose who shall thereupon qualify as other receivers are qualified and shall thereupon have and exercise the same rights and be subject to the same duties and obligations as now provided by law for public utilities. Such receivership shall be continued, until it is found by the court that said telephone company will, in all reasonable probability, comply in the future with all rules and orders applicable thereto. Such finding shall be entered only after hearing upon notice to the commission. In construing and

enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any public utility acting within the scope of the officer's, agent's, or person's employment shall in every case be deemed to be the act, omission, or failure of such public utility.

(Formerly: Acts 1947, c.270, s.2.) As amended by P.L.23-1988, SEC.57; P.L.84-2016, SEC.34.

IC 8-1-19.5

Chapter 19.5. Telephone 211 Dialing Code Services for Accessing Human Services Information

IC 8-1-19.5-1
"211"

Sec. 1. As used in this chapter, "211" means the abbreviated dialing code designated by the Federal Communications Commission for telephone service providing access to human services information and referrals.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-2
"211 service area"

Sec. 2. As used in this chapter, "211 service area" means a geographic area in Indiana that is designated by the commission as an area within which a recognized 211 service provider is authorized to provide 211 services.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-3
"211 services"

Sec. 3. As used in this chapter, "211 services" means information and referral services provided through the use of 211 and intended to promote and provide access to human services.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-4
"Account"

Sec. 4. As used in this chapter, "account" refers to the 211 services account established by section 11 of this chapter.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-5
"Commission"

Sec. 5. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-6
"Human services"

Sec. 6. As used in this chapter, "human services" means services provided by government or nonprofit organizations to ensure the health and well-being of Indiana citizens. The term includes services designed to do any of the following:

(1) Provide relief or assistance after a natural or nonnatural disaster.

(2) Assist parents with stress issues.

(3) Assist persons in efforts to reduce instances of domestic violence.

(4) Assist persons in efforts to reduce the rate of infant mortality.

(5) Direct persons to services providing assistance to veterans, senior citizens, and vulnerable children.

(6) Assist persons with respect to public health issues.

As added by P.L.60-2004, SEC.1. Amended by P.L.94-2010, SEC.2; P.L.213-2015, SEC.97.

IC 8-1-19.5-7
"Person"

Sec. 7. As used in this chapter, "person" means an individual, a firm, a partnership, a corporation, or a limited liability company.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-8
"Recognized 211 service provider"

Sec. 8. As used in this chapter, "recognized 211 service provider" means an organization recognized by the commission as an appropriate administrator and authorized user of the 211 dialing code in a 211 service area.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-9
State policy encouraging use of 211; human services agencies to consult 211 service provider before establishing hotline; disseminating 211 information

Sec. 9. (a) It is the policy of the state to encourage the orderly and efficient use of 211 to:

(1) provide access to human services; and

(2) collect needed information about human services and the delivery of human services in Indiana.

(b) A state agency or department that provides human services may not establish a public telephone line or hotline to provide information or referrals unless the agency or department first:

(1) consults with the recognized 211 service provider in the area to be served by the telephone line or hotline about using 211 to provide access to the information or referrals; and

(2) notifies the commission of the consultation described in subdivision (1).

(c) A person may not disseminate information to the public about the availability of 211 or 211 services in an area of Indiana except in accordance with:

(1) a rule adopted by the commission under IC 4-22-2; or

(2) an order issued by the commission in a specific proceeding.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-9.5
Duties of recognized 211 service providers

Sec. 9.5. A recognized 211 service provider shall provide:

(1) assistance with parental stress issues;

(2) information concerning assistance related to domestic violence;

(3) information concerning assistance for veterans, senior citizens, and vulnerable children; and

(4) information concerning infant mortality and other public health issues;

if requested by a person calling 211.

As added by P.L.94-2010, SEC.3. Amended by P.L.213-2015, SEC.98.

IC 8-1-19.5-10
211 service provider's immunity from civil liability; exception for willful or wanton misconduct

Sec. 10. A recognized 211 service provider and its employees, directors, officers, and agents are not liable to any person in a civil action for injuries or loss to persons or property as a result of an act or omission of the recognized 211 service provider, or its employees, directors, officers, or agents, in connection with:

(1) developing, adopting, implementing, maintaining, or operating a 211 system;

(2) making 211 available for use by the public; or

(3) providing 211 services;

except for injuries or loss resulting from the willful or wanton misconduct of the 211 service provider or its employees, directors, officers, or agents.

As added by P.L.60-2004, SEC.1.

IC 8-1-19.5-11
211 services account; establishment; administration by commission; annual plan for expenditures; permissible expenditures

Sec. 11. (a) The 211 services account is established in the state general fund to make 211 services available throughout Indiana. The account shall be administered by the commission.

(b) The account consists of the following:

(1) All money appropriated to the account by the general assembly.

(2) Funds received from the federal government for the support of 211 services in Indiana.

(3) Investment earnings, including interest, on money in the account.

(4) Money from any other source, including gifts and grants.

(c) Money in the account is continuously appropriated for the purposes of this section.

(d) The commission, after consulting with the board of directors of Indiana 211 Partnership, Inc., or any successor organization, shall annually prepare a plan for the expenditure of the money in the account. The plan must:

(1) include a strategy or plan to address:

(A) assistance for parental stress issues;

(B) domestic violence;

(C) infant mortality;

(D) assistance for veterans;

(E) services for senior citizens;

(F) services for vulnerable children; and

(G) public health issues; and

(2) be reviewed by the state budget committee before the commission may make expenditures from the fund.

(e) Money in the account may be spent for the following purposes:

(1) The creation of a structure for a statewide 211 resources data base that:

(A) meets the Alliance for Information Referral Systems standards for information and referral systems data bases; and

(B) is integrated with a local resources data base maintained by a recognized 211 service provider.

Permissible expenditures under this subdivision include expenditures for planning, training, accreditation, and system evaluation.

(2) The development and implementation of a statewide 211 resources data base described in subdivision (1). Permissible expenditures under this subdivision include expenditures for planning, training, accreditation, and system evaluation.

(3) Collecting, organizing, and maintaining information from state agencies, departments, and programs that provide human services, for access by a recognized 211 service provider.

(4) Providing grants to a recognized 211 service provider for any of the following purposes:

(A) The design, development, and implementation of 211 services in a recognized 211 service provider's 211 service area. Funds provided under this subdivision may be used for planning, public awareness, training, accreditation, and evaluation.

(B) The provision of 211 services on an ongoing basis after the design, development, and implementation of 211 services in a recognized 211 service provider's 211 service area.

(C) The provision of 211 services on a twenty-four (24) hour per day, seven (7) day per week basis.

(f) The expenses of administering the account shall be paid from money in the account.

(g) The treasurer of state shall invest the money in the account not

currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(h) Money that is in the account under subsection (b)(2) through (b)(4) at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.60-2004, SEC.1. Amended by P.L.2-2005, SEC.24; P.L.213-2015, SEC.99.

IC 8-1-19.5-12

Annual report; 2015 feasibility study

Sec. 12. (a) The commission shall, after June 30 and before November 1 of each year, report to the general assembly on the following:

(1) The total amount of money deposited in the account during the most recent state fiscal year.

(2) The amount of funds, if any, received from the federal government during the most recent state fiscal year for the support of 211 services in Indiana. The information provided under this subdivision must include the amount of any matching funds, broken down by source, contributed by any source to secure the federal funds.

(3) The amount of money, if any, disbursed from the account for the following:

(A) The creation of a structure for a statewide 211 resources data base described in section 11(e)(1) of this chapter.

(B) The development and implementation of a statewide 211 resources data base described in section 11(e)(2) of this chapter.

(C) Collecting, organizing, and maintaining information from state agencies, departments, and programs that provide human services, for access by a recognized 211 service provider.

The information provided under this subdivision must identify any recognized 211 service provider or other organization that received funds for the purposes set forth in this subdivision.

(4) The amount of money, if any, disbursed from the account as grants to a recognized 211 service provider for any of the purposes described in section 11(e)(4) of this chapter. The information provided under this subdivision must identify the recognized 211 service provider that received the grant and the amount and purpose of the grant received.

(5) The expenses incurred by the commission in complying with this chapter during the most recent state fiscal year.

(6) The projected budget required by the commission to comply with this chapter during the current state fiscal year.

(7) Any available statistics, data, or results concerning the expenditure of money in the account to address, or the effectiveness of 211 services in addressing:

(A) assistance for parental stress issues;
(B) domestic violence;
(C) infant mortality;
(D) assistance for veterans;
(E) services for senior citizens;
(F) services for vulnerable children; and
(G) public health issues;

during the most recent state fiscal year.

(b) The report shall describe each toll-free telephone number operated by a state agency or an instrumentality of the state for purposes of providing an information resource for human services and social services.

(c) The commission shall study the feasibility of having 211 service providers take over the operation of toll-free telephone numbers described in subsection (b). The study must identify the costs incurred by state agencies and to instrumentalities of the state in operating these toll-free telephone numbers, and the study must include an estimate of the costs that would be incurred by state agencies and instrumentalities of the state and by 211 service providers if 211 service providers took over the operation of these toll-free telephone numbers. The commission shall before December 1, 2015, report its findings and recommendations regarding the study to the budget committee.

(d) The report required under this section must be in an electronic format under IC 5-14-6.

As added by P.L.60-2004, SEC.1. Amended by P.L.2-2005, SEC.25; P.L.213-2015, SEC.100.

IC 8-1-19.5-13

Administrative rules required

Sec. 13. The commission shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.60-2004, SEC.1. Amended by P.L.213-2015, SEC.101.

IC 8-1-20
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-1-21
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-1-22
Repealed

(Repealed by Acts 1971, P.L.84, SEC.3.)

IC 8-1-22.5

Chapter 22.5. Gas Pipeline Safety

IC 8-1-22.5-1

Definitions

Sec. 1. As used in this chapter, unless otherwise provided:

(a) The term "gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

(b) The term "transportation" means:

(1) the gathering, transmission, or distribution of gas, hazardous liquids, or carbon dioxide fluid by pipeline; or

(2) the storage of gas, hazardous liquids, or carbon dioxide fluids.

The term does not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the commission may define as a nonrural area.

(c) The term "pipeline" means all parts of those physical facilities through which gas, hazardous liquids, or carbon dioxide fluid moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies, but excluding motor vehicles of all kinds and pipelines serving not less than ten (10) customers with petroleum gas from a common source.

(d) The term "pipeline facilities" means and includes, without limitation, new and existing pipelines, rights-of-way and any equipment, facility, or building used in:

(1) transportation; or

(2) the treatment of gas, hazardous liquids, or carbon dioxide fluid during the course of transportation.

The term excludes motor vehicles of all kinds and pipelines serving not less than ten (10) customers with petroleum gas from a common source.

(e) The term "person" means any individual, firm, joint venture, partnership, corporation, limited liability company, association, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

(f) The term "municipality" means a city, county, or any political subdivision of the state.

(g) The term "division" means the pipeline safety division to be established under this chapter.

(h) The term "maximum allowable operating pressure" means the maximum pressure at which a pipeline or a segment of a pipeline may be operated.

(i) The term "hazardous liquid" means petroleum, petroleum

products, or anhydrous ammonia.

(j) The term "carbon dioxide fluid" means a fluid consisting of more than ninety percent (90%) carbon dioxide molecules compressed to a supercritical state.

(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.23-1988, SEC.58; P.L.8-1993, SEC.128; P.L.118-2006, SEC.1.

IC 8-1-22.5-2

Establishment of pipeline safety division of Indiana utility regulatory commission; subjects regulated

Sec. 2. There is hereby established within the Commission a Pipeline Safety Division. The Division shall be charged with the regulation of:

(1) transportation; and

(2) related pipeline facilities and their operations;

in order to promote the public safety.

(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.118-2006, SEC.2.

IC 8-1-22.5-3

Directors; personnel

Sec. 3. The Division shall be administered by a Director who shall be employed by, and shall be responsible to, the Commission and, who shall meet the job and personnel requirements of the State Department of Administration. The Director shall, with the approval of the Commission, employ a staff of competent full-time employees with professional and technical qualifications and ability. The Director, with approval of the Commission, may engage the services of qualified consultants as he deems appropriate.

(Formerly: Acts 1971, P.L.84, SEC.1.)

IC 8-1-22.5-4

Powers and duties

Sec. 4. The division, acting through the commission, shall:

(1) Administer and require compliance with federal safety standards applicable to transportation and related pipeline facilities established under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.), and otherwise administer this chapter in such manner as may be required in order to maintain and continue in effect certification of the commission under 49 U.S.C. 60105.

(2) Establish, by rules and regulations of the commission, minimum state safety standards for transportation and related pipeline facilities. Such standards shall not be less stringent than the federal safety standards established under 49 U.S.C. 60101 et seq. and shall apply to the design, installation, inspection (including the taking possession of pipe and pipeline

components), testing, construction, extension, operation, replacement, and maintenance of such pipeline facilities. Such new standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence prior to the date such standards are established. In establishing such standards, the following shall be considered:

(A) relevant available pipeline safety data;

(B) whether such standards are appropriate for the particular type of pipeline transportation;

(C) the reasonableness of any proposed standards;

(D) the extent to which such standards will contribute to public safety; and

(E) federal safety standards established under 49 U.S.C. 60101 et seq.

(3) Whenever a particular pipeline facility is found to be hazardous to human life or property, require, through the issuance of a hazardous condition order, the person who owns, operates, or leases such pipeline facility to take such action necessary to remove such hazards. Except in cases where immediate or extreme emergency is found to exist, such order shall not be issued until such person is afforded an opportunity to present the person's views and any facts bearing on the situation. In any event, unless such order is issued after notice and hearing, the person to whom such order is directed shall be entitled to prompt notice and hearing on the question as to whether such order shall be continued in effect.

(4) Review all incidents reported within the state involving accidents resulting in personal injury requiring hospitalization, death, or property damage in excess of fifty thousand dollars ($50,000), when the same is accompanied by an explosion, misapplication, and/or escapement of gas, hazardous liquid, or carbon dioxide fluid. Copies of any official report of the division shall be available for distribution to all interested persons, for the purpose of promoting pipeline safety.

(5) Keep itself informed as to research and development regarding pipeline safety.

(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.59-1984, SEC.88; P.L.118-2006, SEC.3.

IC 8-1-22.5-5
Waiver of standards

Sec. 5. Upon application by any person who engages in transportation or who owns, operates, or leases pipeline facilities, the commission may, after notice and opportunity for public hearing, and under such terms and conditions and to such extent as the commission deems appropriate, issue an order waiving in whole or in part compliance with any standard or standards established under

this chapter, if the commission determines that such waiver of compliance with such standard or standards is not inconsistent with pipeline safety. The commission shall state in such order its reasons for any such waiver and shall otherwise comply with the provisions of 49 U.S.C. 60101 et seq. with regard to such waiver.
(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.118-2006, SEC.4.

IC 8-1-22.5-6
Inspection of facilities; plans for inspection and maintenance; records; entry upon property

Sec. 6. Any person who engages in transportation or who owns, operates, or leases pipeline facilities shall:

(a) Comply with this chapter and all safety standards established pursuant to this chapter.

(b) Inspect such pipeline facilities and report the findings to the division as prescribed by standards established pursuant to this chapter.

(c) File with the division a plan for operation and maintenance of such pipeline facilities owned, operated, or leased by such person, and any change in such plan, as prescribed by rules established pursuant to this chapter. Such plan shall be subject to approval by the division, and if at any time such plan is determined by the division to be inadequate to achieve safe operation, upon recommendation by the director, the commission shall, after notice and opportunity for public hearing, order the plan revised. Any plan required under this chapter shall be practicable and designed to meet the need for pipeline safety.

(d) Establish and maintain such records, make such reports, and provide such information as the division, acting through the commission, may reasonably require to enable it to determine whether such person has acted or is acting in compliance with this chapter and the standards established under this chapter.

Each person upon request of an authorized representative of the division shall permit such representative access and entry for the purpose of inspection of such pipeline facilities, and inspection of books, papers, records, and documents (including the right to copy the same) as is reasonably necessary in order to determine whether such person has acted or is acting in compliance with this chapter and the standards established pursuant to this chapter.
(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.59-1984, SEC.89; P.L.118-2006, SEC.5.

IC 8-1-22.5-6.1
Exception of report from disclosure

Sec. 6.1. (a) If the commission or division determines that a report or part of a report filed under this chapter is confidential under

IC 5-14-3-4(a), the report or part of the report shall be excepted from disclosure under IC 5-14-3-3 as provided in IC 5-14-3-4(a).

(b) If the commission or division determines under IC 5-14-3-4(b)(19) that the disclosure of a report or part of a report filed under this chapter has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack, the commission or division may except the report or part of the report from disclosure under IC 5-14-3-3 as provided in IC 5-14-3-4(b).
As added by P.L.118-2006, SEC.6.

IC 8-1-22.5-7
Civil penalties, hearings, and assessments

Sec. 7. (a) A person who is engaged in transportation or owns, operates, or leases pipeline facilities who violates any provision of this chapter or any regulations issued pursuant to this chapter, is subject to a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each violation for each day that the violation persists. However, the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations.

(b) The commission may, after notice and opportunity for public hearing, impose a civil penalty not to exceed the amount specified in subsection (a) against a person who violates this chapter or any rules issued pursuant to this chapter, and may compromise and collect the penalties which are payable to the state as otherwise provided by law. However, a penalty may not be assessed or collected for any violation for which the person has been found liable under 49 U.S.C. 60101 et seq.
(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.69-1990, SEC.1; P.L.118-2006, SEC.7.

IC 8-1-22.5-8
Appeals, commission decision, ruling, or order

Sec. 8. Any person adversely affected by any final decision, ruling, or order of the commission pursuant to this chapter may appeal such decision, ruling, or order. Any such appeal shall be taken in the manner provided for appeals from any final decision, ruling, or order of the commission as provided in IC 8-1-3.
(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.59-1984, SEC.90.

IC 8-1-22.5-9
Rules; procedure for adoption

Sec. 9. All rules, including any safety standards, adopted by the commission under this chapter shall be adopted in accordance with the provisions of IC 4-22-2.
(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.59-1984, SEC.91.

IC 8-1-22.5-10
Notices and hearings

Sec. 10. Whenever in this chapter it is provided that the Commission shall take any action or issue any order "upon notice and after opportunity for public hearing" such notice shall be given as provided in IC 1971, 8-1-1-8 and such hearing shall be held and conducted in the manner as prescribed by IC 1971, 8-1-2-54 through 8-1-2-72.

(Formerly: Acts 1971, P.L.84, SEC.1.)

IC 8-1-22.5-11
Tort liability

Sec. 11. Nothing in this chapter shall affect the common law or statutory tort liability of any person.

(Formerly: Acts 1971, P.L.84, SEC.1.)

IC 8-1-22.5-12
Action for violations

Sec. 12. The court of appeals or such other court as may be empowered by law (or by rules of the supreme court) has jurisdiction to enjoin preliminarily or permanently any violation of this chapter, or any standards established pursuant to this chapter, determined by a final order issued by the commission, after notice and opportunity for public hearing as provided in this chapter. Such action may be brought by the attorney general in the name of the state upon certification by the commission of the complete record of such proceedings.

(Formerly: Acts 1971, P.L.84, SEC.1.) As amended by P.L.3-1989, SEC.58.

IC 8-1-22.6

Chapter 22.6. Pipeline Construction Guidelines

IC 8-1-22.6-1

Application

Sec. 1. (a) This chapter applies to the construction of any segment of an interstate pipeline on privately owned land in Indiana.

(b) Except as otherwise provided in the guidelines adopted by the division, this chapter does not apply to construction activities that occur entirely on:

(1) a public right-of-way;

(2) a railroad right-of-way; or

(3) publicly owned land.

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-2

"Affected landowner"

Sec. 2. As used in this chapter, "affected landowner" means an owner of an interest in property that:

(1) is located in Indiana; and

(2) meets one (1) or more of the conditions set forth in 18 CFR 157.6(d)(2).

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-3

"Construction"

Sec. 3. (a) As used in this chapter, "construction" means the physical work involved in the construction, reconstruction, improvement, maintenance, or extension of a pipeline project.

(b) The term includes the following:

(1) The preparation of the construction site.

(2) Disassembling and removing a structure.

(3) Related work.

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-4

"Division"

Sec. 4. As used in this chapter, "division" refers to the pipeline safety division of the Indiana utility regulatory commission established by IC 8-1-22.5-2.

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-5

"Guidelines"

Sec. 5. As used in this chapter, "guidelines" refers to a nonrule policy document adopted by the division that establishes voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in

Indiana.
As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-6
"Pipeline"

Sec. 6. As used in this chapter, "pipeline" means a pipeline (as defined in IC 8-1-22.5-1(c)) that crosses or is located in:

(1) Indiana; and
(2) one (1) or more other states.

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-7
"Pipeline company"

Sec. 7. (a) As used in this chapter, "pipeline company" means a person (as defined in IC 8-1-22.5-1(e)) that:

(1) constructs; or
(2) proposes to construct;

a pipeline.

(b) The term includes any:

(1) employee;
(2) agent;
(3) contractor;
(4) subcontractor; or
(5) other person;

that is employed by, or acts on behalf of, a pipeline company.
As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-8
Division to establish nonbinding guidelines; use in simplifying easement negotiations

Sec. 8. (a) The division shall establish voluntary guidelines to be considered by a pipeline company that proposes to construct a pipeline that will be located, in whole or in part, in Indiana.

(b) Guidelines adopted by the division are not binding on any pipeline company or affected landowner but may be used by a pipeline company or an affected landowner to simplify negotiations involved in establishing a price for any:

(1) easement; or
(2) other interest in land;

needed by the pipeline company to construct a pipeline.
As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-9
Actions indicating intent to construct pipeline; notice of guidelines to pipeline company; time of mailing

Sec. 9. (a) For purposes of this section, a pipeline company proposes to construct a pipeline in Indiana if it does any of the following:

(1) Files an application for a certificate of public convenience and necessity with the Federal Energy Regulatory Commission.
(2) Undertakes:
(A) environmental, engineering, or cultural surveys; or
(B) other studies or surveys;
in Indiana in preparation for filing an application described in subdivision (1).
(3) Holds public meetings or hearings in Indiana concerning a proposed pipeline.
(4) Enters upon land in Indiana for the purpose of determining the route or location of a proposed pipeline.
(5) Contacts landowners in Indiana for the purpose of negotiating the price for:
(A) easements; or
(B) other interests in land;
necessary for the construction of a pipeline.
(6) Undertakes other actions in preparation for the construction of a pipeline.

(b) The division shall send, by certified mail, the following to each pipeline company that proposes to construct a pipeline in Indiana:
(1) A copy of the guidelines adopted by the division.
(2) A notice that includes the following:
(A) A statement that the division has adopted the pipeline construction guidelines included with the notice.
(B) A statement indicating:
(i) that the pipeline construction guidelines have been mailed to all affected landowners on the list provided by the pipeline company under section 10 of this chapter; and
(ii) that the division has encouraged the affected landowners to agree to the guidelines in any negotiations for easements or other land interests with the pipeline company.

(c) The division shall mail the guidelines and notice in accordance with subsection (b):
(1) as soon as the division learns of the proposed pipeline as a result of the pipeline company performing one (1) or more actions described in subsection (a); or
(2) not later than three (3) business days after the Federal Energy Regulatory Commission provides notice under 18 CFR 157.9(a) of the pipeline company's application for a certificate of territorial authority;
whichever occurs earlier.

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-10
List of affected landowners; notice to affected landowners; time of mailing

Sec. 10. (a) The pipeline company shall provide the division with a list of landowners that will be affected by the proposed construction of a pipeline or a segment of a pipeline in Indiana. The list must include all affected landowners that the pipeline company must provide notice to under IC 32-24-1-3(g).

(b) The division shall send, by certified mail, the following to each affected landowner:

(1) A copy of, or reference to, the guidelines adopted by the division.

(2) A notice that includes the following:

(A) A statement that the division has adopted the pipeline construction guidelines included with, or referenced in, the notice.

(B) A statement indicating that the pipeline construction guidelines have been mailed to the pipeline company. The statement required by this clause must specify a date after which the affected landowner may contact a toll free telephone number established by the division to provide information on the status of any construction guidelines agreed to by the pipeline company.

(C) A statement indicating that any guidelines agreed to by the pipeline company shall not be binding on the pipeline company or affected landowners but may be used by the pipeline company and an individual landowner to simplify negotiations involved in establishing a price for any:

(i) easement; or

(ii) other interest in land;

needed by the pipeline company to construct the pipeline.

(D) A statement encouraging the affected landowner to agree to any construction guidelines that the pipeline company agrees to follow, to the extent that the landowner determines that the guidelines are not contrary to the landowner's best interests.

(E) A statement including:

(i) contact information for the one (1) or more project coordinators designated by the division under section 12 of this chapter;

(ii) contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number; and

(iii) the commission's web site address.

(c) The division shall mail the information required under subsection (b) not later than twenty (20) days after the division is notified by the pipeline company of the proposed route and is provided with a list of the affected landowners as required by subsection (a).

As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-11
Use of guidelines in negotiations with state agencies; statement of agreement to use guidelines

Sec. 11. The division shall encourage pipeline companies to use the guidelines as a starting point for any negotiations with the various state agencies identified in the guidelines. The division may require a pipeline company proposing to construct a pipeline or a segment of a pipeline to sign a statement indicating whether or not the pipeline company agrees to use the guidelines for the project.
As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-12
Division to designate project coordinators; duties of coordinators

Sec. 12. For each proposed or ongoing pipeline project in Indiana, the director of the division shall designate one (1) or more employees of the division to serve as project coordinators for the division. The director shall ensure that one (1) or more of the coordinators designated under this section are responsible for the following duties concerning the project:

(1) Monitoring all:
(A) filings with; and
(B) proceedings before;
the Federal Energy Regulatory Commission.

(2) Attending all public hearings or meetings concerning the project that are held in Indiana.

(3) Receiving and responding to questions and complaints about the project from Indiana residents.

(4) Updating the information required to be made available on the commission's web site under section 13 of this chapter.

(5) Any other duties assigned by the director of the division.
As added by P.L.110-2007, SEC.1.

IC 8-1-22.6-13
Information on commission's web site; updating of information

Sec. 13. (a) The division shall make the following available on the commission's web site:

(1) A link to the guidelines adopted by the division.

(2) For each proposed or ongoing pipeline construction project in Indiana, the following information:
(A) A description of the pipeline company and the pipeline project, including:
(i) the pipeline's location, purpose, and construction schedule; and
(ii) the docket number assigned to the project by the Federal Energy Regulatory Commission.
(B) Contact information for the pipeline company, including a local or toll free telephone number.
(C) Contact information for the Federal Energy Regulatory

Commission, including a local or toll free telephone number.

(D) Contact information for the one (1) or more project coordinators designated under section 12 of this chapter to receive and respond to questions and complaints from Indiana residents.

(E) Information on public hearings or meetings that are scheduled in connection with the pipeline project.

(F) Other information concerning the pipeline project that the division considers relevant or of likely concern to Indiana residents.

(b) The division shall update the information required under subsection (a)(1) whenever:

(1) one (1) or more guidelines adopted by the division are revised or superseded by the division; or

(2) one (1) or more new guidelines are adopted by the division.

(c) The division shall update the information required under subsection (a)(2) on a regular basis throughout the course of a pipeline project. The division shall ensure that all information on the division's web site concerning a pipeline project is accurate, current, and accessible. The director of the division shall assign the responsibility of complying with this subsection to one (1) or more project coordinators designated under section 12 of this chapter.

As added by P.L.110-2007, SEC.1.

IC 8-1-23

Chapter 23. Gas Pipelines–County Roads

IC 8-1-23-1

Roadway obstructions or interruptions; detours

Sec. 1. Whenever, in the opinion of any board of county commissioners, the use of any public county highway or highways shall be or will become impracticable or unsafe because of obstructions or interruptions resulting from erosion, changes in natural or artificial drains, or any other cause of any kind or nature whatsoever, the said board of county commissioners of the county wherein such highway or highways is located, or the boards of county commissioners of adjoining counties acting together, if the obstructed or interrupted part thereof is located upon a county line or extends from one county to another, shall have the power to close said highway or highways, or the necessary parts thereof, and divert traffic therefrom by suitable detours, if in their judgment such detours are necessary, until such time as the conditions causing such obstruction or interruption no longer exists and the continued use of said highway or highways become practicable and safe.

(Formerly: Acts 1947, c.151, s.1.)

IC 8-1-23-2

Permits; temporary highway obstruction

Sec. 2. If any person shall desire to temporarily obstruct a county highway which obstruction may result in damage to the highway or temporary blocking of traffic over the highway, such person shall first obtain permission, in writing, which writing shall be entered of record, from the board of county commissioners of the county wherein such highway or highways is located, or the boards of county commissioners of adjoining counties acting together, if the obstructed or interrupted part thereof is located upon a county line or extends from one county to another.

Before such permission may be granted by any board of county commissioners, such person shall first file with each board of county commissioners from which permission is requested, a surety bond, in a sum to be fixed by and to the approval of such board of county commissioners, payable to the county, conditioned either upon the payment of any damages which such county or road may sustain or upon the proper restoration of such highway, as such county commissioners may direct.

(Formerly: Acts 1947, c.151, s.2.)

IC 8-1-23-3

Construction contracts

Sec. 3. If any person shall desire to lay a pipe line, conduit or private drain, across or along any county highway of this state, such person shall first enter into a contract with the board of county

commissioners in each county wherein it is desired to locate such pipe line, conduit or drain, which contract will obligate the owner thereof to restore the county highway to its original condition after the laying thereof and to reimburse the county for the use of such highway. In addition such person shall file with the board of county commissioners a surety bond, payable to the county, in a sum to be set by and to the approval of the board of county commissioners, conditioned upon the performance of such contract. No such contract shall give any person a permanent right or easement to use any county highway but such contract may give the right to use such highway so long as such pipe line, conduit or drain, does not interfere with the alteration, use, abandonment or public enjoyment of such county highway.
(Formerly: Acts 1947, c.151, s.3.)

IC 8-1-23-4
"Person" defined

Sec. 4. The word person as used herein shall include a public utility, partnership, limited liability company, firm, association, or corporation.
(Formerly: Acts 1947, c.151, s.4.) As amended by P.L.8-1993, SEC.129.

IC 8-1-23-5
Violations

Sec. 5. A person who installs a pipeline, conduit, or private drain, across or along any county highway, or blocks or damages any county highway without complying with this chapter, commits a Class B infraction.
(Formerly: Acts 1947, c.151, s.5.) As amended by Acts 1978, P.L.2, SEC.809.

IC 8-1-24
Chapter 24. Gas Pipeline Securities

IC 8-1-24-1
Approval of commission not required for certain transactions

Sec. 1. Notwithstanding any other statute or rule of law of the state, any corporation or other business entity engaged in the transmission of gas by pipeline, which is subject to the supervision, control, or jurisdiction of the federal government or any agency, board or commission thereof with respect to construction of additional facilities, shall not be required to obtain the leave, approval, or consent of the commission for the issuance of any of its stocks, certificates of stock, bonds, notes, or other evidences of indebtedness nor shall any such corporation or other business entity be required to obtain the approval of the commission in order to sell, assign, transfer, lease, or encumber its franchise, works, or system to any other person, partnership, limited liability company, or corporation.

(Formerly: Acts 1973, P.L.64, SEC.1.) As amended by P.L.23-1988, SEC.59; P.L.8-1993, SEC.130.

IC 8-1-24-2
Exemption from IC 8-1-1 and IC 8-1-2

Sec. 2. Any corporation or other business entity engaged in the transmission of gas by pipeline, and which is subject to the supervision, control, or jurisdiction of the federal government, or any agency, board, or commission thereof with respect to construction of additional facilities, shall be exempt from and after July 26, 1973, from all provisions of IC 8-1-1 and IC 8-1-2 with respect to the issuance of its stocks, certificates of stock, bonds, notes, or other evidences of indebtedness and with respect to the sale, assignment, transfer, lease, or encumbrance of its franchise, works, or system.

(Formerly: Acts 1973, P.L.64, SEC.1.) As amended by P.L.59-1984, SEC.92; P.L.23-1988, SEC.60.

IC 8-1-25
Repealed

(Repealed by P.L.106-1989, SEC.3.)

IC 8-1-26

Chapter 26. Damage to Underground Facilities

IC 8-1-26-1

Application of chapter

Sec. 1. (a) Except as provided by this section, this chapter does not apply to the following:

(1) Excavation that is performed:

(A) only with a hand tool;

(B) on property owned or controlled by the person performing the excavation; and

(C) to a depth not greater than twelve (12) inches.

(2) Excavation using only animals.

(3) Tilling of soil for agricultural purposes, such as plowing, planting, and combining.

(4) Surface coal mining and reclamation operations conducted under a permit issued by the natural resources commission under IC 14-34.

(5) Railroad right-of-way maintenance or operations.

(6) Underground probing to determine the extent of gas migration.

(b) This chapter does apply to blasting, setting drainage tile, subsoiling, and other subsurface activities.

(c) Sections 16, 19, 20, and 22 of this chapter apply to the construction and installation of railroad signal facilities and drainage facilities at public grade crossings.

As added by P.L.69-1990, SEC.2. Amended by P.L.1-1995, SEC.55; P.L.62-2009, SEC.2.

IC 8-1-26-1.3

"Account"

Sec. 1.3. As used in this chapter, "account" refers to the underground plant protection account established by section 24 of this chapter.

As added by P.L.62-2009, SEC.3.

IC 8-1-26-1.5

"Advisory committee"

Sec. 1.5. As used in this chapter, "advisory committee" refers to the underground plant protection advisory committee established by section 23 of this chapter.

As added by P.L.62-2009, SEC.4.

IC 8-1-26-2

"Approximate location"

Sec. 2. As used in this chapter, "approximate location" means a strip of land at least four (4) feet wide but not wider than the width of the underground facility plus two (2) feet on either side of the

outer limits of the physical plant.
As added by P.L.69-1990, SEC.2. Amended by P.L.54-1994, SEC.1.

IC 8-1-26-3
"Association"

Sec. 3. As used in this chapter, "association" means an organization that is:

(1) formed in Indiana to provide for mutual receipt of notice of excavation or demolition for the organization's members;
(2) known as the Indiana Underground Plant Protection Service (or its successor organization); and
(3) accessed by dialing the abbreviated dialing code 811, as designated by the Federal Communications Commission as the nationwide toll free number to be used by state One Call systems.

As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.5.

IC 8-1-26-3.5
"Communications service"

Sec. 3.5. As used in this chapter, "communications service" has the meaning set forth in IC 8-1-32.5-3.
As added by P.L.200-2014, SEC.1.

IC 8-1-26-4
"Damage"

Sec. 4. As used in this chapter, "damage" means:

(1) the substantial weakening of structural or lateral support of an underground facility;
(2) the penetration or destruction of a protective coating, a housing, or another protective device of an underground facility;
(3) the partial or complete severance of an underground facility; or
(4) rendering any underground facility inaccessible.

As added by P.L.69-1990, SEC.2.

IC 8-1-26-5
"Demolish"

Sec. 5. As used in this chapter, "demolish" means an operation in which a structure or mass of material is wrecked, raised, rendered, moved, or removed by means of tools, equipment, or discharge of explosives.
As added by P.L.69-1990, SEC.2.

IC 8-1-26-6
"Excavate"

Sec. 6. As used in this chapter, "excavate" means an operation for the movement, placement, or removal of earth, rock, or other

materials in or on the ground by use of tools or mechanized equipment or by discharge of explosives, including augering, backfilling, boring, digging, ditching, drilling, driving, grading, jacking, plowing in, pulling in, ripping, scraping, trenching, and tunneling.
As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.6.

IC 8-1-26-7
"Facility"
Sec. 7. As used in this chapter, "facility" means a line or system used for producing, storing, conveying, transmitting, or distributing communication, information, electricity, gas, petroleum, petroleum products, hazardous liquids, carbon dioxide fluids, water, steam, or sewerage. The term includes pipeline facilities.
As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.7.

IC 8-1-26-8
"Imminent danger to life, health, property, or loss of service"
Sec. 8. As used in this chapter, "imminent danger to life, health, property, or loss of service" means there is a substantial likelihood that loss of life, health, property, or service will result before the procedures under sections 16 and 18 of this chapter can be completed.
As added by P.L.69-1990, SEC.2.

IC 8-1-26-9
"Mechanized equipment"
Sec. 9. As used in this chapter, "mechanized equipment" means equipment operated by means of mechanical power, including:
(1) trenchers;
(2) bulldozers;
(3) power shovels;
(4) augers;
(5) backhoes;
(6) scrapers;
(7) drills;
(8) cable and pipe plows;
(9) hydraulic excavators; and
(10) other equipment that may cause damage to underground facilities.
As added by P.L.69-1990, SEC.2. Amended by P.L.200-2014, SEC.2.

IC 8-1-26-10
"Operator"
Sec. 10. As used in this chapter, "operator" means a person who owns or operates an underground facility, other than an underground facility that:
(1) is located on real property that the person owns or occupies;

and

(2) the person operates for the person's benefits.

As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.8.

IC 8-1-26-11

"Person"

Sec. 11. As used in this chapter, "person" means an individual, a corporation, a partnership, a limited liability company, an association, or other entity organized under the laws of any state. The term includes state, local, and federal agencies. The term does not include the association.

As added by P.L.69-1990, SEC.2. Amended by P.L.8-1993, SEC.131; P.L.62-2009, SEC.9.

IC 8-1-26-11.2

"Pipeline facilities"

Sec. 11.2. As used in this chapter, "pipeline facilities" has the meaning set forth in IC 8-1-22.5-1(d).

As added by P.L.62-2009, SEC.10.

IC 8-1-26-11.5

"White lining"

Sec. 11.5. As used in this chapter, "white lining" means the act of marking the route or boundary of a proposed excavation or demolition with white paint, flags, or stakes, or a combination of white paint, flags, and stakes.

As added by P.L.62-2009, SEC.11.

IC 8-1-26-12

"Working day"

Sec. 12. As used in this chapter, "working day" means every day except Saturday, Sunday, and state and national legal holidays.

As added by P.L.69-1990, SEC.2.

IC 8-1-26-13

Permit authorizing excavation or demolition; compliance with chapter

Sec. 13. A permit issued in accordance with a law authorizing excavation or demolition operations does not relieve a person from the responsibility of complying with this chapter.

As added by P.L.69-1990, SEC.2.

IC 8-1-26-14

Excavation or demolition of structure served by underground facility; location of affected structures

Sec. 14. Except as provided in section 19 of this chapter, a person may not excavate real property or demolish a structure that is served or was previously served by an underground facility without first

ascertaining in the manner prescribed by sections 16 and 18 of this chapter the location of all underground facilities in the area affected by the proposed excavation or demolition.
As added by P.L.69-1990, SEC.2.

IC 8-1-26-15
Recording location of underground facilities; updating information; fees; association membership; penalty

Sec. 15. (a) An operator that has underground facilities located in Indiana must become a member of the association and shall provide the following information to the association:

(1) The name of each township and county in which the operator has underground facilities, including those facilities that have been abandoned in place by the operator but not yet physically removed.
(2) The name of the operator.
(3) The name, title, address, and telephone number of the operator's representative designated to receive the notice of intent required by section 16 of this chapter.

(b) An operator shall report any changes in the information contained in the list recorded under subsection (a) with the association within thirty (30) calendar days of the change. The document reflecting the changes shall be cross-referenced to the original information reported under subsection (a).

(c) A person other than an operator may be a member of the association.

(d) A person that is required, but fails, to maintain membership in the association after December 31, 2009, may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed one hundred dollars ($100). Each day that a person that is required, but fails, to maintain membership in the association constitutes a separate violation for purposes of imposing a fine under this subsection.
As added by P.L.69-1990, SEC.2. Amended by P.L.114-2003, SEC.1; P.L.62-2009, SEC.12.

IC 8-1-26-15.5
Repealed

(As added by P.L.114-2003, SEC.2. Repealed by P.L.62-2009, SEC.23.)

IC 8-1-26-16
Notice to excavate or demolish; duty to perform white lining; notice contents and expiration; civil penalties

Sec. 16. (a) Except as provided in section 19 of this chapter, before commencing an excavation or demolition operation described in section 14 of this chapter, each person responsible for the excavation or demolition shall:

(1) serve notice on the association of the person's intent to excavate or demolish; and

(2) perform white lining at the site of the excavation or demolition if the person responsible for the excavation or demolition is unable to provide to the association the physical location of the proposed excavation or demolition by one (1) of the following means:

(A) A street address.

(B) A legal description of the location.

(C) A highway location using highway mile markers or cross streets.

The notice required under subdivision (1) must be received at least two (2) full working days but not more than twenty (20) calendar days before the commencement of the work. Upon receiving the notice, the association immediately shall notify each operator that has underground facilities located in the proposed area of excavation or demolition. A person responsible for excavation or demolition may commence work before the elapse of two (2) full working days if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that the affected operators have no facilities in the location of the proposed excavation or demolition.

(b) A county recorder who receives an inquiry from a person seeking to provide notice of an excavation or a demolition under this section shall refer the person to the association. After receiving a notice under this section, the association shall provide notice of the proposed excavation or demolition to each member operator that has underground facilities located in the proposed area of excavation or demolition.

(c) A person responsible for demolition must give an operator a reasonable amount of time, as mutually determined by the operator, the person responsible for demolition, and the project owner, to remove or protect the operator's facilities before demolition of the structure is commenced.

(d) The notice required by subsection (a) must contain the following information:

(1) The name, address, and telephone number of the person serving the notice, and, if different, the person responsible for the excavation or demolition.

(2) The starting date, anticipated duration, and type of excavation or demolition operation to be conducted.

(3) The location of the proposed excavation or demolition.

(4) Whether or not explosives or blasting are to be used.

(5) The approximate depth of excavation.

(6) Whether the person responsible for the proposed excavation or demolition intends to perform white lining at the site of the proposed excavation or demolition.

(e) The person responsible for the excavation or demolition shall

submit a separate locate request along with the notice provided under subsection (d)(3) to the association as follows:

(1) Within an incorporated area, for each one thousand five hundred (1,500) linear feet of proposed excavation or demolition.

(2) In an unincorporated area, for at least each two thousand six hundred forty (2,640) linear feet of proposed excavation or demolition.

(f) A notice provided under this section by a person responsible for an excavation or demolition expires twenty (20) days after the date the notice is submitted to the association under subsection (a), as determined in the manner specified in section 17(d) of this chapter. If, at the conclusion of the twenty (20) day period described in this subsection, any part of the excavation or demolition is not complete at any part of the site for which the original notice was submitted, the person responsible for the excavation or demolition may not continue or resume the excavation or demolition at any part of the site for which the original notice was submitted until:

(1) the person responsible for the excavation or demolition submits to the association a new locate request, along with a notice that complies with subsection (d), with respect to that part of the site for which the excavation or demolition is not complete; and

(2) each affected operator provides facility locate markings in compliance with section 18 of this chapter for that part of the site for which the new locate request and notice are submitted under subdivision (1).

(g) The association shall maintain an adequate record of the notice required by this section for seven (7) years to document compliance with this chapter. A copy of the record shall be furnished to the person giving notice to excavate or demolish upon written request.

(h) A person that:

(1) causes damage to a pipeline facility located in an area of excavation or demolition;

(2) is required to provide notice under this section for the excavation or demolition; and

(3) fails to provide the notice;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000).

(i) A person that:

(1) causes damage to a pipeline facility located in an area of excavation or demolition;

(2) is required to perform white lining under subsection (a)(2); and

(3) fails to perform white lining before an operator of a pipeline facility arrives at the site of the proposed excavation or demolition to mark the operator's pipeline facilities;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000).

As added by P.L.69-1990, SEC.2. Amended by P.L.54-1994, SEC.2; P.L.114-2003, SEC.3; P.L.62-2009, SEC.13; P.L.200-2014, SEC.3.

IC 8-1-26-17

Association membership; board of directors; association's duties

Sec. 17. (a) An operator that has underground facilities located in Indiana must be a member of the Indiana Underground Plant Protection Service or its successor organization. The articles of incorporation or the bylaws of the Indiana Underground Plant Protection Service or its successor organization shall do the following:

(1) Provide that the board of directors of the Indiana Underground Plant Protection Service or its successor organization is composed of:

(A) five (5) members representing electric utilities other than municipal electric utilities, including corporations organized or operating under IC 8-1-13 or corporations organized under IC 23-17, some of whose members are local district corporations (as described in IC 8-1-13-23);

(B) five (5) members representing investor owned gas utilities, including pipelines;

(C) five (5) members representing communications service providers, at least one (1) of whom is a provider of cable television service;

(D) five (5) members representing water or sewer utilities other than municipal water or sewer utilities; and

(E) five (5) members representing political subdivisions, including municipal utilities, which must include a member representing the largest waterworks utility in Indiana that is owned by:

(i) a political subdivision; or

(ii) a department of public utilities created by IC 8-1-11.1.

(2) Require the affirmative vote of at least sixty percent (60%) of each category of members appointed under subdivision (1) to approve an increase, a decrease, or any other adjustment to the membership dues, rates, tariffs, locate fees, or any other charges imposed by the Indiana Underground Plant Protection Service or its successor organization.

(b) The association shall provide for mutual receipt of notice of excavation or demolition operations under section 16 of this chapter.

(c) The association shall:

(1) annually update the association's base map data, including street addresses; and

(2) make reasonable efforts to reduce incorrect locate requests issued to the association's members.

(d) The association shall develop and implement guidelines to provide that, for purposes of providing notice to an operator under section 16 of this chapter, the time of receipt of a notice of an intent to excavate or demolish is determined as follows:

(1) For a notice that is received between the hours of 7 a.m. and 6 p.m. on a working day, at the time of receipt.

(2) For a notice that is received after 6 p.m. on a working day and before 7 a.m. on the following working day, at 7 a.m. on the following working day.

As added by P.L.69-1990, SEC.2. Amended by P.L.114-2003, SEC.4; P.L.62-2009, SEC.14; P.L.200-2014, SEC.4.

IC 8-1-26-18

Operator's duty to locate and mark facilities; color coding of markings; pipeline facilities; alteration of markings; notice to excavator of operator's inability to locate and mark facilities

Sec. 18. (a) Subject to subsection (i), each operator notified under section 16 of this chapter shall, not later than two (2) full working days after receiving the notice of intent provided in section 16 of this chapter, supply to the person responsible for the excavation or demolition the following information, using maps when appropriate:

(1) The approximate location and a description of all the operator's underground facilities that may be damaged as a result of the excavation or demolition.

(2) The location and description of all facility markers indicating the approximate location of the underground facilities.

(3) Any other information that would assist that person in locating and avoiding damage to the underground facilities, including providing adequate temporary markings indicating the approximate location of the underground facility and locations where permanent facility markers do not exist.

(b) Facility locate markings must consist of paint, flags, or stakes or any combination that mark the approximate location of the underground facilities. The method of marking must be appropriate for the location of the underground facilities.

(c) Color coding of facility locate markings indicating the type of underground facility must conform to the following color coding:

Facility and Type of Product	Specific Group Identifying Color
(1) Electric power distribution and transmission	Safety red
(2) Municipal electric systems	Safety red
(3) Gas distribution and transmission	High visibility safety yellow
(4) Oil distribution and transmission	High visibility

		safety yellow
(5)	Dangerous materials, product lines, steam lines	High visibility safety yellow
(6)	Communications service systems	Safety alert orange
(7)	Cable television	Safety alert orange
(8)	Police and fire communications	Safety alert orange
(9)	Water systems	Safety precaution blue
(10)	Sewer systems	Safety green
(11)	Proposed excavation	White

(d) Each operator notified under section 16 of this chapter shall, not later than two (2) full working days after receiving the notice of intent provided in section 16 of this chapter, make a reasonable attempt to provide notification to the person responsible for the excavation or demolition if the operator has no facilities in the location of the proposed excavation or demolition.

(e) This section does not apply to an operator making an emergency repair to its own underground facility.

(f) This subsection applies if all of the following occur:

(1) An operator of a pipeline facility is required to supply information, including facility locate markings, under subsection (a) to a person responsible for an excavation or demolition.

(2) The operator of the pipeline facility fails to supply the information described in subdivision (1) or provides incorrect facility locate markings.

(3) The operator's pipeline facility is damaged during the excavation or demolition for which the operator was required to supply the information described in subdivision (1).

The operator of the pipeline facility may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed one thousand dollars ($1,000).

(g) Subsection (f) does not apply to an operator that:

(1) is repairing its own underground facilities; or

(2) fails to supply required information or provide facility locate markings due to factors beyond the control of the operator.

(h) A person that knowingly moves, removes, damages, or otherwise alters a facility locate marking supplied under this section may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000). This subsection does not apply to a person that moves, removes, damages, or otherwise alters a facility locate marking as part of the excavation or demolition for which the facility locate markings were supplied.

(i) If an operator receives, under section 16 of this chapter, notice

of an excavation or demolition and determines that the operator is unable to do either or both of the following, the operator shall notify the person responsible for the excavation or demolition of the operator's determination and shall provide additional information and, if requested, onsite assistance to the person responsible for the excavation or demolition:

(1) Locate and mark the operator's affected underground facilities in the time required by subsection (a).

(2) Mark the approximate location of the operator's affected underground facilities.

As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.15; P.L.200-2014, SEC.5.

IC 8-1-26-19

Emergency excavation or demolition; notice requirements; penalties

Sec. 19. (a) A person responsible for emergency excavation or demolition to ameliorate an imminent danger to life, health, property, or loss of service is not required to comply with the notice requirements of section 16 of this chapter. However, that person shall:

(1) give, as soon as practicable, oral notice of the emergency excavation or demolition to the association; and

(2) request emergency assistance from each operator identified by the association as having underground facilities located in the area of the emergency excavation or demolition in locating and providing immediate protection to the operator's underground facilities.

(b) This section applies to an operator making an emergency repair to its own underground facility.

(c) A person that knowingly provides false notice of an emergency excavation or demolition to the association under subsection (a) may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed one thousand dollars ($1,000).

As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.16.

IC 8-1-26-20

Duties of excavator; facilities in or under pavement; use of mechanized equipment; civil penalties

Sec. 20. (a) In addition to the notice required in section 16 of this chapter, a person responsible for an excavation or demolition operation under section 14 of this chapter shall do all of the following:

(1) Plan the excavation or demolition to avoid damage to or minimize interference with underground facilities in and near the construction area.

(2) Maintain a clearance between an underground facility, as

marked by the operator, and the cutting edge or point of mechanized equipment. The clearance must be not less than two (2) feet on either side of the outer limits of the physical plant. However, if the clearance is less than two (2) feet, or if an underground facility is located or contained in or under pavement or another manmade hard surface, exposure of the underground facility may be accomplished only as follows:

(A) Only by the use of:

(i) hand excavation;

(ii) air cutting;

(iii) vacuum excavation; or

(iv) hydro vacuum excavation.

(B) Mechanized equipment may not be used within the two (2) feet on either side of the outer limits of the physical plant unless the person responsible for the excavation or demolition does the following:

(i) Visually identifies the precise location of the underground facilities or visually confirms that no facility is present within the depth of the excavation.

(ii) Takes reasonable precautions to avoid any substantial weakening of the underground facilities' structural or lateral support.

(iii) Takes reasonable precautions to avoid penetration or destruction of the underground facilities, including their protective coatings.

(iv) Requires an individual other than the equipment operator to visually monitor the excavation activity.

(C) Mechanized equipment may be used for the initial penetration and removal of pavement or other manmade hard surfaces if an underground facility is located or contained in or under pavement or another manmade hard surface, or if there is pavement or another manmade hard surface extending up to two (2) feet from either side of the outer limits of the physical plant, subject to the following:

(i) The person responsible for the excavation or demolition must plan the excavation to avoid damage to or minimize interference with the underground facilities, as required under subdivision (1).

(ii) The person responsible for the excavation or demolition must take into account the known limits of control of the mechanized equipment's cutting edge or point.

(iii) The mechanized equipment may be used only to the depth necessary to remove the pavement or other manmade hard surface.

(3) Notify the association if:

(A) there is evidence of an unmarked pipeline facility in the area of the excavation or demolition; or

(B) the markings indicating the location of an underground facility have become illegible.

(b) A person who:

(1) violates subsection (a); and

(2) causes damage to a pipeline facility in the area of the excavation or demolition;

may be subject to a civil penalty in an amount recommended by the advisory committee and approved by the commission, not to exceed ten thousand dollars ($10,000).

As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.17; P.L.200-2014, SEC.6.

IC 8-1-26-21

Demolition or excavation resulting in damage to underground facility; escape of flammable, toxic, or corrosive gas or liquid; duties of operator

Sec. 21. (a) Except as provided in subsection (b), a person responsible for an excavation or a demolition operation under section 14 of this chapter that results in damage to an underground facility shall:

(1) immediately upon discovery of the damage, notify the operator of the facility and the association of the location and nature of the damage; and

(2) allow the operator of the facility reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the facility.

(b) A person responsible for an excavation or a demolition operation under section 14 of this chapter that results in damage to an underground facility permitting the escape of flammable, toxic, or corrosive gas or liquid shall:

(1) immediately upon discovery of the damage, notify the operator and the association and local police and fire departments having jurisdiction; and

(2) take other action necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire personnel.

As added by P.L.69-1990, SEC.2. Amended by P.L.62-2009, SEC.18.

IC 8-1-26-22

Pecuniary loss suffered by operator; civil action; damages; defenses; injunction

Sec. 22. (a) If an operator suffers a pecuniary loss as a result of a violation of this chapter, the operator may bring a civil action against the person who caused the loss for the following:

(1) An amount equal to the operator's actual damage to the facility.

(2) The costs of the action.

(3) A reasonable attorney's fee.

(b) At the court's discretion, a court having jurisdiction may award punitive damages up to three (3) times the operator's actual damage.

(c) It is a defense to an action brought under this chapter if an operator fails to comply with the duties imposed under this chapter.

(d) In addition to the remedies described in subsection (a), an operator may bring an action to enjoin a person excavating or demolishing a structure in an area that includes the operator's facilities until that person complies with this chapter.

As added by P.L.69-1990, SEC.2.

IC 8-1-26-23

Underground plant protection advisory committee established; membership; duties and powers

Sec. 23. (a) The underground plant protection advisory committee is established.

(b) The advisory committee consists of the following seven (7) members appointed by the governor:

(1) One (1) member representing the association.

(2) One (1) member representing investor owned gas utilities.

(3) One (1) member representing operators of pipeline facilities or pipelines.

(4) One (1) member representing municipal gas utilities.

(5) Two (2) members representing commercial excavators.

(6) One (1) member representing providers of facility locate marking services.

(c) The term of a member is four (4) years. A member of the advisory committee serves at the pleasure of the governor. The governor shall fill a vacancy in the membership of the advisory committee for the unexpired term of the vacating member.

(d) The association and the commission shall provide staff support and meeting space to the advisory committee.

(e) The members of the advisory committee shall elect a chairperson. The advisory committee shall meet at the call of the chairperson.

(f) The affirmative vote of a majority of members appointed under subsection (b) is required to take action.

(g) The pipeline safety division shall investigate alleged violations of this chapter. If the pipeline safety division finds that a person has violated this chapter, the pipeline safety division shall forward its finding to the advisory committee.

(h) The advisory committee shall act in an advisory capacity to the commission concerning the implementation and enforcement of this chapter. In this capacity, and subject to subsections (i) and (j), the advisory committee may recommend the following penalties with respect to persons that the pipeline safety division has found to violate this chapter:

(1) Civil penalties consistent with this chapter.

(2) Participation in education or training programs developed

and implemented by the commission.

(3) Warning letters.

(4) Development of a plan to avoid future violations of this chapter.

Before making a recommendation under this subsection, the advisory committee shall provide notice to the person found to be in violation of this chapter of an opportunity to appear before the advisory committee with respect to the violation.

(i) The advisory board may consider the following when making a recommendation under subsection (h):

(1) Whether the person found to be in violation of this chapter is a first time or repeat violator.

(2) Whether the person found to be in violation of this chapter is:

(A) a homeowner or tenant performing excavation or demolition:

(i) on the homeowner's or tenant's residential property; and

(ii) outside an operator's easement or right of way; or

(B) a business entity.

(3) The severity of the violation.

(j) If the advisory committee determines that:

(1) the person found to be in violation of this chapter is a first time violator described in subsection (i)(2)(A); and

(2) the violation did not result in physical harm to a person;

the advisory committee may not recommend a penalty described in subsection (h)(1) or (h)(4).

(k) Upon receiving a recommendation from the advisory committee under subsection (h), and after notice and opportunity for a public hearing, the commission shall do the following as applicable:

(1) Uphold or reverse the finding of a violation by the pipeline safety division under subsection (g).

(2) Approve or disapprove each recommendation of the advisory committee.

(3) Collect any civil penalties and deposit the penalties in the underground plant protection account.

As added by P.L.62-2009, SEC.19.

IC 8-1-26-24

Underground plant protection account

Sec. 24. (a) The underground plant protection account is established to provide funding for the following programs established and administered by the commission:

(1) Public awareness programs concerning underground plant protection.

(2) Training and educational programs for contractors, excavators, locators, operators, and other persons involved in underground plant protection.

(3) Incentive programs for contractors, excavators, locators, operators, and other persons involved in underground plant protection to reduce the number of violations of this chapter.

(b) The commission shall administer the account.

(c) The treasurer of state shall invest money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(e) The expenses of administering the account shall be paid from money in the account.

(f) The account consists of penalties deposited under section 23(k) of this chapter.

As added by P.L.62-2009, SEC.20. Amended by P.L.1-2010, SEC.43.

IC 8-1-26-25

Penalties under IC 8-1-22.5 for pipeline operators

Sec. 25. An operator of a pipeline facility that violates this chapter may be subject to a civil penalty imposed by the commission under IC 8-1-22.5 in addition to a penalty or fine imposed under this chapter.

As added by P.L.62-2009, SEC.21.

IC 8-1-26-26

Authority of commission to adopt rules

Sec. 26. The commission shall adopt rules under IC 4-22-2 to carry out its responsibilities under this chapter.

As added by P.L.62-2009, SEC.22.

IC 8-1-27

Chapter 27. Environmental Compliance Plans

IC 8-1-27-1

"Clean Air Act" defined

Sec. 1. As used in this chapter, "Clean Air Act" refers to the federal Clean Air Act (42 U.S.C. 7401 et seq.) and regulations adopted under the federal Clean Air Act.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-2

"Clean Air Act Amendments of 1990" defined

Sec. 2. As used in this chapter, "Clean Air Act Amendments of 1990" refers to Title IV, Acid Deposition Control, of the federal Clean Air Act Amendments of 1990 (P.L.101-549) and regulations adopted under the federal Clean Air Act Amendments of 1990.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-3

"Environmental compliance plan" defined

Sec. 3. As used in this chapter, "environmental compliance plan" means a plan developed by a public utility to comply in whole or in part with the requirements of the Clean Air Act Amendments of 1990.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-4

"Indiana coal" defined

Sec. 4. As used in this chapter, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-5

"Public utility" defined

Sec. 5. As used in this chapter, "public utility" means a public utility, a municipally owned utility, or a cooperatively owned utility.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-5.5

"Change of fuel type" defined

Sec. 5.5. As used in this chapter, "change of fuel type" means any change in the fuel, including a change from Indiana coal, used by a public utility.

As added by P.L.92-1993, SEC.2.

IC 8-1-27-6

Environmental compliance plan; required information

Sec. 6. (a) A public utility that has at least one (1) generating unit affected by Section 404 (Phase I) or Section 405 (Phase II) of the Clean Air Act Amendments of 1990 may voluntarily submit a verified environmental compliance plan that sets forth the manner in which the public utility intends to comply with the requirements of the Clean Air Act Amendments of 1990 to the commission for the commission's review and approval under this chapter.

(b) An environmental compliance plan described in subsection (a) must include any information that the commission may reasonably require. The commission shall require a plan described in subsection (a) to include at least the following information:

(1) A description of the requirements of the Clean Air Act Amendments of 1990 applicable to each generating unit owned or operated by the public utility.

(2) A description of the measures the public utility proposes to implement to comply with the requirements.

(3) The schedule under which the public utility proposes to implement the measures.

(4) An estimate of the cost of implementing each of the measures proposed by the public utility.

(5) An analysis of the comparative estimated costs of meeting the applicable requirements of the Clean Air Act Amendments of 1990 through the measures proposed by the public utility and other alternative compliance measures considered by the public utility.

(6) For all compliance plans submitted to the commission after July 1, 1993, if an environmental compliance plan proposes a change of fuel type from the fuel type consumed in the public utility's generating units and that change of fuel type would result in the displacement or diminished use of Indiana coal from the quantity of Indiana coal consumed by the public utility during the calendar year 1990, or an average of the quantity of Indiana coal consumed by the utility in calendar years 1990, 1991, and 1992, whichever is submitted by the utility in the plan, the public utility shall submit the following as part of the environmental compliance plan:

(A) An analysis of the following:

(i) The economic and employment effects of the proposed change of fuel type on the regions of Indiana in which the mining of coal provides employment, and on the service territory of the public utility.

(ii) The effects of the proposed modification on the preservation of the mining of Indiana coal as a viable source of fuel.

The analyses required under this clause must include a comparison of the effects likely to result from the alternative compliance measures identified under subdivision (5).

(B) Information describing the availability, the reliability,

the current costs, and the projected future costs of the fuel type proposed for use in connection with the environmental compliance plan.

As added by P.L.76-1991, SEC.1. Amended by P.L.92-1993, SEC.3.

IC 8-1-27-7

Public hearing on plan; notice

Sec. 7. The commission shall hold a public hearing for each environmental compliance plan submitted by a public utility under this chapter. The public utility shall publish a notice of the filing of its petition for approval of an environmental compliance plan in one (1) newspaper of general circulation published in each county in which the public utility renders service. The provisions of IC 8-1-2-62 through IC 8-1-2-67 apply to a public hearing held under this section.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-8

Order approving plan; conditions

Sec. 8. The commission shall issue an order approving an environmental compliance plan if the commission:

(1) finds that the environmental compliance plan:

(A) is reasonably designed to meet or exceed the applicable requirements of the Clean Air Act Amendments of 1990;

(B) constitutes a reasonable and least cost strategy over the life of the investment consistent with providing reliable, efficient, and economical electrical service;

(C) is in the public interest; and

(D) either:

(i) provides for continued or increased use of Indiana coal in the coal-consuming electric generating units owned or operated by the public utility and affected by the Clean Air Act Amendments of 1990; or

(ii) if the plan does not provide for continued or increased use of Indiana coal, such nonprovision is justified by economic considerations including the effects in the regions of Indiana in which the mining of coal provides employment and in the service territory of the public utility; and

(2) approves the cost and schedule estimate for developing and implementing the environmental compliance plan.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-9

Rejection of plan; modified plan; withdrawal of plan without prejudice

Sec. 9. (a) If the commission finds that an environmental compliance plan submitted by a public utility does not satisfy the

requirements of section 8 of this chapter, the commission may reject the plan.

(b) If a public utility's environmental compliance plan is rejected by the commission, the public utility may voluntarily submit to the commission a modified plan intended to satisfy the requirements of section 8 of this chapter.

(c) A modified plan submitted under subsection (b) shall be considered by the commission under sections 7 and 8 of this chapter.

(d) A public utility may withdraw a proposed environmental compliance plan without prejudice.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-10

Submission of plan to government environmental agency; conflicts

Sec. 10. A public utility shall submit its environmental compliance plan or modified environmental compliance plan to any applicable state government environmental agency on or before the date that the public utility submits the plan to the commission under this chapter. If there is a conflict between the commission and a federal or state government environmental agency concerning the necessary components of a public utility's environmental compliance plan or modified environmental compliance plan, the determination by the government environmental agency shall control.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-11

Modification of previously approved plan; review by commission

Sec. 11. If a public utility:

(1) chooses to; or

(2) because of action by a federal or state government environmental agency, is required to;

modify a part of an environmental compliance plan that has previously been approved by the commission to comply with the requirements of the Clean Air Act, the public utility shall submit a modified environmental compliance plan to the commission for the commission's review. The conflict provisions of section 10 of this chapter apply to a modified environmental compliance plan submitted under this section.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-12

Recovery of costs by public utility for capital projects or implemented plan

Sec. 12. (a) If the commission issues an order approving an environmental compliance plan submitted by a public utility under this chapter, the commission shall, absent fraud, concealment, gross mismanagement, or inadequate quality control, allow the public utility to do the following:

(1) If a public utility is allowed by law to earn a return on the public utility's investment, the public utility may add to the fair value of the public utility's property the fair value of a completed capital project, or part of a capital project, that:

(A) is constructed and consists of:

(i) new systems, equipment, or facilities; or

(ii) modifications to existing systems, equipment, or facilities; and

(B) is part of the environmental compliance plan approved by the commission;

up to the amount approved under section 8(2) or 13 of this chapter, whichever is applicable.

(2) The public utility may recover the costs incurred by the public utility in the development and implementation of the approved environmental compliance plan up to the amount approved under section 8(2) or 13 of this chapter, whichever is applicable.

(b) The public utility may not recover costs in excess of the cost estimate approved by the commission under section 8(2) or 13 of this chapter, whichever is applicable, unless the commission finds that the additional costs were necessary and prudent.

(c) Except as provided in subsection (d), costs otherwise recoverable by a public utility under subsections (a) and (b) shall be recovered only through a general rate proceeding for the public utility and, to the extent such costs provide the public utility with a return of, or return on, the public utility's investment in a completed capital project, or a part of a capital project, such costs shall be so recovered only if the capital project, or part of the capital project, is found by the commission to be used and useful.

(d) Costs otherwise recoverable by a public utility under subsections (a) and (b) that also qualify for recovery under IC 8-1-2-6.6 shall be recovered by the public utility when and as provided under IC 8-1-2-6.6.

(e) This section does not apply if the public utility elects the review described in section 19 of this chapter.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-13

Revised cost and schedule estimate for developing and implementing plan; submission to commission

Sec. 13. (a) If a public utility makes a substantial change in a cost and schedule estimate for developing and implementing an environmental compliance plan or a modified environmental compliance plan after the estimate has been approved by the commission under this chapter, the public utility shall file with the commission for the commission's review and approval the revised cost and schedule estimate.

(b) To the extent the commission approves a revised cost and

schedule estimate, the estimate shall be the approved cost and schedule estimate for the plan.
As added by P.L.76-1991, SEC.1.

IC 8-1-27-14
Plan exceeding Clean Air Act Amendments of 1990 requirements; credits or additional benefits

Sec. 14. If the commission finds that an environmental compliance plan or a modified environmental compliance plan approved by the commission under this chapter exceeds the applicable requirements of the Clean Air Act Amendments of 1990 by means of early or over compliance, the commission shall, in the order approving the plan, determine the manner and timing of the applicable ratemaking and regulatory treatment of any emission credits or other additional benefits expected to result from the early or over compliance.
As added by P.L.76-1991, SEC.1.

IC 8-1-27-15
General rate proceedings; consideration of change in risk to utility following approval of plan

Sec. 15. In a general rate proceeding following the issuance of an order by the commission approving an environmental compliance plan under this chapter, the commission shall, in reviewing and authorizing the public utility's return, give due consideration to any change in risk to the public utility as a result of the commission's approval of the environmental compliance plan and include in the order issued with respect to the general rate proceeding a finding on the change.
As added by P.L.76-1991, SEC.1.

IC 8-1-27-16
Utility's recovery of expenditures due to plan modification

Sec. 16. If the commission issues an order under sections 8, 11, or 18 of this chapter that approves modifications to a public utility's environmental compliance plan, the commission shall, absent fraud, concealment, gross mismanagement, or inadequate quality control, allow the public utility to recover under sections 12(a) and 12(b) of this chapter, to the extent permitted under sections 12(a) and 12(b) of this chapter, the following:

(1) The public utility's expenditures made under the environmental compliance plan before the date the commission issued the order approving the modified environmental compliance plan.

(2) The public utility's expenditures made under the modified environmental compliance plan after the date the commission issued the order approving the modified environmental compliance plan.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-17
Recovery of costs incurred by utility in implementing measure set forth in plan but disapproved by commission upon review

Sec. 17. If a public utility cancels the implementation of a measure set forth in an environmental compliance plan as a result of an order issued by the commission under section 18 or 19 of this chapter that withdraws the commission's approval of the inclusion of the measure in the environmental compliance plan, the public utility may, absent fraud, concealment, gross mismanagement, or inadequate quality control, recover:

(1) over a reasonable time; and

(2) through the rates of the public utility;

the costs incurred by the public utility in implementing the measure and a reasonable return on the unamortized balance, to the extent the implementation and the costs were approved previously by the commission. The public utility may not recover costs in excess of the cost estimate approved by the commission under section 8(2) or 13 of this chapter, whichever is applicable, unless the commission finds that the additional costs were necessary and prudent.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-18
Review of plan by commission; withdrawal of approval or modification of plan

Sec. 18. (a) If the commission, after an investigation commenced upon its own initiative or upon a petition of the public utility or a class of persons satisfying the standing requirements of IC 8-1-2-54 (including the office of the utility consumer counselor), finds that substantial changes:

(1) in the need for or estimated cost of an approved environmental compliance plan have occurred; or

(2) in the estimated cost of alternative compliance measures have occurred;

the commission may commence a review of the approval of the environmental compliance plan.

(b) If the commission finds that all or part of an environmental compliance plan no longer meets the requirements of section 8 of this chapter, the commission may, consistent with sections 8 and 10 of this chapter, issue an order:

(1) withdrawing the commission's approval of all or part of the environmental compliance plan, whichever is applicable; or

(2) approving modifications to the environmental compliance plan.

(c) If the commission approves modifications to an environmental compliance plan under subsection (b), the modified environmental compliance plan shall constitute the public utility's approved

environmental compliance plan for purposes of this chapter.
As added by P.L.76-1991, SEC.1.

IC 8-1-27-19
Ongoing review of cost and implementation of plan; progress report; recovery of costs; approval or disapproval by commission; effect

Sec. 19. (a) In addition to the review of the continued appropriateness of an environmental compliance plan under section 18 of this chapter, the commission shall, at the request of a public utility, conduct an ongoing review of the cost and implementation of the public utility's approved environmental compliance plan. The public utility that has filed a compliance plan under this chapter shall submit to the commission:

(1) each year; or

(2) at other times the commission and the public utility agree on;

a progress report that includes any information the commission may require.

(b) If the commission approves the cost and implementation of the part of the environmental compliance plan under review, then, absent fraud, concealment, or gross mismanagement, the approval forecloses subsequent challenges to:

(1) the recovery in rates of those costs; and

(2) if the public utility is allowed by law to earn a return on the public utility's investment, the addition to fair value of the public utility's property of the fair value of a completed capital project, or part of a capital project, that:

(A) is constructed and consists of:

(i) new systems, equipment, or facilities; or

(ii) modifications to existing systems, equipment, or facilities; and

(B) is part of the environmental compliance plan implementation approved by the commission;

up to the amount approved under section 8(2) or 13 of this chapter, whichever is applicable. The public utility may not recover costs in excess of the cost estimate approved by the commission under section 8(2) or 13 of this chapter, whichever is applicable, unless the commission finds that the additional costs were necessary and prudent.

(c) If the commission does not issue an order disapproving all or part of the implementation of the part of the environmental compliance plan under review within six (6) months of the commencement of the commission's review, the commission shall be considered to have approved all of the implementation of that part of the environmental compliance plan, unless the commission issues an order extending the time for such review.

(d) Except as provided in subsection (e), costs otherwise

recoverable by a public utility under subsection (b) shall be recovered only through a general rate proceeding for the public utility and, to the extent such costs provide the public utility with a return of, or a return on, the public utility's investment in a completed capital project, or portion of a capital project, such costs shall be so recovered only if the capital project, or portion of the capital project, is found by the commission to be used and useful.

(e) Costs otherwise recoverable by a public utility under subsection (b) that also qualify for recovery under IC 8-1-2-6.6 shall be recovered by the public utility when and as provided under IC 8-1-2-6.6.

(f) This section applies instead of sections 12 and 16 of this chapter for a public utility that elects the review described in this section.

(g) If the commission disapproves all or part of the implementation of the part of the environmental compliance plan under review:

(1) the commission may, consistent with sections 8 and 10 of this chapter, issue an order withdrawing the commission's approval of all or part of the environmental compliance plan; and

(2) the public utility may voluntarily submit a modified environmental compliance plan to the commission for the commission's review and approval under this chapter.

If the commission issues an order approving all or part of the modified environmental compliance plan, the environmental compliance plan constitutes the public utility's approved environmental compliance plan for purposes of this chapter.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-20

Annual plan review; compliance with IC 8-1-27-8

Sec. 20. The commission shall annually review each environmental compliance plan, the implementation of which has resulted in the displacement or diminished use of Indiana coal and determine whether a different compliance measure would more fully satisfy the requirements of section 8 of this chapter.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-21

Repealed

(Repealed by P.L.1-1992, SEC.32.)

IC 8-1-27-22

Contract for sale and purchase of coal; effect of chapter

Sec. 22. (a) This chapter does not give a party to a contract for the sale and purchase of coal any greater rights under a force majeure provision of the contract than the party had before July 1, 1991.

(b) The commission may not implement this chapter in a way that would give a party to a contract for the sale and purchase of coal any greater rights under a force majeure provision of the contract than the party had before July 1, 1991.

(c) This chapter does not give the commission the authority to order a public utility to cancel, terminate, amend, or otherwise modify a contract for the purchase and sale of coal.

As added by P.L.76-1991, SEC.1.

IC 8-1-27-23

Voluntary nature of chapter procedures

Sec. 23. (a) Use of the procedures in this chapter is voluntary to a public utility. The failure of a public utility to use the approval provisions of this chapter may not create a presumption of imprudence or nonrecovery in rates for environmental compliance plan costs.

(b) This chapter does not require a public utility to use this chapter to recover a cost or expense otherwise recoverable in the public utility's rates. A higher standard for the recovery of such costs or for determining the appropriateness of an environmental compliance plan may not be imposed because of a public utility's election not to use the provisions of this chapter.

(c) An order of the commission approving an environmental compliance plan under this chapter may not limit or define the measures that may be proposed in a compliance plan submitted by another public utility or approved by the commission.

As added by P.L.76-1991, SEC.1.

IC 8-1-28

Chapter 28. Water Utility Environmental Compliance Plans

IC 8-1-28-1

"Clean Water Act" defined

Sec. 1. As used in this chapter, "Clean Water Act" refers to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and regulations adopted under the Federal Water Pollution Control Act.
As added by P.L.76-1991, SEC.2.

IC 8-1-28-2

"Environmental compliance plan" defined

Sec. 2. As used in this chapter, "environmental compliance plan" means a plan developed by a public utility to comply in whole or in part with the requirements of the Safe Drinking Water Act or the Clean Water Act.
As added by P.L.76-1991, SEC.2.

IC 8-1-28-3

"Public utility" defined

Sec. 3. As used in this chapter, "public utility" means a public utility, a municipally owned utility, or a cooperatively owned utility.
As added by P.L.76-1991, SEC.2.

IC 8-1-28-4

"Safe Drinking Water Act" defined

Sec. 4. As used in this chapter, "Safe Drinking Water Act" refers to the federal Safe Drinking Water Act (Public Health Service Act, 42 U.S.C. 300f et seq.) and regulations adopted under the Safe Drinking Water Act.
As added by P.L.76-1991, SEC.2.

IC 8-1-28-5

Submission of plan to commission; required information

Sec. 5. (a) A public utility that is subject to provisions of the Safe Drinking Water Act or Clean Water Act may voluntarily submit an environmental compliance plan that sets forth the manner in which the public utility intends to comply with requirements of the Safe Drinking Water Act or the Clean Water Act to the commission for the commission's review and approval under this chapter.

(b) An environmental compliance plan described in subsection (a) must include any information that the commission may require. The commission shall require a plan described in subsection (a) to include at least the following information:

(1) A description of the requirements of the Safe Drinking Water Act or Clean Water Act applicable to the operations of the public utility.

(2) A description of the measures the public utility proposes to

implement to comply with the requirements.

(3) The schedule under which the public utility proposes to implement the measures.

(4) An estimate of the cost of implementing each of the measures proposed by the public utility.

(5) An analysis of the comparative estimated costs of meeting the applicable requirements of the Safe Drinking Water Act or Clean Water Act through the measures proposed by the public utility and other alternative compliance measures considered by the public utility.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-6

Public hearing on plan; notice

Sec. 6. The commission shall hold a public hearing for each environmental compliance plan submitted by a public utility under this chapter. The public utility shall publish a notice of the filing of its petition for approval of an environmental compliance plan in one (1) newspaper of general circulation published in each county in which the utility renders service. The provisions of IC 8-1-2-62 through IC 8-1-2-67 shall apply to a public hearing under this section.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-7

Order approving plan; conditions

Sec. 7. The commission shall issue an order approving an environmental compliance plan if the commission:

(1) finds that the environmental compliance plan:

(A) is reasonably designed to meet or exceed applicable requirements of the Safe Drinking Water Act or Clean Water Act;

(B) constitutes a reasonable and least cost strategy consistent with providing reliable, efficient, and economical water service; and

(C) is in the public interest; and

(2) approves the cost and schedule estimate for developing and implementing the environmental compliance plan.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-8

Rejection of plan; modified plan; withdrawal of plan without prejudice

Sec. 8. (a) If the commission finds that an environmental compliance plan submitted by a public utility does not satisfy the requirements of section 7 of this chapter, the commission may reject the plan.

(b) If the public utility's environmental compliance plan is

rejected by the commission, the public utility may voluntarily submit to the commission a modified plan intended to satisfy the requirements of section 7 of this chapter.

(c) A modified plan submitted under subsection (b) shall be considered by the commission under sections 6 and 7 of this chapter.

(d) A public utility may withdraw a proposed environmental compliance plan without prejudice.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-9

Submission of plan to government environmental agency; conflicts

Sec. 9. A public utility shall submit its environmental compliance plan or modified environmental compliance plan to any applicable state government environmental agency on or before the date that the public utility submits the plan to the commission under this chapter. If there is a conflict between the commission and a federal or state government environmental agency concerning the necessary components of a public utility's environmental compliance plan or modified environmental compliance plan, the determination by the government environmental agency shall control.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-10

Modification of previously approved plan; review by commission

Sec. 10. If a public utility:

(1) chooses to; or

(2) because of action by a federal or state government environmental agency, is required to;

modify a portion of an environmental compliance plan that has previously been approved by the commission in order to comply with the requirements of the Safe Drinking Water Act or Clean Water Act, the public utility shall submit a modified environmental compliance plan to the commission for the commission's review. The conflict provisions of section 9 of this chapter apply to a modified environmental compliance plan submitted under this section.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-11

Recovery of costs by public utility for capital projects or implemented plan

Sec. 11. (a) If the commission issues an order approving an environmental compliance plan submitted by a public utility under this chapter, the commission shall, absent fraud, concealment, gross mismanagement, or inadequate quality control, allow the public utility to do the following:

(1) If a public utility is allowed by law to earn a return on the public utility's investment, the public utility may add to the fair value of the public utility's property the fair value of a

completed capital project, or part of a capital project, that:

(A) is constructed and consists of:

(i) new systems, equipment, or facilities; or

(ii) modifications to existing systems, equipment, or facilities; and

(B) is part of the environmental compliance plan approved by the commission;

up to the amount approved by the commission under section 7(2) or 12 of this chapter, whichever is applicable.

(2) The public utility may recover the costs and expense incurred by the public utility in the development and implementation of the approved environmental compliance plan, up to the amount approved under section 7(2) or 12 of this chapter, whichever is applicable.

(b) The public utility may not recover costs in excess of the cost estimate approved by the commission under section 7(2) or 12 of this chapter, whichever is applicable, unless the commission finds that the additional costs were necessary and prudent.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-12

Revised cost and schedule estimate for developing and implementing plan; submission to commission

Sec. 12. (a) If a public utility makes a substantial change in a cost and schedule estimate for developing and implementing an environmental compliance plan or a modified environmental compliance plan after the estimate has been approved by the commission under this chapter, the public utility shall file with the commission for the commission's review and approval the revised cost and schedule estimate.

(b) To the extent the commission approves a revised cost and schedule estimate, the estimate shall be the approved cost and schedule estimate for the plan.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-13

Utility's recovery of expenditures as result of plan modification

Sec. 13. If the commission issues an order under section 7 or 15 of this chapter that approves modifications to a public utility's environmental compliance plan, the commission shall, absent fraud, concealment, gross mismanagement, or inadequate quality control, allow the public utility to recover under section 11 of this chapter, to the extent permitted under section 11 of this chapter, the following:

(1) The public utility's expenditures made under the environmental compliance plan before the date the commission issued the order approving the modified environmental compliance plan.

(2) The public utility's expenditures made under the modified

environmental compliance plan after the date the commission issued the order approving the modified environmental compliance plan.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-14

Recovery of costs incurred by utility in implementing measure set forth in plan but disapproved by commission upon review

Sec. 14. If a public utility cancels the implementation of a measure set forth in an environmental compliance plan as a result of an order issued by the commission under section 15 or 16 of this chapter that withdraws the commission's approval of the inclusion of the measure in the environmental compliance plan, the public utility may, absent fraud, concealment, or gross mismanagement, recover:

(1) over a reasonable time; and

(2) through the rates of the public utility;

the costs incurred by the public utility in implementing the measure and a reasonable return on the unamortized balance, to the extent the implementation and the costs were approved previously by the commission. The public utility may not recover costs in excess of the cost estimate approved by the commission under section 7(2) of this chapter unless the commission finds that the additional costs were necessary and prudent.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-15

Review of plan by commission; withdrawal of approval or modification of plan

Sec. 15. (a) If the commission, after an investigation commenced upon its own initiative or upon a petition of a class of persons satisfying the standing requirements of IC 8-1-2-54 (including the office of the utility consumer counselor), finds that substantial changes:

(1) in the need for or estimated cost of an approved environmental compliance plan have occurred; or

(2) in the estimated cost of alternative compliance measures have occurred;

the commission may commence a review of the approval of the environmental compliance plan.

(b) If the commission finds that all or part of an environmental compliance plan no longer meets the requirements of section 7 of this chapter, the commission may, consistent with sections 7 and 9 of this chapter, issue an order:

(1) withdrawing the commission's approval of all or part of the environmental compliance plan, whichever is applicable; or

(2) approving modifications to the environmental compliance plan.

(c) If the commission approves modifications to an environmental

compliance plan under subsection (b), the modified environmental compliance plan shall constitute the public utility's approved environmental compliance plan for purposes of this chapter.
As added by P.L.76-1991, SEC.2.

IC 8-1-28-16
Ongoing review of cost and implementation of plan; progress report; recovery of costs; final approval by commission

Sec. 16. (a) In addition to the review of the continued appropriateness of an environmental compliance plan under section 15 of this chapter, the commission shall, at the request of a public utility, conduct an ongoing review of the cost and implementation of the public utility's approved environmental compliance plan. The public utility shall submit to the commission:

(1) each year; or

(2) at other times the commission and the public utility agree on;

a progress report that includes any information the commission may require.

(b) If the commission approves the cost and implementation of the part of the environmental compliance plan under review, then, absent fraud, concealment, or gross mismanagement, the approval forecloses subsequent challenges to:

(1) the recovery in rates of those costs; and

(2) if the public utility is allowed by law to earn a return on the public utility's investment, the addition to the fair value of the public utility's property of the fair value of a completed capital project, or portion of a capital project, that:

(A) is constructed and consists of:

(i) new systems, equipment, or facilities; or

(ii) modifications to existing systems, equipment, or facilities; and

(B) is part of the environmental compliance plan implementation approved by the commission;

up to the amount approved under section 7(2) or 12 of this chapter, whichever is applicable. The public utility may not recover costs in excess of the cost estimate approved by the commission under section 7(2) or 12 of this chapter, whichever is applicable, unless the commission finds that the additional costs were necessary and prudent.

(c) If the commission does not issue an order disapproving all or part of the implementation of the part of the environmental compliance plan under review within six (6) months of the commencement of the action seeking the commission's approval, the commission shall be considered to have approved all of the implementation of that part of the environmental compliance plan unless the commission issues an order extending the time for such review.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-17
Disapproval or approval of all or part of plan; effect

Sec. 17. If the commission disapproves all or part of the implementation of the part of the environmental compliance plan under review:

(1) the commission may, consistent with section 9 of this chapter, issue an order withdrawing the commission approval of all or part of the environmental compliance plan; and

(2) the public utility may voluntarily submit a modified environmental compliance plan to the commission for the commission's approval under this chapter.

If the commission issues an order approving all or part of the modified environmental compliance plan, the environmental compliance plan constitutes the public utility's approved environmental compliance plan to the extent of the approval for purposes of this chapter.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-18
General rate proceedings; consideration of change in risk to utility following approval of plan

Sec. 18. In a general rate proceeding following the issuance of an order by the commission approving an environmental compliance plan under this chapter, the commission shall, in reviewing and authorizing the public utility's return, give due consideration to any change in risk to the public utility as a result of the commission's approval of the environmental compliance plan and include in the order issued with respect to the general rate proceeding a finding on the change.

As added by P.L.76-1991, SEC.2.

IC 8-1-28-19
Voluntary nature of chapter procedure

Sec. 19. (a) Use of the procedure in this chapter is voluntary to a public utility. The failure of a public utility to use the approval provisions of this chapter may not create a presumption of imprudence or nonrecovery in rates for environmental compliance plan costs.

(b) This chapter does not require a public utility to utilize this chapter to recover a cost or expense otherwise recoverable in the public utility's rates. A higher standard for the recovery of such costs or for determining the appropriateness of an environmental compliance plan may not be imposed because of a public utility's election not to use the provisions of this chapter.

(c) An order of the commission approving an environmental compliance plan under this chapter may not limit or define the

measures that may be proposed in a compliance plan submitted by another public utility or approved by the commission.
As added by P.L.76-1991, SEC.2.

IC 8-1-29

Chapter 29. Telecommunications Customers

IC 8-1-29-1

"Customer" defined

Sec. 1. As used in this chapter, "customer" means a person to whom telecommunications services are provided.

As added by P.L.92-1998, SEC.2.

IC 8-1-29-1.3

"Letter of agency" defined

Sec. 1.3. As used in this chapter, "letter of agency" means a written statement that a customer signs that authorizes a change to that customer's primary interexchange carrier or primary local exchange carrier.

As added by P.L.135-1999, SEC.1.

IC 8-1-29-1.5

"Preferred carrier change order" defined

Sec. 1.5. As used in this chapter, "preferred carrier change order" means a request to change a customer's telecommunications provider.

As added by P.L.135-1999, SEC.2.

IC 8-1-29-2

"Telecommunications" defined

Sec. 2. As used in this chapter, "telecommunications" means the electronic transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received. The term does not include commercial mobile radio service (as defined in 47 U.S.C. 332).

As added by P.L.92-1998, SEC.2. Amended by P.L.135-1999, SEC.3.

IC 8-1-29-3

"Telecommunications provider" defined

Sec. 3. As used in this chapter, "telecommunications provider" means a person that provides telecommunications service.

As added by P.L.92-1998, SEC.2.

IC 8-1-29-4

"Telecommunications service" defined

Sec. 4. As used in this chapter, "telecommunications service" means making telecommunications available to the public for a fee.

As added by P.L.92-1998, SEC.2.

IC 8-1-29-5

Unauthorized switching of providers or billing for services

Sec. 5. A customer of a telecommunications provider may not be:

(1) switched to another telecommunications provider unless the customer authorizes the switch; or

(2) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

As added by P.L.92-1998, SEC.2.

IC 8-1-29-5.5

Confirmation of preferred carrier change order required

Sec. 5.5. A telecommunications provider may not submit a preferred carrier change order unless the order has first been confirmed in accordance with one (1) of the following procedures:

(1) The telecommunications provider has obtained the customer's written authorization through a letter of agency.

(2) The telecommunications provider has obtained the customer's electronic authorization:

(A) to submit a preferred carrier change order; and

(B) placed from a telephone number on which the telecommunications service is to be changed.

A call to the telecommunications provider under this subdivision must connect the customer to a voice response unit or a similar mechanism that records the required information regarding the preferred carrier change, including automatically recording the automatic number identification.

(3) An appropriately qualified and independent third party has obtained the customer's oral authorization to submit the preferred carrier change order. Such an authorization must confirm and include appropriate verification of the customer's identity.

(4) Any other procedure approved by the commission.

As added by P.L.135-1999, SEC.4.

IC 8-1-29-6

Adoption of rules

Sec. 6. The commission shall adopt rules under IC 4-22-2 to implement IC 8-1-29-5.5. The commission's rules shall ensure that a customer of a telecommunications provider is not:

(1) switched to another telecommunications provider without the customer's authorization; or

(2) billed for additional services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

The rules adopted under this section must be consistent with rules adopted by the Federal Communications Commission concerning verification procedures for the switching of a customer's telecommunications provider.

As added by P.L.92-1998, SEC.2. Amended by P.L.135-1999, SEC.5.

IC 8-1-29-7
Complaints; hearings

Sec. 7. A complaint may be filed with the commission by any of the following:

(1) A customer of a telecommunications provider who has been:
(A) switched by one (1) telecommunications provider to another telecommunications provider without the customer's authorization; or
(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(2) A telecommunications provider that has been removed as a customer's telecommunications provider without the customer's authorization.

(3) The commission on its own motion.

(4) The office of the utility consumer counselor.

A hearing held on a complaint filed under this section must be consistent with IC 8-1-1-8.

As added by P.L.92-1998, SEC.2. Amended by P.L.135-1999, SEC.6.

IC 8-1-29-7.5
Civil penalties

Sec. 7.5. (a) If after notice and hearing the commission finds that a telecommunications provider has violated:

(1) section 5 of this chapter; or

(2) rules adopted under section 6 of this chapter;

the commission may impose a civil penalty of not more than two thousand five hundred dollars ($2,500) for each offense.

(b) The secretary of the commission shall deposit civil penalties collected under subsection (a) in the state general fund.

As added by P.L.65-1999, SEC.1.

IC 8-1-29-8
Referral of violations to attorney general as deceptive acts

Sec. 8. The commission may refer a violation of section 5 of this chapter or rules adopted under section 6 of this chapter to the attorney general as a deceptive act. If a violation of section 5 of this chapter or rules adopted under section 6 of this chapter is referred to the attorney general as a deceptive act, the person who commits the violation commits a deceptive act that is actionable by the attorney general and the customer and is subject to the remedies and penalties under IC 24-5-0.5.

As added by P.L.92-1998, SEC.2.

IC 8-1-29.5

Chapter 29.5. Enforcement Remedies for Prohibited Actions by Telecommunications Service Providers and Video Service Providers

IC 8-1-29.5-1

Application of chapter

Sec. 1. This chapter applies to a provider and a certificate holder.

As added by P.L.27-2006, SEC.53.

IC 8-1-29.5-2

Application of definitions

Sec. 2. Except as otherwise provided, the definitions in IC 8-1-2.6 apply throughout this chapter.

As added by P.L.27-2006, SEC.53.

IC 8-1-29.5-3

"Certificate holder"

Sec. 3. As used in this chapter, "certificate holder" refers to a person holding a certificate of franchise authority issued under IC 8-1-34-17.

As added by P.L.27-2006, SEC.53.

IC 8-1-29.5-4

"Commission"

Sec. 4. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.27-2006, SEC.53.

IC 8-1-29.5-5

"Customer"

Sec. 5. As used in this chapter, "customer", with respect to a provider, refers to either of the following:

(1) A residential customer.

(2) A business customer.

As added by P.L.27-2006, SEC.53.

IC 8-1-29.5-6

Service complaints; investigation by commission; enforcement remedies; civil penalties; enforcement by attorney general; right to appeal

Sec. 6. (a) If:

(1) ten (10) or more customers of a provider or a certificate holder;

(2) the utility consumer counselor; or

(3) any class satisfying the standing requirements of IC 8-1-2-54;

files a verified complaint with the commission alleging that a service

over which the commission has jurisdiction that is provided by a provider or a certificate holder is unsafe, unjustly discriminatory, or inadequate, or that any service cannot be obtained, the commission may investigate the complaint as the commission considers appropriate. The commission shall conduct an investigation under this section on an expedited basis.

(b) If, after notice and an opportunity for hearing, the commission determines from an investigation conducted under subsection (a) that a service over which the commission has jurisdiction that is provided by a provider or a certificate holder is unsafe, unjustly discriminatory, or inadequate, or that any service cannot be obtained, the commission may do any of the following:

(1) Issue an order directing the provider or the certificate holder to cease and desist from any action resulting in unsafe, unjustly discriminatory, or inadequate service.

(2) Mandate corrective action.

(3) Revoke or modify the terms of:

(A) an indeterminate permit;

(B) a certificate of territorial authority;

(C) a certificate of franchise authority issued under IC 8-1-34; or

(D) another license or authorization;

issued to the provider or the certificate holder by the commission.

(4) Impose a civil penalty of not more than ten thousand dollars ($10,000) per offense, if the offense involves any of the following:

(A) A willful disregard, as evidenced by a continuing pattern of conduct, by the provider or the certificate holder of its obligation to remedy the offense after the provider or the certificate holder becomes aware of the offense.

(B) Repeated errors in bills issued to one (1) or more customer classes, if the errors:

(i) represent intentional misconduct or an act of fraud by the provider or the certificate holder or by any officer, accountant, or agent of the provider or the certificate holder; or

(ii) demonstrate, by a continuing pattern of conduct, a willful disregard by the provider or the certificate holder of its obligation to remedy the errors after the provider or the certificate holder becomes aware of the errors.

Subject to section 7(a)(1) of this chapter, for purposes of this subdivision, a single act, omission, occurrence, or event that results in multiple complaints being filed under subsection (a) constitutes a single offense and is not subject to more than one (1) civil penalty. The commission may not consider each day that a particular act, omission, occurrence, or event continues to be a separate offense.

(c) A matter resolved through voluntary mediation is not subject to any of the remedies allowed under subsection (b).

(d) A provider or a certificate holder may not be subject to both:

(1) a civil penalty or order of the commission under this section; and

(2) a penalty or remedy agreed to in a commission approved settlement agreement;

for the same offense. If the commission has approved a settlement agreement under IC 8-1-2.6 that includes penalties or remedies for noncompliance with specific provisions of the settlement agreement, the penalties or remedies provided in this section do not apply to those instances of noncompliance during the life of the settlement agreement.

(e) The attorney general may bring an action in the name of the state to enforce any action taken by the commission under subsection (b), including the collection of an unpaid civil penalty imposed by the commission.

(f) The following are subject to appeal by a provider under IC 8-1-3:

(1) A determination by the commission under this section that a service is unsafe, unjustly discriminatory, or inadequate, or that a service cannot be obtained.

(2) The appropriateness of any action taken by the commission under subsection (b)(1) through (b)(3).

(3) The appropriateness of:

(A) the imposition of a civil penalty by the commission under subsection (b)(4); or

(B) the amount of the penalty imposed.

Upon the motion of a provider or a certificate holder, the commission shall stay the effect or enforceability of an order or penalty under this section pending an appeal, subject to the provider or the certificate holder posting a bond that complies with Rule 18 of the Indiana Rules of Appellate Procedure.

As added by P.L.27-2006, SEC.53.

IC 8-1-29.5-7

Factors commission may consider in imposing civil penalty; waiver of civil penalty; use of civil penalties collected

Sec. 7. (a) In imposing a civil penalty under section 6(b)(4) of this chapter, the commission may consider the following factors:

(1) The duration and gravity of the offense, including the number of customers affected.

(2) Economic benefits accrued by the provider or certificate holder as a result of the offense.

(3) The amount of a civil penalty that will deter future offenses by the provider or certificate holder.

(4) The market share of the provider or certificate holder in the affected service areas.

(5) Good faith of the provider or certificate holder in attempting to remedy the offense after receiving notification of the offense.

(b) If the commission waives a civil penalty for any offense described in section 6(b)(4) of this chapter, the commission must make a written finding as to why it is waiving the civil penalty. The commission may waive a civil penalty under section 6(b)(4) of this chapter if the commission finds that the offense is the result of any of the following:

(1) Technological infeasibility.

(2) An act of God.

(3) A defect in, or prohibited use of, customer provided equipment.

(4) A negligent act of a customer.

(5) An emergency situation.

(6) Unavoidable casualty.

(c) The secretary of the commission shall direct a civil penalty imposed and collected under section 6(b)(4) of this chapter as follows:

(1) A civil penalty imposed for an offense that directly affects retail customers must be refunded directly to the customers of the provider or certificate holder in the form of credits on customer bills.

(2) A civil penalty imposed for an offense not described in subdivision (1) must be deposited into an account designated by the Indiana economic development corporation for use by the corporation in making loans or grants to broadband developers and operators under the Indiana broadband development program established by IC 8-1-33-15.

As added by P.L.27-2006, SEC.53. Amended by P.L.162-2007, SEC.29.

IC 8-1-30

Chapter 30. Operation of Certain Water and Sewer Utilities

IC 8-1-30-1

Applicability of definitions

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-2

"Utility company" defined

Sec. 2. As used in this chapter, "utility company" refers to either of the following:

(1) A public utility that provides water or sewer service.

(2) A regional sewer and water district.

The term does not include a municipally owned utility.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-3

Commission review of operations

Sec. 3. (a) The commission may review any of the following or any combination of the following aspects of a utility company's operations:

(1) Technical, financial, and managerial capacity.

(2) Physical condition and capacity of the utility company's plant.

(3) Compliance with Indiana or federal law or the commission's orders.

(4) Provision of service to customers.

(b) The commission may conduct a review under this section upon its own motion, a request of the office of the utility consumer counselor, or upon the filing of a complaint by a customer of the utility company. The commission's order for review must state facts to justify a review by the commission.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-4

Findings of violations

Sec. 4. The commission may issue orders under section 5 of this chapter if the commission finds either of the following:

(1) The utility company has continued violations of:

(A) law regulating the utility company after the commission has ordered compliance; or

(B) commission orders.

(2) The commission finds after a review conducted under section 3 of this chapter that the utility company has severe deficiencies that the utility company has failed to remedy.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-5

Issuance of orders to provide for acquisition or appointment of receivers

Sec. 5. (a) As used in this section, "subject utility company" refers to a utility company that is the subject of a finding by the commission under section 4 of this chapter.

(b) If the commission makes a finding under section 4 of this chapter, the commission may, after notice and hearing, make appropriate orders to do any of the following:

(1) Provide for the acquisition of the subject utility company by another utility company, a municipally owned utility, or by another person that has the ability to operate the subject utility company:

(A) in compliance with law and the commission's orders; and

(B) to remedy any deficiencies found by the commission.

(2) Provide for the appointment of a receiver to operate the subject public utility:

(A) in compliance with law and the commission's orders; and

(B) to remedy any deficiencies found by the commission.

(c) Before making an order under subsection (b), the commission shall give notice of the hearing to the following:

(1) The subject utility company.

(2) Other utility companies in Indiana.

(3) Appropriate public agencies and political subdivisions, including all municipalities, located in the subject utility company's service territory.

(d) An order under subsection (b)(1) must provide:

(1) that the person acquiring the subject utility company must pay the fair market value of the subject utility company at the time of acquisition; and

(2) the specific accounting methods and appraisal procedures and terms by which the fair market value of the subject utility company is to be determined.

(e) An order under subsection (b)(1) may provide cost recovery mechanisms for costs associated with improvements to the acquired system that are immediate and necessary to remedy deficiencies, including any of the following:

(1) A mechanism for expediting any adjustments to the rate base and rates of the person acquiring the subject utility company.

(2) Surcharges on customers of the acquired utility company system to pay for extraordinary costs.

(3) A plan for deferring certain improvement costs and recovering costs in phases.

(4) A plan for equalizing rates of the subject utility company with the rates of the person acquiring the subject utility company, if necessary.

(5) Other incentives to the person acquiring the subject utility

company, including adjustments to the allowed rate of return.

(f) If the commission makes an order under subsection (b)(2), the attorney general shall file an action in a court with jurisdiction on behalf of the commission for the appointment of a receiver under IC 32-30-5. The receiver appointed by the court:

(1) has the same rights and duties under Indiana law as a utility company providing water or sewer service; and

(2) shall continue to operate the subject utility company until the court finds that the subject utility company:

(A) has the ability to comply and will comply with Indiana law and the commission's orders relating to the operation of the utility company; and

(B) has the ability to operate without any of the deficiencies found by the commission.

As added by P.L.145-1999, SEC.7. Amended by P.L.2-2002, SEC.37.

IC 8-1-30-6

Municipal requirement to sell utility property

Sec. 6. (a) This section does not apply to the following:

(1) A municipality that, as of July 1, 2012, had established and operated a water utility.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) IC 8-1.5-2;

before March 1, 2013.

(b) A municipality or other governmental unit may not require a utility company that provides water or sewer service to sell property used in the provision of such service to the municipality or governmental unit under IC 8-1-2-92, IC 8-1-2-93, or otherwise, unless:

(1) the commission has made all necessary findings under section 4 of this chapter; and

(2) the procedures and requirements of this chapter have been complied with and satisfied.

As added by P.L.145-1999, SEC.7. Amended by P.L.270-2013, SEC.3.

IC 8-1-30.3

Chapter 30.3. Acquisition of Distressed Water or Wastewater Utilities

IC 8-1-30.3-1

"Cost differential"

Sec. 1. As used in this chapter, "cost differential" means the difference between:

(1) the cost to a utility company that acquires utility property from a distressed utility, including the purchase price, incidental expenses, and other costs of acquisition; minus

(2) the difference between:

(A) the cost of the utility property when originally put into service by the distressed utility; minus

(B) contributions or advances in aid of construction plus applicable accrued depreciation.

As added by P.L.189-2015, SEC.1.

IC 8-1-30.3-2

"Distressed utility"

Sec. 2. As used in this chapter, "distressed utility" refers to a utility company whose property is the subject of an acquisition described in section 5(a) of this chapter.

As added by P.L.189-2015, SEC.1.

IC 8-1-30.3-2.5

"Not-for-profit utility"

Sec. 2.5. As used in this chapter, "not-for-profit utility" has the meaning set forth in IC 8-1-2-125(a). The term includes a utility company owned, operated, or held in trust by a consolidated city.

As added by P.L.98-2016, SEC.2.

IC 8-1-30.3-3

"Utility company"

Sec. 3. As used in this chapter, "utility company" means:

(1) a:

(A) public utility;

(B) municipally owned utility; or

(C) not-for-profit utility;

that provides water or wastewater service; or

(2) a regional sewer or water district.

As added by P.L.189-2015, SEC.1. Amended by P.L.98-2016, SEC.3.

IC 8-1-30.3-4

"Utility property"

Sec. 4. As used in this chapter, "utility property" refers to property of a utility company that is the subject of an acquisition described in section 5(a) of this chapter.

As added by P.L.189-2015, SEC.1.

IC 8-1-30.3-5
Applicability; petition to include cost differential in rate base; final order; cost of assets

Sec. 5. (a) This section applies if:

(1) a utility company acquires property from another utility company at a cost differential in a transaction involving a willing buyer and a willing seller; and

(2) at least one (1) utility company described in subdivision (1) is subject to the jurisdiction of the commission under this article.

(b) There is a rebuttable presumption that a cost differential is reasonable.

(c) The utility company that acquires the utility property may petition the commission to include the cost differentials as part of its rate base. The commission shall approve the petition if the commission finds the following:

(1) The utility property is used and useful in providing water service, wastewater service, or both water and wastewater service.

(2) The distressed utility failed to furnish or maintain adequate, efficient, safe, and reasonable service and facilities.

(3) The utility company will make reasonable and prudent improvements to ensure that customers of the distressed utility will receive adequate, efficient, safe, and reasonable service.

(4) The acquisition of the utility property is the result of a mutual agreement made at arms length.

(5) The actual purchase price of the utility property is reasonable.

(6) The utility company and the distressed utility are not affiliated and share no ownership interests.

(7) The rates charged by the utility company before acquiring the utility property of the distressed utility will not increase unreasonably as a result of acquiring the utility property.

(8) The cost differential will be added to the utility company's rate base to be amortized as an addition to expense over a reasonable time with corresponding reductions in the rate base.

(d) A utility company may petition the commission in an independent proceeding to approve a petition under subsection (c) before the utility company acquires the utility property if the utility company provides:

(1) notice of the proposed acquisition and any changes in rates or charges to customers of the distressed utility;

(2) notice to customers of the utility company if the proposed acquisition will increase the utility company's rates by an amount that is greater than one percent (1%) of the utility company's base annual revenue;

(3) notice to the office of the utility consumer counselor; and
(4) a plan for reasonable and prudent improvements to provide adequate, efficient, safe, and reasonable service to customers of the distressed utility.

(e) In a proceeding under subsection (d), the commission shall issue its final order not later than two hundred ten (210) days after the filing of the petitioner's case in chief. If the commission grants the petition, the commission's order shall authorize the acquiring utility company to make accounting entries recording the acquisition and that reflect:

(1) the full purchase price;
(2) incidental expenses; and
(3) other costs of acquisition;

as the original cost of the utility plant in service assets being acquired, allocated in a reasonable manner among appropriate utility plant in service accounts.

As added by P.L.189-2015, SEC.1. Amended by P.L.98-2016, SEC.4.

IC 8-1-30.3-6

Failure to furnish or maintain adequate and reasonable service and facilities

Sec. 6. For purposes of section 5(c)(2) of this chapter, a distressed utility is not furnishing or maintaining adequate, efficient, safe, and reasonable service and facilities if the commission finds one (1) or more of the following:

(1) The distressed utility violated one (1) or more state or federal statutory or regulatory requirements in a manner that the commission determines affects the safety, adequacy, efficiency, or reasonableness of its services or facilities.
(2) The distressed utility has inadequate financial, managerial, or technical ability or expertise.
(3) The distressed utility fails to provide water in sufficient amounts, that is palatable, or at adequate volume or pressure.
(4) The distressed utility, due to necessary improvements to its plant or distribution or collection system or operations, is unable to furnish and maintain adequate service to its customers at rates equal to or less than those of the public utility.
(5) The distressed utility:
    (A) is municipally owned utility property of a municipally owned utility that serves fewer than five thousand (5,000) customers; and
    (B) is being sold under IC 8-1.5-2-6.1.
(6) Any other facts that the commission determines demonstrate the distressed utility's inability to furnish or maintain adequate, efficient, safe, or reasonable service or facilities.

As added by P.L.189-2015, SEC.1. Amended by P.L.98-2016, SEC.5.

IC 8-1-30.3-7

Annual electronic report concerning acquisitions

Sec. 7. Not later than October 1 of each year, the commission shall submit, in an electronic format under IC 5-14-6 to the interim study committee on energy, utilities, and telecommunications, a report concerning acquisitions under this chapter.

As added by P.L.189-2015, SEC.1.

IC 8-1-30.5
Repealed

(Repealed by P.L.102-2016, SEC.1.)

IC 8-1-30.7

Chapter 30.7. Non-Revenue Water Auditing

IC 8-1-30.7-1

Findings

Sec. 1. The general assembly makes the following findings:

(1) Safe and affordable drinking water is essential to public health and economic development throughout Indiana.

(2) The cost of providing reliable drinking water is increasing due to factors such as aging infrastructure, increased energy costs, and complex and costly changes in the regulatory requirements for safe drinking water.

(3) Water main breaks are visible and disruptive manifestations of the more widespread phenomenon of leakage from water systems.

(4) Leakage of drinking water from water distribution systems adds to the cost of service to customers and may lead to increased raw water demands that harm the natural environment.

(5) The failure of water utilities to recover revenue from some of the water delivered to users due to:

(A) metering and billing inaccuracies; and

(B) theft;

increases the cost per unit of water that is billed to customers.

(6) Best management practices suggest that drinking water utilities should conduct an annual water audit in accordance with the American Water Works Association (AWWA) Manual of Water Supply Practices M-36: Water Audits and Loss Control Programs.

(7) The AWWA has published software for use in categorizing and reporting water losses and has made the software available without charge.

(8) AWWA M-36 water audit protocol classifies water volumes entering water distribution systems into revenue water and non-revenue water, with:

(A) revenue water representing billed water consumption; and

(B) non-revenue water consisting of the difference between the volume entering the distribution system and revenue water.

(9) Regular auditing of water volumes is a necessary foundation for the adoption of cost effective strategies to reduce the level of non-revenue water to economically reasonable levels.

As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-2

"Authority"

Sec. 2. As used in this chapter, "authority" refers to the Indiana

finance authority established by IC 4-4-11-4.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-3
"Commission"
Sec. 3. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-4
"Non-revenue water"
Sec. 4. As used in this chapter, "non-revenue water" means the difference between the annual volume of water entering a water distribution system and revenue water of the system.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-5
"Revenue water"
Sec. 5. As used in this chapter, "revenue water" means the annual amount of water consumption billed to customers.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-6
"Water audit"
Sec. 6. As used in this chapter, "water audit" means an audit performed in accordance with the AWWA Manual of Water Supply Practices M-36: Water Audits and Loss Control Programs.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-7
"Water related state agency"
Sec. 7. As used in this chapter, "water related state agency" means any of the following:

(1) The Indiana finance authority established by IC 4-4-11.
(2) The department of administration created by IC 4-13-1-2.
(3) The commission.
(4) The office of utility consumer counselor created by IC 8-1-1.1-2.
(5) The department of environmental management established by IC 13-13-1-1.
(6) The department of natural resources created by IC 14-9-1-1.
(7) The state department of health established by IC 16-19-1-1.
(8) The Indiana geological survey established as a part of Indiana University by IC 21-47-2.
(9) The Indiana Water Resource Research Center of Purdue University.
(10) The state department of agriculture established by IC 15-11-2-1.

As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-8
"Water utility"

Sec. 8. As used in this chapter, "water utility" means:

(1) a public utility (as defined in IC 8-1-2-1(a));
(2) a municipally owned utility (as defined in IC 8-1-2-1(h));
(3) a not-for-profit utility (as defined in IC 8-1-2-125(a));
(4) a cooperatively owned corporation;
(5) a conservancy district established under IC 14-33; or
(6) a regional water district established under IC 13-26;

that provides water service to the public in Indiana for a fee.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-9
Water utility water audits

Sec. 9. (a) For purposes of the report required by section 10 of this chapter, each water utility shall provide to the authority a water audit:

(1) according to requirements established by the authority; and
(2) not later than a date set by the authority so that the report prepared by the authority under section 10 of this chapter can reflect the results of the water audits of all water utilities.

(b) The authority shall summarize the results of the water audits provided under subsection (a) in the report prepared under section 10 of this chapter.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-10
Finance authority report on water loss

Sec. 10. Before November 1, 2017, the authority, in consultation with:

(1) the commission and any other water related state agencies;
(2) any political subdivisions (as defined in IC 36-1-2-13);
(3) any water utilities or organizations of water utilities; and
(4) any other interested parties;

that the authority chooses to consult with, shall prepare and submit in an electronic format under IC 5-14-6 to the executive director of the legislative services agency a report on non-revenue water and water loss in Indiana.
As added by P.L.102-2016, SEC.2.

IC 8-1-30.7-11
Expiration of chapter

Sec. 11. This chapter expires July 1, 2018.
As added by P.L.102-2016, SEC.2.

IC 8-1-31

Chapter 31. Infrastructure Improvement Charges

IC 8-1-31-1

Applicability of definitions

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

As added by P.L.94-2000, SEC.1.

IC 8-1-31-1.3

"Adjustment amount"

Sec. 1.3. As used in this chapter, "adjustment amount" means the amount proposed in a petition filed under section 8 of this chapter to allow the adjustment of an eligible utility's basic rates and charges to provide for recovery of infrastructure improvement costs.

As added by P.L.209-2014, SEC.1. Amended by P.L.212-2015, SEC.1.

IC 8-1-31-1.5

"Adjustment revenues"

Sec. 1.5. As used in this chapter, "adjustment revenues" means revenues produced through an adjustment amount approved under section 9 of this chapter exclusive of revenues from all other rates and charges.

As added by P.L.209-2014, SEC.2.

IC 8-1-31-2

Repealed

(As added by P.L.94-2000, SEC.1. Repealed by P.L.209-2014, SEC.3.)

IC 8-1-31-3

Repealed

(As added by P.L.94-2000, SEC.1. Repealed by P.L.209-2014, SEC.4.)

IC 8-1-31-4

Repealed

(As added by P.L.94-2000, SEC.1. Repealed by P.L.209-2014, SEC.5.)

IC 8-1-31-5

"Eligible infrastructure improvements"

Sec. 5. As used in this chapter, "eligible infrastructure improvements" means new used and useful water or wastewater utility distribution or collection plant projects that:

(1) do not increase revenues by connecting to new customers; and

(2) either:
(A) for a public utility:
(i) are in service; and
(ii) were not included in the public utility's rate base in its most recent general rate case; or
(B) for a municipally owned or not-for-profit utility:
(i) were put in service or approved by the commission for funding after the utility's pro forma test year in its most recent general rate case; and
(ii) are not subject to another rate adjustment mechanism.
As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.6; P.L.212-2015, SEC.2.

IC 8-1-31-5.2
"Eligible utility"
Sec. 5.2. As used in this chapter, "eligible utility" means a:
(1) public utility;
(2) municipally owned utility; or
(3) not-for-profit utility;
that provides water or wastewater service and is under the jurisdiction of the commission for the approval of rates and charges.
As added by P.L.212-2015, SEC.3.

IC 8-1-31-5.5
"Infrastructure improvement costs"
Sec. 5.5. As used in this chapter, "infrastructure improvement costs" means the following:
(1) For a public utility, depreciation expenses and pretax return associated with eligible infrastructure improvements.
(2) For a municipally owned utility, debt service and depreciation expenses associated with eligible infrastructure improvements.
(3) For a not-for-profit utility, debt service associated with eligible infrastructure improvements.
As added by P.L.209-2014, SEC.7. Amended by P.L.212-2015, SEC.4.

IC 8-1-31-5.9
"Not-for-profit utility"
Sec. 5.9. As used in this chapter, "not-for-profit utility" has the meaning set forth in IC 8-1-2-125(a). The term includes a utility company owned, operated, or held in trust by a consolidated city.
As added by P.L.212-2015, SEC.5.

IC 8-1-31-6
"Pretax return"
Sec. 6. As used in this chapter, "pretax return" means the revenues necessary to:

(1) produce net operating income equal to a public utility's weighted cost of capital multiplied by the net original cost of eligible distribution or collection system improvements; and

(2) pay state and federal income taxes applicable to such income.

As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.8; P.L.212-2015, SEC.6.

IC 8-1-31-7
Repealed

(As added by P.L.94-2000, SEC.1. Repealed by P.L.212-2015, SEC.7.)

IC 8-1-31-8
Petition by eligible utility for rate adjustment

Sec. 8. (a) Except as provided in subsection (d), an eligible utility may file with the commission a petition setting forth rate schedules establishing an amount that will allow the adjustment of the eligible utility's basic rates and charges to provide for recovery of infrastructure improvement costs.

(b) The eligible utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission.

(c) Publication of notice of the filing is not required.

(d) An eligible utility may not file a petition under this section in the same calendar year in which the eligible utility has filed a request for a general increase in the basic rates and charges of the eligible utility.

As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.9; P.L.212-2015, SEC.8.

IC 8-1-31-9
Hearing and order

Sec. 9. (a) When a petition is filed under section 8 of this chapter, the commission shall conduct a hearing.

(b) The office of the utility consumer counselor may:

(1) examine information of the eligible utility to confirm:

(A) that the infrastructure improvements are in accordance with section 5 of this chapter; and

(B) proper calculation of the adjustment amount proposed under section 8(a) of this chapter; and

(2) submit a report to the commission not later than thirty (30) days after the petition is filed.

(c) The commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(d) If the commission finds that a petition filed under section 8 of this chapter complies with the requirements of this chapter, the commission shall enter an order approving the petition.

As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.10; P.L.212-2015, SEC.9; P.L.104-2016, SEC.2.

IC 8-1-31-10
Petition for change in initial adjustment amount

Sec. 10. (a) Except as provided in subsection (b), an eligible utility may, but is not required to, file a petition for a change in its initial adjustment amount not more often than one (1) time every twelve (12) months.

(b) Except as provided in section 15 of this chapter, an eligible utility may not file a petition described in subsection (a) in the same calendar year in which the eligible utility has filed a request for a general increase in the basic rates and charges of the eligible utility.
As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.11; P.L.212-2015, SEC.10.

IC 8-1-31-11
Pretax return factors

Sec. 11. In determining an appropriate pretax return, the commission may consider the following factors:

(1) The current state and federal income tax rates.
(2) The public utility's actual regulatory capital structure.
(3) The actual cost rates for the public utility's long term debt and preferred stock.
(4) The public utility's cost of common equity.
(5) Other components that the commission considers appropriate.

As added by P.L.94-2000, SEC.1.

IC 8-1-31-11.5
Allowable recovery for municipally owned utility; factors

Sec. 11.5. In determining the amount of allowable recovery of infrastructure improvement costs for a municipally owned utility, the commission may consider the following factors:

(1) Debt service on funds borrowed to pay for eligible infrastructure improvements.
(2) Depreciation expenses on eligible infrastructure improvements based on the same rate or rates of depreciation approved by the commission for the calculation of depreciation in the utility's most recent rate case.
(3) Other components that the commission considers appropriate.

As added by P.L.212-2015, SEC.11.

IC 8-1-31-11.6
Allowable recovery for not-for-profit utility; factors

Sec. 11.6. In determining the amount of allowable recovery of infrastructure improvement costs for a not-for-profit utility, the

commission may consider the following factors:

(1) Debt service on funds borrowed to pay for eligible infrastructure improvements.

(2) Other components that the commission considers appropriate.

As added by P.L.212-2015, SEC.12.

IC 8-1-31-12

Cost of common equity

Sec. 12. The cost of common equity to be used in the calculation of the charge shall be the most recent determination by the commission in a general rate proceeding of the public utility. If the commission finds that the last such determination is no longer representative of current conditions, the commission may make a new determination of the common equity cost rate for use in determining the charge, after notice and hearing. The most recent prior determination shall be used pending any redetermination.

As added by P.L.94-2000, SEC.1.

IC 8-1-31-13

Adjustment approval not permitted with certain revenues

Sec. 13. The commission may not approve a petition filed under section 8 or 10 of this chapter to the extent it would produce total adjustment revenues exceeding ten percent (10%) of the eligible utility's base revenue level approved by the commission in the eligible utility's most recent general rate proceeding.

As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.12; P.L.45-2015, SEC.1; P.L.212-2015, SEC.13.

IC 8-1-31-14

Adjustment amount calculation; reconciliation

Sec. 14. An adjustment amount proposed under section 8 of this chapter may be calculated based on a reasonable estimate of sales in the period in which the charge will be in effect. At the end of each twelve (12) month period following the date on which the commission initially approves an adjustment amount for an eligible utility following the eligible utility's most recent general rate case, and using procedures approved by the commission, the eligible utility shall reconcile the difference between adjustment revenues and infrastructure improvement costs during that period and recover or refund the difference, as appropriate, through additional adjustments.

As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.13; P.L.212-2015, SEC.14.

IC 8-1-31-15

Resetting of adjustment amount after increase in basic rates and charges

Sec. 15. An eligible utility for which the commission has

approved a petition under section 8 or 10 of this chapter shall file revised rate schedules resetting the adjustment amount if new basic rates and charges become effective for the eligible utility following a commission order authorizing a general increase in rates and charges that includes in the utility's rate base eligible infrastructure improvements reflected in the adjustment amount.
As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.14; P.L.212-2015, SEC.15.

IC 8-1-31-16
Filing of petition not general increase in basic rates and charges
Sec. 16. For purposes of IC 8-1-2-42(a), the approval of a petition filed under section 8 or 10 of this chapter is not a general increase in basic rates and charges.
As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.15.

IC 8-1-31-17
Adoption of other procedures
Sec. 17. The commission may adopt by rule under IC 4-22-2 or by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer this chapter.
As added by P.L.94-2000, SEC.1. Amended by P.L.209-2014, SEC.16.

IC 8-1-31.5

Chapter 31.5. System Integrity Adjustments

IC 8-1-31.5-1

Definitions

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-2

"Actual revenues"

Sec. 2. As used in this chapter, "actual revenues" means the annual operating revenues that an eligible utility receives or accrues for a twelve (12) month period authorized for recovery through basic rates and charges approved by the commission in the eligible utility's most recent general rate case. However, the term does not include the following:

(1) Revenues received through an infrastructure improvement charge approved by the commission under IC 8-1-31.

(2) Revenues from the operation of a utility that an eligible utility acquires after the commission's most recent order establishing the eligible utility's level of annual operating revenues authorized for recovery by the eligible utility through existing rates and charges.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-3

"Adjustment amount"

Sec. 3. As used in this chapter, "adjustment amount" means the dollar amount:

(1) by which an eligible utility's actual revenues for a twelve (12) month period differ from the eligible utility's authorized revenues for the same twelve (12) month period; and

(2) that the eligible utility seeks to recover from or credit to customers through a system integrity adjustment requested in a petition filed under section 12 or 13 of this chapter.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-4

"Adjustment revenues"

Sec. 4. As used in this chapter, "adjustment revenues" means revenues produced through application of a system integrity adjustment. The term does not include revenue from other rates and charges.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-5

"Authorized revenues"

Sec. 5. As used in this chapter, "authorized revenues" means the annual operating revenues of an eligible utility approved by the commission for a twelve (12) month period in the eligible utility's most recent general rate case.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-6
"Cumulative excess or deficit"
Sec. 6. As used in this chapter, "cumulative excess or deficit" means the amount by which an eligible utility's actual revenues are:
(1) in the case of an excess, greater than; or
(2) in the case of a deficit, less than;
the eligible utility's authorized revenues measured on a cumulative annual basis from the effective date of the commission's order in the eligible utility's most recent general rate case proceeding.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-7
"Eligible utility"
Sec. 7. As used in this chapter, "eligible utility" means a:
(1) public utility;
(2) municipally owned utility; or
(3) not-for-profit utility;
that provides water or wastewater service and is under the jurisdiction of the commission for the approval of rates and charges.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-8
"Not-for-profit utility"
Sec. 8. As used in this chapter, "not-for-profit utility" has the meaning set forth in IC 8-1-2-125(a). The term includes a utility company that is owned, operated, or held in trust by a consolidated city.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-9
"System integrity adjustment"
Sec. 9. As used in this chapter, "system integrity adjustment" means an amount charged by an eligible utility to allow the automatic adjustment of the eligible utility's basic rates and charges to recover from or credit to customers an adjustment amount.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-10
"System integrity collar"
Sec. 10. As used in this chapter, "system integrity collar" means a dollar amount that is equal to the product of:
(1) an eligible utility's authorized revenues; multiplied by

(2) two hundredths (0.02).

An eligible utility's system integrity collar is satisfied when the eligible utility's cumulative excess or deficit equals or exceeds the eligible utility's system integrity collar.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-11

Limit on system integrity adjustment; allocation

Sec. 11. (a) A system integrity adjustment may not exceed the product of an eligible utility's adjustment amount multiplied by ninety-four hundredths (0.94).

(b) For purposes of the credit or recovery of an adjustment amount, a system integrity adjustment must be allocated only to an eligible utility's non-industrial rate classes.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-12

Petition for system integrity adjustment; requirements; utility consumer counselor; hearing and order; duration of system integrity adjustment

Sec. 12. (a) An eligible utility that is not collecting a system integrity adjustment may file with the commission a petition setting forth rate schedules that establish a system integrity adjustment to recover from or credit to customers the eligible utility's adjustment amount. The petition must establish that the eligible utility's system integrity collar has been satisfied on a cumulative basis following the effective date of the commission's order in the eligible utility's most recent general rate case. The eligible utility's system integrity collar may not be included in the calculation of its adjustment amount. The eligible utility shall certify in the petition that the eligible utility will use any adjustment revenues for eligible infrastructure improvements (as defined in IC 8-1-31-5).

(b) An eligible utility shall serve the office of the utility consumer counselor a copy of the petition at the same time the petition is filed with the commission. The office of the utility consumer counselor may do the following:

(1) Examine information of the eligible utility to confirm proper calculation of the proposed system integrity adjustment.

(2) Submit a report of the examination to the commission not later than thirty (30) days after the petition is filed.

(c) The commission shall hold a hearing on the petition and issue its order not later than ninety (90) days after the petition is filed.

(d) If the commission determines that the system integrity adjustment is properly calculated, the commission shall enter an order approving the petition. The system integrity adjustment may be collected until the earlier of the following:

(1) Forty-eight (48) months after the date set forth in the order entered under this subsection on which the eligible utility may

begin collecting the system integrity adjustment.

(2) The date on which the commission issues an order in the eligible utility's next general rate case proceeding.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-13

Utility granted system integrity adjustment is required to petition for change in its adjustment amount

Sec. 13. (a) This section applies to an eligible utility for which the commission has issued an order approving a petition under section 12(d) of this chapter.

(b) An eligible utility shall file a petition for a change in its adjustment amount:

(1) not more than thirty (30) days after the end of each twelve (12) month period following the date on which the eligible utility files a petition under section 12 of this chapter; and

(2) until the commission issues an order in the eligible utility's next general rate case proceeding after the commission approves a system integrity adjustment.

(c) An eligible utility shall serve the office of the utility consumer counselor a copy of the petition at the same time the petition is filed with the commission.

(d) The commission shall hold a hearing on the petition and issue its order not later than ninety (90) days after the petition is filed.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-14

Utility's cumulative excess or deficit must be reset to zero

Sec. 14. For purposes of satisfying a system integrity collar, an eligible utility's cumulative excess or deficit shall be reset to zero (0) upon the effective date of the commission's order in the eligible utility's next general rate case proceeding after the commission approves a system integrity adjustment.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-15

Utility must reconcile difference between adjustment amount and adjustment revenues

Sec. 15. At the same time an eligible utility files a petition under section 13 of this chapter, the eligible utility shall reconcile the difference between:

(1) the adjustment amount approved by the commission for a previous twelve (12) month period; and

(2) the adjustment revenues received by the eligible utility during the same twelve (12) month period.

The eligible utility may recover from or credit to customers the reconciliation amount through a system integrity adjustment by filing a petition under section 12 of this chapter.

As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-16
Approval of utility's system integrity adjustment petition is not a general increase in basic rates and charges

Sec. 16. For purposes of IC 8-1-2-42(a), the approval of a petition filed under section 12 or 13 of this chapter is not a general increase in basic rates and charges.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-17
Comparison of actual revenues and authorized revenues to be included in utility's annual report

Sec. 17. An eligible utility that:

(1) is subject to the jurisdiction of the commission; and

(2) serves five thousand (5,000) or more customers;

shall include in its annual report to the commission on a form prescribed by the commission under IC 8-1-2-12 a comparison of actual revenues and authorized revenues for the period covered by the report.
As added by P.L.104-2016, SEC.3.

IC 8-1-31.5-18
Rules or procedures to administer chapter

Sec. 18. The commission shall adopt by rule under IC 4-22-2 or by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer this chapter.
As added by P.L.104-2016, SEC.3.

IC 8-1-32
Chapter 32. Water Wells

IC 8-1-32-1
Applicability of chapter
Sec. 1. This chapter applies only to a subject area located entirely or partially within:
(1) a city; or
(2) a county having a consolidated city.
As added by P.L.94-2000, SEC.2.

IC 8-1-32-2
Applicability of definitions
Sec. 2. The definitions in IC 8-1-2-1 apply throughout this chapter.
As added by P.L.94-2000, SEC.2.

IC 8-1-32-3
"Health agency" defined
Sec. 3. As used in this chapter, "health agency" refers to either of the following:
(1) The state department of health.
(2) A local health department (as defined in IC 16-18-2-211).
As added by P.L.94-2000, SEC.2.

IC 8-1-32-4
"Project" defined
Sec. 4. As used in this chapter, "project" refers to the extension of water utility service to a subject area.
As added by P.L.94-2000, SEC.2.

IC 8-1-32-5
"Subject area" defined
Sec. 5. As used in this chapter, "subject area" refers to an area described in section 6 of this chapter.
As added by P.L.94-2000, SEC.2.

IC 8-1-32-6
Contaminants in private water wells; estimate of cost of extending water utility service
Sec. 6. (a) Notwithstanding IC 8-1-2-103(a), if a health agency determines that an area located within a city or within a county having a consolidated city:
(1) is served by private water wells;
(2) suffers from a health hazard due to the presence of at least one (1) contaminant; and
(3) incorporates at least a portion of at least one (1) census track or block having a median household income of less than two

hundred percent (200%) of the most recently determined federal income poverty level;

the health agency may direct the nearest public utility that is authorized to provide water utility service within the municipality to prepare and provide to the commission an estimate of the cost of extending water utility service to the subject area and request the commission to approve the project.

(b) The costs estimated under subsection (a) may include the following:

(1) Installing the mains and connecting service lines on properties within the subject area.

(2) Abandoning and plugging existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39 on properties within the subject area.

(3) Restoration of areas disturbed by the project.

(4) Other reasonable costs of extending water utility service to the subject area.

As added by P.L.94-2000, SEC.2.

IC 8-1-32-7

Public utility ordered to extend water utility service; rate adjustment

Sec. 7. If the commission approves the project, the commission shall, at the request of the health agency, direct the local public utility to undertake and complete the project. The commission shall enter such an order only if both of the following apply:

(1) The commission's order authorizes an increase in the local public utility's water rates in an amount sufficient to cover the local public utility's depreciation expense related to its investment in the project and provide the local public utility an after-tax return on the undepreciated portion of the project at a rate not less than the rate of return allowed the local public utility on its rate base in its most recent general rate order as:

(A) set out in the order; or

(B) stipulated by the local public utility and the office of the utility consumer counselor.

(2) The rate adjustment associated with the project will not increase the local public utility's rates by more than one percent (1%).

As added by P.L.94-2000, SEC.2.

IC 8-1-32-8

Rate adjustment in amended rate schedule

Sec. 8. A rate adjustment authorized under section 7 of this chapter must be reflected in an amended rate schedule filed with the commission not later than thirty (30) days after the commission enters the order, effective upon completion of the project.

As added by P.L.94-2000, SEC.2.

IC 8-1-32-9
Rate adjustment not general increase in basic rates and charges; subject to further adjustment

Sec. 9. A rate adjustment authorized under section 7 of this chapter:

(1) is not considered as a general increase in the local public utility's basic rates and charges for purposes of IC 8-1-2-42(a); and

(2) may be further adjusted by the commission to reflect actual project costs upon petition by the local public utility or the office of the utility consumer counselor.

As added by P.L.94-2000, SEC.2.

IC 8-1-32-10
Property owners required to abandon and plug wells

Sec. 10. If the commission orders a project under this chapter, the health agency shall require owners of properties in the subject area to connect those properties to a project main and to abandon and plug their existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39.

As added by P.L.94-2000, SEC.2.

IC 8-1-32-11
Maintenance responsibilities

Sec. 11. (a) Upon completion of a project, the local public utility shall be responsible for operating and maintaining:

(1) the mains installed; and

(2) any portion of the connecting service lines that are located in a public right-of-way.

(b) Upon completion of a project, each property owner shall be responsible for maintaining, repairing, and replacing, if necessary, the portion of the service line on the property served that is not required to be serviced by the local public utility under subsection (a).

As added by P.L.94-2000, SEC.2.

IC 8-1-32-12
Commission's jurisdiction not reduced or superseded

Sec. 12. This chapter does not reduce or supersede the commission's jurisdiction under IC 8-1-2-86 and IC 8-1.5-6.

As added by P.L.94-2000, SEC.2. Amended by P.L.213-2014, SEC.6.

IC 8-1-32.3

Chapter 32.3. Permits for Wireless Service Providers

IC 8-1-32.3-1
"Antenna"

Sec. 1. As used in this chapter, "antenna" means any communications equipment that transmits or receives electromagnetic radio signals used in the provision of wireless communications service.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-2
"Base station"

Sec. 2. As used in this chapter, "base station" means a station located at a specific site that is authorized to communicate with mobile stations. The term includes all radio transceivers, antennas, coaxial cables, power supplies, and other electronics associated with a station.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-3
"Business day"

Sec. 3. As used in this chapter, "business day" means a day other than a Saturday, a Sunday, or a legal holiday (as defined in IC 1-1-9-1).

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-4
"Collocation"

Sec. 4. As used in this chapter, "collocation" means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-5
"Electrical transmission tower"

Sec. 5. As used in this chapter, "electrical transmission tower" means a structure that physically supports high voltage overhead power lines. The term does not include a utility pole.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-6
"Equipment compound"

Sec. 6. As used in this chapter, "equipment compound" means the area that:

(1) surrounds or is near the base of a wireless support structure; and

(2) encloses wireless facilities.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-7
"Existing structure"

Sec. 7. As used in this chapter, "existing structure" does not include a utility pole or an electrical transmission tower.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-8
"Permit authority"

Sec. 8. As used in this chapter, "permit authority" means a unit, a board, a commission, or any other governing body that makes legislative or administrative decisions concerning the construction, installation, modification, or siting of wireless facilities or wireless support structures. The term does not include:

(1) the Indiana department of transportation;

(2) the Indiana finance authority;

(3) the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities;

(4) the director of the department of natural resources; or

(5) a court or other judicial body that reviews decisions or rulings made by a permit authority.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-9
"Small cell facility"

Sec. 9. (a) As used in this chapter, "small cell facility" means:

(1) a personal wireless service facility (as defined by the Federal Telecommunications Act of 1996 as in effect on July 1, 2015); or

(2) a wireless service facility that satisfies the following requirements:

(A) Each antenna, including exposed elements, has a volume of three (3) cubic feet or less.

(B) All antennas, including exposed elements, have a total volume of six (6) cubic feet or less.

(C) The primary equipment enclosure located with the facility has a volume of seventeen (17) cubic feet or less.

(b) For purposes of subsection (a)(2)(C), the volume of the primary equipment enclosure does not include the following equipment that is located outside the primary equipment enclosure:

(1) Electric meters.

(2) Concealment equipment.

(3) Telecommunications demarcation boxes.

(4) Ground based enclosures.

(5) Back up power systems.
(6) Grounding equipment.
(7) Power transfer switches.
(8) Cut off switches.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-10
"Small cell network"

Sec. 10. As used in this chapter, "small cell network" means a collection of interrelated small cell facilities designed to deliver wireless service.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-11
"Substantial modification of a wireless support structure"

Sec. 11. (a) As used in this chapter, "substantial modification of a wireless support structure" means the mounting of a wireless facility on a wireless support structure in a manner that:

(1) increases the height of the wireless support structure by the greater of:
(A) ten percent (10%) of the original height of the wireless support structure; or
(B) twenty (20) feet;

(2) adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:
(A) twenty (20) feet; or
(B) the width of the wireless support structure at the location of the appurtenance; or

(3) increases the square footage of the equipment compound in which the wireless facility is located by more than two thousand five hundred (2,500) square feet.

(b) The term does not include the following:

(1) Increasing the height of a wireless support structure to avoid interfering with an existing antenna.

(2) Increasing the diameter or area of a wireless support structure to:
(A) shelter an antenna from inclement weather; or
(B) connect an antenna to the wireless support structure by cable.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-12
"Utility pole"

Sec. 12. As used in this chapter, "utility pole" means a structure that is:

(1) owned or operated by:
(A) a public utility;

(B) a communications service provider;
(C) a municipality;
(D) an electric membership corporation; or
(E) a rural electric cooperative; and
(2) designed and used to:
(A) carry lines, cables, or wires for telephony, cable television, or electricity; or
(B) provide lighting.

The term does not include a wireless support structure or an electrical transmission tower.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-13
"Wireless facility"

Sec. 13. As used in this chapter, "wireless facility" means the set of equipment and network components necessary to provide wireless communications service. The term does not include a wireless support structure.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-14
"Wireless support structure"

Sec. 14. As used in this chapter, "wireless support structure" means a freestanding structure designed to support wireless facilities. The term does not include a utility pole or an electrical transmission tower.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-15
Application; permits for new construction, substantial modification, or collocation

Sec. 15. This chapter applies to permits issued by a permit authority, under local law and consistent with IC 36-7, for the following:

(1) Construction of a new wireless support structure.
(2) Substantial modification of a wireless support structure.
(3) Collocation of wireless facilities on an existing structure.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-16
Application fees; prohibited unless required for similar types of development; limitations

Sec. 16. (a) A permit authority may not require an applicant to pay a fee associated with the submission, review, processing, or approval of an application for a permit unless the permit authority requires payment of the same or a similar fee for applications for permits for similar types of commercial development within the jurisdiction of the permit authority.

(b) A fee associated with the submission, review, processing, or approval of an application for a permit, including a fee imposed by a third party that provides review, technical, or consulting assistance to a permit authority, must be based on actual, direct, and reasonable costs incurred for the review, processing, and approval of the application.

(c) A fee described in this section may not include:

(1) travel expenses incurred by a third party in its review of an application; or

(2) direct payment or reimbursement of third party fees charged on a contingency basis.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-17

Discrimination among providers or utilities prohibited; limits on fall zone requirements

Sec. 17. (a) A permit authority may not discriminate among communications service providers or public utilities with respect to the following:

(1) Approving applications, issuing permits, or otherwise establishing terms and conditions for construction of wireless or wireline communications facilities.

(2) Authorizing or approving tax incentives for wireless or wireline communications facilities.

(3) Providing access to rights-of-way, infrastructure, utility poles, river and bridge crossings, and other physical assets owned or controlled by the permit authority.

(b) A permit authority may not impose a fall zone requirement that:

(1) applies to a wireless support structure; and

(2) is larger than the area within which the wireless support structure is designed to collapse, as set forth in the applicant's engineering certification for the wireless support structure.

However, a permit authority may impose a fall zone requirement that is larger than the area described in subdivision (2) if the permit authority provides evidence that the applicant's engineering certification is flawed. The permit authority's evidence must include a study performed and certified by a professional engineer.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-18

Zoning, land use, planning, and permitting authority not affected; land use laws and ordinances apply

Sec. 18. This chapter does not:

(1) affect the ability of a permit authority to exercise zoning, land use, planning, or permitting authority otherwise allowed under law, including IC 36-7, with respect to the siting of new wireless support structures; or

(2) exempt an applicant from complying with applicable laws and ordinances concerning land use.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-19

Eligible applicants; application requirements

Sec. 19. (a) The following may apply for a permit under this chapter on a form and in the manner prescribed by the appropriate permit authority:

(1) A person that provides wireless communications service.

(2) A person that owns or otherwise makes available infrastructure required for wireless communications service.

(b) An application for a permit must include the following:

(1) The name, business address, and point of contact for the applicant.

(2) The location of the proposed or affected wireless support structure or wireless facility.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-20

Application to construct new wireless support structure; requirements; review for completeness; notification of approval or denial; additional time for review

Sec. 20. (a) An application for a permit to construct a new wireless support structure must include only the following:

(1) All information required by section 19 of this chapter.

(2) A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

(3) Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:

(A) would not result in the same wireless service functionality, coverage, and capacity;

(B) is technically infeasible; or

(C) is an economic burden to the applicant.

(4) If an applicable zoning ordinance specifies that a special exception, special use, contingent use, or conditional use must be approved for the proposed wireless support structure in accordance with IC 36-7-4-918.2, evidence showing that the application complies with the criteria set forth in the ordinance with respect to the special exception, special use, contingent use, or conditional use.

(5) If the proposed wireless support structure is not a permitted use under an applicable zoning ordinance, evidence showing

that the application complies with the criteria for a variance of use from the terms of the zoning ordinance in accordance with IC 36-7-4-918.4.

A permit authority may not require an applicant to submit information about, and may not evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.

(b) An application that contains the information required under subsection (a) is considered complete.

(c) A permit authority shall review an application within ten (10) business days of its receipt to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If a permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(d) An applicant that receives a written notice under subsection (c) may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(e) Subject to subsection (f), not more than ninety (90) days after making an initial determination of completeness under subsection (c), a permit authority shall:

(1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning; and

(2) notify the applicant in writing whether the application is approved or denied.

(f) Notwithstanding the ninety (90) day period set forth in subsection (e), the following apply:

(1) If the applicant requested additional time under subsection (d) to cure defects in the application, the ninety (90) day period set forth in subsection (e) is extended for a corresponding amount of time.

(2) If the application for the proposed wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, the permit authority may have not more than thirty (30) additional days to comply with subsection (e).

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-21

Application for substantial modification of wireless support structure; requirements; review for completeness; notification of

approval or denial; additional time for review

Sec. 21. (a) An application for a permit for substantial modification of a wireless support structure must include only the following:

(1) All information required by section 19 of this chapter.

(2) A construction plan that describes the proposed modifications to the wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment.

(3) If an applicable zoning ordinance specifies that a special exception, special use, contingent use, or conditional use must be approved for the proposed substantial modification of a wireless support structure in accordance with IC 36-7-4-918.2, evidence showing that the application complies with the criteria set forth in the ordinance with respect to the special exception, special use, contingent use, or conditional use.

(4) If the proposed substantial modification of a wireless support structure is not a permitted use under an applicable zoning ordinance, evidence showing that the application complies with the criteria for a variance of use from the terms of the zoning ordinance in accordance with IC 36-7-4-918.4.

A permit authority may not require an applicant to submit information about, and may not evaluate an applicant's business decisions with respect to, the applicant's designed service, customer demand, service quality, or desired signal strength to a particular location.

(b) An application that contains the information required under subsection (a) is considered complete.

(c) A permit authority shall review an application within ten (10) business days of its receipt to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If a permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(d) An applicant that receives a written notice under subsection (c) may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within thirty (30) days of receiving the notice. If an applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the permit authority of the additional time the applicant requires to cure the defects.

(e) Subject to subsection (f), not more than ninety (90) days after making an initial determination of completeness under subsection (c), a permit authority shall:

(1) review the application to determine if it complies with applicable laws and ordinances governing land use and zoning;

and

(2) notify the applicant in writing whether the application is approved or denied.

(f) Notwithstanding the ninety (90) day period set forth in subsection (e), the following apply:

(1) If the applicant requested additional time under subsection (d) to cure defects in the application, the ninety (90) day period set forth in subsection (e) is extended for a corresponding amount of time.

(2) If the application for the proposed substantial modification of a wireless support structure requires a variance of use from the terms of an applicable zoning ordinance in accordance with IC 36-7-4-918.4, the permit authority may have not more than thirty (30) additional days to comply with subsection (e).

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-22

Application for collocation; requirements; conformance with building permit requirements; consolidated application; review for completeness; notification of approval or denial; additional time for review

Sec. 22. (a) An application for a permit for collocation must include only the following:

(1) All information required by section 19 of this chapter.

(2) Evidence of conformance with applicable building permit requirements.

(b) An application for a permit for collocation:

(1) is not required to comply with zoning or land use requirements; and

(2) is not subject to public hearing.

(c) A permit authority shall allow an applicant to submit a single consolidated application to collocate multiple wireless service facilities that are located within the jurisdiction of the permit authority. The permit authority shall issue a single permit for all wireless service facilities included in the application rather than individual permits for each wireless service facility.

(d) A permit authority shall review an application within ten (10) business days of its receipt to determine if the application is complete. If a permit authority determines that an application is not complete, the permit authority shall notify the applicant in writing of all defects in the application. If a permit authority does not notify an applicant in writing of all defects in the application, the application is considered complete.

(e) An applicant that receives a written notice under subsection (d) may cure the defects set forth in the notice and resubmit the corrected application to the permit authority within fifteen (15) days of receiving the notice. If an applicant is unable to cure the defects within the fifteen (15) day period, the applicant shall notify the

permit authority of the additional time the applicant requires to cure the defects.

(f) Not more than forty-five (45) days after making an initial determination of completeness under subsection (d), a permit authority shall:

(1) review the application to determine its conformity with applicable building permit requirements; and

(2) notify the applicant in writing whether the application is approved or denied.

However, if the applicant requested additional time under subsection (e) to cure defects in the application, the forty-five (45) day period is extended for a corresponding amount of time.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-23

Written notice of approval or denial; basis for decision; application considered approved upon authority's failure to act

Sec. 23. (a) In a written notice issued under section 20, 21, or 22 of this chapter, a permit authority shall state clearly the basis for its decision to approve or deny an application. If the permit authority denies an application, the written notice must include substantial evidence in support of the denial.

(b) For purposes of this section, a notice is considered written if it is included in the minutes of a public meeting of a permit authority.

(c) If a permit authority fails to act on an application within the applicable deadline under section 20, 21, or 22 of this chapter, the application is considered approved.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-24

Guidelines to protect confidential or proprietary information

Sec. 24. A permit authority shall establish guidelines to protect any confidential or proprietary information disclosed in an application.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-25

Utility poles and electrical transmission towers; requirements and regulations prohibited

Sec. 25. A permit authority may not require or regulate the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.3-26

Small cell facilities constituting single network; consolidated application; single permit

Sec. 26. A permit authority shall allow an applicant to submit a

single consolidated application for multiple small cell facilities that are located within the permit authority's jurisdiction and constitute a single small cell network. The permit authority shall issue a single permit for the small cell network rather than multiple permits for each small cell facility.

As added by P.L.145-2015, SEC.3.

IC 8-1-32.4

Chapter 32.4. Telecommunications Providers of Last Resort

IC 8-1-32.4-1

Application of definitions

Sec. 1. Except as otherwise provided, the definitions in IC 8-1-2.6 apply throughout this chapter.

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-2

"Approved alternative technology"

Sec. 2. As used in this chapter, "approved alternative technology" refers to any technology that:

(1) offers service and functionality comparable to that provided through an exiting provider's facilities, as determined by the commission;

(2) may include a technology that does not require the use of any public right-of-way; and

(3) is approved by the commission for deployment in a particular service area.

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-3

"Basic telecommunications service"

Sec. 3. As used in this chapter, "basic telecommunications service" has the meaning set forth in IC 8-1-2.6-0.1.

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-3.2

"Communications service provider"

Sec. 3.2. As used in this chapter, "communications service provider" has the meaning set forth in IC 8-1-32.6-3.

As added by P.L.8-2012, SEC.1.

IC 8-1-32.4-4

"Exiting provider"

Sec. 4. As used in this chapter, "exiting provider" means a provider that:

(1) holds a certificate of territorial authority issued by the commission;

(2) is the predominant local exchange carrier in a defined geographic area and provides telecommunications service using the provider's own facilities; and

(3) ceases operation in all or part of the service area covered by the certificate of territorial authority.

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-5

"Facilities based local exchange carrier"

Sec. 5. As used in this chapter, "facilities based local exchange carrier" means a local exchange carrier that provides local exchange service:

(1) exclusively over facilities owned or leased by the carrier; or

(2) predominantly over facilities owned or leased by the carrier, in combination with the resale of the telecommunications service (as defined in 47 U.S.C. 153) of another carrier.

As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.2.

IC 8-1-32.4-6

"Incumbent local exchange carrier"

Sec. 6. As used in this chapter, "incumbent local exchange carrier" has the meaning set forth in 47 U.S.C. 251(h).

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-7

"Local exchange carrier"

Sec. 7. As used in this chapter, "local exchange carrier" has the meaning set forth in 47 U.S.C. 153.

As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.3.

IC 8-1-32.4-8

"Local exchange service"

Sec. 8. As used in this chapter, "local exchange service" means the provision of telephone exchange service (as defined in 47 U.S.C. 153) or exchange access (as defined in 47 U.S.C. 153).

As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.4.

IC 8-1-32.4-9

"Provider of last resort"

Sec. 9. As used in this chapter, "provider of last resort" means a provider that:

(1) holds a certificate of territorial authority issued by the commission; and

(2) is required to offer local exchange service throughout a defined geographic area.

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-10

Repealed

(As added by P.L.27-2006, SEC.54. Repealed by P.L.8-2012, SEC.5.)

IC 8-1-32.4-11

Obligations of incumbent local exchange carrier as provider of last resort; satisfaction of obligations using any available technology

Sec. 11. Except as provided in:

(1) IC 8-1-32.6-8;
(2) section 13 of this chapter;
(3) section 16 of this chapter; or
(4) section 17 of this chapter;

an incumbent local exchange carrier has the obligations of the provider of last resort. An incumbent local exchange carrier may meet the carrier's obligations under this section using any available technology.

As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.6.

IC 8-1-32.4-12

Exiting provider; advance notice required; liability for charges owed to other providers

Sec. 12. (a) This section applies to a provider that holds a certificate of territorial authority to provide local exchange service in Indiana. If a provider:

(1) decides to cease serving all or part of the provider's defined service area; or
(2) plans to file for bankruptcy;

the provider shall provide at least sixty (60) days advance notice to the commission and each affected customer and wholesale provider.

(b) A notice described in subsection (a) must:

(1) be submitted in the form and manner prescribed by the commission; and
(2) include at least one (1) toll free customer service telephone number maintained by the provider to facilitate the continuation of service and the transition of customers to other providers.

(c) The exiting provider is liable for all charges owed to other providers and is responsible for any provider change charges.

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-13

Relief from provider of last resort obligations; installation of facilities by another provider

Sec. 13. (a) If the holder of a certificate of territorial authority to provide local exchange service installs facilities to provide telecommunications service, including local exchange service, in a defined geographic area and:

(1) the holder is not the designated provider of last resort for the area; and
(2) the designated provider of last resort for the area has not installed facilities to serve customers in the area;

the designated provider of last resort may petition the commission for an order relieving the designated provider of its obligations as the provider of last resort in the area.

(b) The commission shall relieve the petitioning provider from its obligations as the provider of last resort for the area described in subsection (a) and shall designate the holder making the installation

under subsection (a) as the provider of last resort for the area if the commission determines that:

(1) the petitioning provider does not have facilities in place to provide local exchange service to all customers in the area; and

(2) the holder making the installation under subsection (a) has installed facilities adequate to provide local exchange service throughout the area.

The commission shall make the determinations required by this subsection not later than sixty (60) days after the date the petition is filed with the commission under subsection (a).

As added by P.L.27-2006, SEC.54.

IC 8-1-32.4-14

Repealed

(As added by P.L.27-2006, SEC.54. Repealed by P.L.8-2012, SEC.7.)

IC 8-1-32.4-15

Commission's declaration of emergency; order to expedite availability of voice service; authorization for provider to offer voice service through any available technology

Sec. 15. (a) The commission may declare in accordance with IC 8-1-2-113 that an emergency exists in an area in Indiana that is not served by any communications service provider offering voice service through any technology or medium. If the commission declares an emergency under this section, the commission may issue any order necessary to protect the health, safety, and welfare of affected residents or businesses and may expedite the availability of voice service to the affected residents or businesses.

(b) If the commission authorizes a communications service provider to offer voice service under this section, the commission shall permit the communications service provider to offer the voice service through any available technology or medium determined by the communications service provider.

As added by P.L.27-2006, SEC.54. Amended by P.L.8-2012, SEC.8.

IC 8-1-32.4-16

Exclusive service arrangements; relief from provider of last resort obligations

Sec. 16. (a) If a provider, other than the incumbent local exchange carrier, operates under an arrangement by which the provider is the exclusive provider of basic telecommunications service in a particular geographic area, building, or group of residences and businesses, the incumbent local exchange carrier is relieved of any provider of last resort obligations that the incumbent local exchange carrier would ordinarily have with respect to the particular geographic area, building, or group of residences and businesses.

(b) If:

(1) a provider with an exclusive service arrangement described in subsection (a) decides to cease operations in all or part of the particular geographic area, building, or group of residences and businesses that the provider serves under the arrangement; and
(2) the incumbent local exchange carrier:
(A) has insufficient facilities to serve the affected customers of the exiting provider; and
(B) elects to purchase the facilities of the exiting provider;
the incumbent local exchange carrier has twelve (12) months to make any modifications necessary to the purchased facilities to allow the incumbent local exchange carrier to serve the affected customers of the exiting provider. The incumbent local exchange carrier may apply to the commission for an extension of the period allowed under this subsection, and the commission shall grant the extension upon good cause shown by the incumbent local exchange carrier.

(c) If:
(1) a provider with an exclusive service arrangement described in subsection (a) decides to cease operations in all or part of the particular geographic area, building, or group of residences and businesses that the provider serves under the arrangement; and
(2) the incumbent local exchange carrier:
(A) has insufficient facilities to serve the affected customers of the exiting provider; and
(B) elects not to purchase the facilities of the exiting provider;
the incumbent local exchange carrier has twelve (12) months to deploy an approved alternative technology necessary to allow the incumbent local exchange carrier to serve the affected customers of the exiting provider. The incumbent local exchange carrier may apply to the commission for an extension of the period allowed under this subsection, and the commission shall grant the extension upon good cause shown by the incumbent local exchange carrier.

As added by P.L.27-2006, SEC.54. Amended by P.L.1-2007, SEC.74.

IC 8-1-32.4-17

Relief from provider of last resort obligation; notice by incumbent local exchange carrier; presence of two ETC eligible providers required before July 1, 2014; obligations under federal law not affected; "ETC eligible communications service provider"

Sec. 17. (a) Subject to subsection (b), upon notice to the commission by an incumbent local exchange carrier that is the provider of last resort in one (1) or more parts of the incumbent local exchange carrier's service area, the incumbent local exchange carrier is relieved of its obligation as the provider of last resort in any part of the incumbent local exchange carrier's service area in which there are at least two (2) ETC eligible communications service providers, one (1) of which may be the incumbent local exchange carrier, offering a voice service through any technology or medium,

including any of the following:

(1) Wire communication (as defined in 47 U.S.C. 153).

(2) Internet Protocol enabled services.

(3) Commercial mobile service (as defined in 47 U.S.C. 332).

(b) After June 30, 2014, upon notice to the commission by an incumbent local exchange carrier that is the provider of last resort in one (1) or more parts of the incumbent local exchange carrier's service area, the incumbent local exchange carrier is relieved of its provider of last resort obligation with respect to any part of its service area identified in the incumbent local exchange carrier's notice to the commission under this subsection.

(c) Relief from a provider of last resort obligation under this chapter does not affect an incumbent local exchange carrier's obligations under federal law.

(d) As used in this section, "ETC eligible communications service provider" means a communications service provider that provides, using any available technology or medium, the voice telephony services described in 47 CFR 54.101, regardless of whether the communications service provider has been designated as an eligible telecommunications carrier.

As added by P.L.8-2012, SEC.9.

IC 8-1-32.5

Chapter 32.5. Certificates of Territorial Authority for Communications Service Providers

IC 8-1-32.5-1

Application of chapter

Sec. 1. This chapter applies to a communications service provider that seeks to offer communications service to Indiana customers after June 30, 2009.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-2

"Commission"

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-3

"Communications service"

Sec. 3. (a) As used in this chapter, "communications service" refers to any of the following:

(1) Telecommunications service (as defined in 47 U.S.C. 153).

(2) Information service (as defined in 47 U.S.C. 153).

(b) The term includes:

(1) video service (as defined in IC 8-1-34-14);

(2) broadband service;

(3) advanced services (as defined in 47 CFR 51.5); and

(4) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

As added by P.L.27-2006, SEC.55. Amended by P.L.7-2015, SEC.12.

IC 8-1-32.5-4

"Communications service provider"

Sec. 4. As used in this chapter, "communications service provider" means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-5

"Facilities based local exchange carrier"

Sec. 5. As used in this chapter, "facilities based local exchange carrier" means a local exchange carrier (as defined in 47 U.S.C. 153) that provides telephone exchange service (as defined in 47 U.S.C. 153) or exchange access (as defined in 47 U.S.C. 153):

(1) exclusively over facilities owned or leased by the carrier; or

(2) predominantly over facilities owned or leased by the carrier, in combination with the resale of the telecommunications service (as defined in 47 U.S.C. 153) of another carrier.

As added by P.L.27-2006, SEC.55. Amended by P.L.7-2015, SEC.13.

IC 8-1-32.5-6

Certificate of territorial authority; application; required documents; certificates issued before July 1, 2009; confidential information

Sec. 6. (a) Except as provided in subsection (c), before a communications service provider may offer communications service to customers in Indiana, the communications service provider must apply to the commission for a certificate of territorial authority. A communications service provider that seeks a certificate under this chapter shall submit an application on a form prescribed by the commission. Subject to subsection (e), the form prescribed by the commission must require the communications service provider to report the following information:

(1) The provider's legal name and any name under which the provider does or will do business in Indiana, as authorized by the secretary of state.

(2) The provider's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.

(3) The legal name, address, and telephone number of the provider's parent company, if any.

(4) A description of each service area in Indiana in which the provider proposes to offer communications service.

(5) For each service area identified under subdivision (4), a description of each type of communications service that the provider proposes to offer in the service area.

(6) For each communications service identified under subdivision (5), whether the communications service will be offered to residential customers or business customers, or both.

(7) The expected date of deployment for each communications service identified under subdivision (5) in each service area identified in subdivision (4).

(8) A list of other states in which the provider offers communications service, including the type of communications service offered.

(9) Any other information the commission considers necessary to:

(A) monitor the type and availability of communications service provided to Indiana customers; and

(B) prepare, under IC 8-1-2.6-4, the commission's annual report to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 8 of this chapter.

(b) A communications service provider shall also submit, along with the application required by subsection (a), the following documents:

(1) A certification from the secretary of state authorizing the provider to do business in Indiana.

(2) Information demonstrating the provider's financial, managerial, and technical ability to provide each communications service identified in the provider's application under subsection (a)(5) in each service area identified under subsection (a)(4).

(3) A statement, signed under penalty of perjury by an officer or another person authorized to bind the provider, that affirms the following:

(A) That the provider has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering communications service in Indiana.

(B) That the provider agrees to comply with any customer notification requirements imposed by the commission under section 11(b) of this chapter.

(C) That the provider agrees to update the information provided in the application submitted under subsection (a) on a regular basis, as may be required by the commission under section 12 of this chapter.

(D) That the provider agrees to notify the commission when the provider commences offering communications service in each service area identified in the provider's application under subsection (a)(4).

(E) That the provider agrees to pay any lawful rate or charge for switched and special access services, as required under any:

(i) applicable interconnection agreement; or

(ii) lawful tariff or order approved or issued by a regulatory body having jurisdiction.

(F) That the provider agrees to report, at the times required by the commission, any information required by the commission under IC 8-1-2.6-13(c)(9).

(c) If:

(1) a communications service provider has been issued a:

(A) certificate of territorial authority; or

(B) certificate of public convenience and necessity;

by the commission before July 1, 2009; and

(2) the certificate described in subdivision (1) is in effect on July 1, 2009;

the communications service provider is not required to submit an application under this section for as long as the certificate described in subdivision (1) remains in effect. For purposes of this subsection, if a corporation organized under IC 8-1-13 (or a corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13) holds a certificate of public convenience and necessity issued by the commission before, on, or after July 1, 2009, that certificate may serve as the certificate required under this chapter with respect to any communications service offered by the corporation, subject to the commission's right to require the corporation to provide any information that an applicant is otherwise required to submit under subsection (a) or that a holder is required to report under IC 8-1-2.6-13(c)(9).

(d) This section does not empower the commission to require an applicant for a certificate under this chapter to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(e) The form prescribed for a communications service provider that offers only a service described in IC 8-1-2.6-1.1 must require the communications service provider to report and certify the accuracy of only the information required under subsection (a)(1) and (a)(2).
As added by P.L.27-2006, SEC.55. Amended by P.L.1-2007, SEC.75; P.L.219-2011, SEC.3; P.L.256-2013, SEC.14; P.L.53-2014, SEC.80.

IC 8-1-32.5-7
Duplicate copies of application and documents

Sec. 7. A communications service provider shall submit duplicate copies of the application and documents required by section 6 of this chapter to the commission. The commission shall prescribe the number of copies to be submitted by a communications service provider under this section.
As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-8
Commission's review of application and documents; issuance of certificate; request for additional information

Sec. 8. Not later than thirty (30) days after receiving the application and documents required by section 6 of this chapter, the commission shall review the application and documents for accuracy and completeness. If the commission determines that the application and documents are accurate, complete, and properly verified, the commission shall issue a certificate of territorial authority recognizing the communications service provider's authority to provide each communications service identified in the application. If the commission determines that the application and documents are

inaccurate or incomplete, or are not properly verified, the commission shall return the application and documents to the provider with a brief statement of any additional information required. Not later than thirty (30) days after receipt of the request for additional information, the provider may:

(1) provide the information requested;

(2) appeal the decision of the commission under IC 8-1-3; or

(3) decide to file another application at a later date, without prejudice.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-9

Request for hearing; limited issues; representation by counsel not required

Sec. 9. (a) A hearing is not required in connection with the issuance of a certificate under this chapter. However, the commission shall conduct a hearing, subject to the requirements for hearings under IC 8-1-2 for public utilities, upon the request of any of the following:

(1) The communications service provider submitting the application.

(2) Any facilities based local exchange carrier offering service in a service area identified in the provider's application under section 6(a)(4) of this chapter.

(3) The office of utility consumer counselor created by IC 8-1-1.1-2.

(4) The commission, on its own motion.

(b) A hearing conducted under this section shall be limited to consideration of one (1) or more of the following issues:

(1) Whether the application and documents submitted under section 6 of this chapter are accurate, complete, and properly verified.

(2) The communications service provider's financial, managerial, and technical ability to provide the communications service for which it seeks a certificate under this chapter.

(c) The commission may not require a:

(1) communications service provider; or

(2) facilities based local exchange carrier offering service in a service area identified in the provider's application under section 6(a)(4) of this chapter;

to be represented by counsel at a hearing under this section.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-10

Sale, assignment, lease, or transfer of certificate; encumbrance of certificate

Sec. 10. Subject to any notice requirements adopted by the commission under section 12 of this chapter, a certificate issued

under this chapter may be:

(1) sold, assigned, leased, or transferred by the holder to any communications service provider to which a certificate of territorial authority may be lawfully issued under this chapter; or

(2) included in the property and rights encumbered under any indenture of mortgage or deed of trust of the holder.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-11

Tariff not required; customer notification requirements

Sec. 11. (a) The commission may not require a communications service provider to file a tariff in connection with, or as a condition of receiving, a certificate of territorial authority under this chapter.

(b) This subsection does not apply to a provider of commercial mobile service (as defined in 47 U.S.C. 332). The commission may require, in connection with the issuance of a certificate under this chapter, the communications service provider to provide advance notice to the provider's Indiana customers if the provider will do any of the following:

(1) Increase the rates and charges for any communications service that the provider offers in any of the provider's service areas in Indiana.

(2) Offer new communications service in any of the provider's service areas in Indiana.

(3) Cease to offer any communications service that the provider offers in any of the provider's service areas in Indiana.

The commission shall prescribe any customer notification requirements under this subsection in a rule of general application adopted under IC 4-22-2.

As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-12

Notice of change

Sec. 12. In connection with, or as a condition of receiving, a certificate of territorial authority under this chapter, the commission may require a communications service provider to notify the commission, after the issuance of a certificate, of any of the following changes involving the provider or the certificate issued:

(1) Any transaction involving a change in the ownership, operation, control, or corporate organization of the provider, including a merger, acquisition, or reorganization.

(2) A change in the provider's legal name or the adoption of, or change to, an assumed business name. The provider shall submit to the commission a certified copy of the:

(A) amended certificate of authority; or

(B) certificate of assumed business name;

issued by the secretary of state to reflect the change.

(3) A change in the provider's principal business address or in the name of the person authorized to receive notice on behalf of the provider.

(4) Any sale, assignment, lease, or transfer of the certificate to another communications service provider, as allowed by section 10 of this chapter. The provider shall identify the other communications service provider to which the sale, assignment, lease, or transfer is made.

(5) The relinquishment of any certificate issued under this chapter. The provider shall identify:

(A) any other certificate of territorial authority issued under this chapter that will be retained by the provider;

(B) the number of Indiana customers in the service area covered by the certificate being relinquished; and

(C) the method by which the provider's customers were or will be notified of the relinquishment, if required in a rule adopted by the commission under section 11(b) of this chapter.

(6) This subdivision does not apply to a provider of commercial mobile service (as defined in 47 U.S.C. 332). A change in the communications service provided in one (1) or more of the service areas identified in the provider's application under section 6(a)(4) of this chapter. However, if new services will be provided in one (1) or more of the service areas, the commission may require the provider to submit a new application under section 6 of this chapter with respect to those services.

(7) A change in one (1) or more of the service areas identified in the provider's application under section 6(a)(4) of this chapter that would increase or decrease the territory within the service area.

The commission shall prescribe the time in which a provider must report changes under this section. The commission may prescribe a form for the reporting of changes under this section.

As added by P.L.27-2006, SEC.55. Amended by P.L.1-2007, SEC.76.

IC 8-1-32.5-13

Record of certificates issued; public access

Sec. 13. The commission shall maintain a record of all certificates of territorial authority issued under this chapter. The record must include all application forms, notices of change under section 12 of this chapter, and other documents filed with the commission under this chapter. The record must be made available:

(1) for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3; and

(2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1;

to the extent the information in the record is not exempt from public

disclosure under IC 5-14-3-4(a).
As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-14
Exemption from local franchises and fees; access to public rights-of-way; exceptions

Sec. 14. A communications service provider that holds a certificate issued under this chapter:

(1) is exempt from local franchises and related fees to the same extent as a communications service provider that holds a certificate of territorial authority or an indeterminate permit issued under IC 8-1-2 before July 1, 2009; and

(2) may access public rights-of-way to the same extent as a public utility (as defined in IC 8-1-2-1(a)), other than rights-of-way, property, or projects that are the subject of a public-private agreement under IC 8-15.5 or IC 8-15.7 or communications systems infrastructure, including all infrastructure used for wireless communications, owned by or under the jurisdiction of the Indiana finance authority or the state or any of its agencies, departments, boards, commissions, authorities, or instrumentalities.

As added by P.L.27-2006, SEC.55. Amended by P.L.145-2015, SEC.4.

IC 8-1-32.5-15
Commission's authority to adopt rules

Sec. 15. The commission may adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.27-2006, SEC.55.

IC 8-1-32.5-16
Ineligibility of certain communications service providers for property tax exemptions

Sec. 16. A communications service provider, including a public utility that provides communications service, is not eligible for a property tax exemption under IC 6-1.1 for facilities and technologies used in the deployment and transmission of broadband service in an area where a communications service provider provides wireline broadband service.
As added by P.L.256-2013, SEC.15.

IC 8-1-32.6

Chapter 32.6. Access to Real Property by Communications Service Providers

IC 8-1-32.6-1

"Commission"

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-2

"Communications service"

Sec. 2. (a) As used in this chapter, "communications service" refers to any of the following:

(1) Telecommunications service (as defined in 47 U.S.C. 153).

(2) Information service (as defined in 47 U.S.C. 153).

(b) The term includes:

(1) video service (as defined in IC 8-1-34-14);

(2) broadband service;

(3) advanced services (as defined in 47 CFR 51.5); and

(4) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

As added by P.L.27-2006, SEC.56. Amended by P.L.7-2015, SEC.14.

IC 8-1-32.6-3

"Communications service provider"

Sec. 3. As used in this chapter, "communications service provider" means a person or an entity, or an affiliate (as defined in IC 8-1-34-1) of a person or an entity, that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-4

"Multitenant real estate"

Sec. 4. As used in this chapter, "multitenant real estate" means any:

(1) geographic area;

(2) building; or

(3) group of buildings;

containing more than one (1) unit for business purposes. The term includes office buildings and office parks. The term does not include apartment buildings, condominiums, or subdivisions.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-5

"Person"

Sec. 5. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-6

"Provider of last resort"

Sec. 6. As used in this chapter, "provider of last resort" has the meaning set forth in IC 8-1-32.4-9.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-7

Prohibited contracts, agreements, and arrangements; complaint; commission investigation; civil penalty; enforcement by attorney general; right to appeal

Sec. 7. (a) After March 27, 2006, a communications service provider shall not enter into any contract, agreement, or other arrangement that does any of the following:

(1) Requires any person to restrict or limit:

(A) the ability of another communications service provider to obtain easements or rights-of-way for the installation of facilities or equipment used to provide communications service to Indiana customers; or

(B) access to real property by another communications service provider.

(2) Offers or grants incentives or rewards to an owner of real property if the incentives or rewards are contingent upon the property owner's agreement to restrict or limit:

(A) the ability of another communications service provider to obtain easements or rights-of-way for the installation of facilities or equipment used to provide communications service on the property; or

(B) access to the owner's real property by another communications service provider.

A contract, an agreement, or any other arrangement that violates this section is void if the contract, agreement, or arrangement is entered into after March 27, 2006. However, a contract, an agreement, or any other arrangement that otherwise violates this section remains in effect until such time as it would normally terminate or expire if the contract, agreement, or arrangement is entered into before March 28, 2006.

(b) This section does not prohibit a communications service provider and a subscriber from entering into any lawful contract, agreement, or other arrangement concerning the communications service offered by the communications service provider to the subscriber.

(c) Upon:

(1) a complaint filed by:
(A) another communications service provider;
(B) a subscriber or potential subscriber of communications service;
(C) the utility consumer counselor; or
(D) any class satisfying the standing requirements of IC 8-1-2-54; or
(2) the commission's own motion;
the commission may investigate whether a communications service provider has violated this section. If, after notice and an opportunity for hearing, the commission determines that the communications service provider has violated this section, the commission may issue an order imposing a civil penalty of not more than five hundred dollars ($500) for each violation. For purposes of this subsection, each day that a contract, an agreement, or an arrangement prohibited by this section remains in effect constitutes a separate violation.

(d) The attorney general may bring an action in the name of the state to enforce an order of the commission under subsection (c), including the collection of an unpaid civil penalty imposed by the commission.

(e) Civil penalties collected under this section shall be deposited in the state general fund.

(f) A determination by the commission under this section is subject to appeal under IC 8-1-3.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-8

Exclusive service arrangements; relief from provider of last resort obligations; voluntary provision of services

Sec. 8. (a) The commission may not require a communications service provider, including a provider of last resort, to provide any communications service to the occupants of multitenant real estate if the owner, operator, or developer of the multitenant real estate does any of the following to the benefit of another communications service provider:

(1) Permits only one (1) communications service provider to install the provider's facilities or equipment during the construction or development phase of the multitenant real estate.
(2) Accepts or agrees to accept incentives or rewards that:
(A) are offered by a communications service provider to the owner, operator, developer, or occupants of the multitenant real estate; and
(B) are contingent upon the provision of communications service by that provider to the occupants of the multitenant real estate, to the exclusion of any services provided by other communications service providers.
(3) Collects from the occupants of the multitenant real estate

any charges for the provision of communications service to the occupants, including charges collected through rent, fees, or dues.

(4) Enters into an agreement with a communications service provider that is prohibited by section 7 of this chapter.

(b) This subsection applies to a communications service provider that is relieved under subsection (a) of an obligation to provide communications service to the occupants of multitenant real estate. This section does not prohibit the communications service provider from voluntarily offering service to the occupants of the multitenant real estate. However, the commission shall not exercise jurisdiction over the terms, conditions, rates, or availability of any communications service voluntarily offered by a communications service provider under this subsection.

As added by P.L.27-2006, SEC.56. Amended by P.L.8-2012, SEC.10.

IC 8-1-32.6-9

Owners, operators, and developers of multitenant real estate; prohibited acts; reasonable conditions on access; right of action

Sec. 9. (a) Except as provided in subsection (b), the owner, operator, or developer of multitenant real estate located in a service area in which one (1) or more communications service providers are authorized to provide communications service may not do any of the following:

(1) Prevent a communications service provider from installing on the premises communications service equipment that an occupant requests.

(2) Interfere with a communications service provider's installation on the premises of communications service equipment that an occupant requests.

(3) Discriminate against a communications service provider or impose unduly burdensome conditions on the terms, conditions, and compensation for a communications service provider's installation of communications service equipment on the premises.

(4) Demand or accept an unreasonable payment from:

(A) an occupant; or

(B) a communications service provider;

in exchange for allowing the communications service provider access to the premises.

(5) Discriminate against or in favor of an occupant in any manner, including charging higher or lower rental charges to the occupant, because of the communications service provider from which the occupant receives communications service.

(b) This section does not prohibit the owner, operator, or developer of multitenant real estate from doing any of the following:

(1) Imposing a condition on a communications service provider that is reasonably necessary to protect:

(A) the safety, security, appearance, or condition of the property; or

(B) the safety and convenience of other persons.

(2) Imposing a reasonable limitation on the hours during which a communications service provider may have access to the premises to install communications service equipment.

(3) Imposing a reasonable limitation on the number of communications service providers that have access to the premises, if the owner, operator, or developer can demonstrate a space constraint that requires the limitation.

(4) Requiring a communications service provider to agree to indemnify the owner, operator, or developer for damage caused by installing, operating, or removing communications service equipment on or from the premises.

(5) Requiring an occupant or a communications service provider to bear the entire cost of installing, operating, or removing communications service equipment.

(6) Requiring a communications service provider to pay compensation for access to or use of the premises, as long as the compensation is:

(A) reasonable; and

(B) nondiscriminatory;

among communications service providers.

(c) For purposes of this subsection, an "affected person" includes the following:

(1) An occupant that is a current or potential subscriber of communications service on the premises of multitenant real estate.

(2) A unit in which multitenant real estate is located, acting on behalf of:

(A) a person described in subdivision (1); or

(B) other similarly situated persons.

(3) A communications service provider.

An affected person that alleges a violation of this section by the owner, operator, or developer of multitenant real estate may seek equitable or compensatory relief in a court having jurisdiction. The party prevailing in any action filed under this section is entitled to recover the costs of the action, including reasonable attorney's fees as determined by the court.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.6-10

Commission's authority to adopt rules

Sec. 10. The commission may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.27-2006, SEC.56.

IC 8-1-32.7

Chapter 32.7. Use and Provision of Communications Service by the State

IC 8-1-32.7-1

"Communications service"

Sec. 1. As used in this chapter, "communications service" has the meaning set forth in IC 8-1-32.5-3.

As added by P.L.79-2012, SEC.1.

IC 8-1-32.7-2

"Communications service provider"

Sec. 2. As used in this chapter, "communications service provider" has the meaning set forth in IC 8-1-32.5-4.

As added by P.L.79-2012, SEC.1.

IC 8-1-32.7-3

"I-Light"

Sec. 3. As used in this chapter, "I-Light" refers to the high speed communications network that connects state educational institutions and private postsecondary educational institutions throughout Indiana. The term includes the networks, and any successor networks, known at any time as I-Light or I-Light 2, or any other version or iteration of those names, or by any other designation.

As added by P.L.79-2012, SEC.1.

IC 8-1-32.7-4

"State"

Sec. 4. (a) As used in this chapter, "state" means the state of Indiana and any officer, agency, department, board, bureau, commission, division, or institution of the state of Indiana, the trustees or board of directors of any instrumentality of the state of Indiana or body politic of the state of Indiana, and the trustees of any state educational institution.

(b) The term includes a state agency or other instrumentality of state government that holds the contract for the state's indefeasible right of use to I-Light.

As added by P.L.79-2012, SEC.1.

IC 8-1-32.7-5

Use of I-Light to provide communications service prohibited; exceptions; existing contractual obligations

Sec. 5. (a) Except as provided in subsections (b) and (c) and in IC 21-28-5, after March 31, 2012, I-Light may not be used to offer or provide, directly or indirectly, communications service to the public or to any private or governmental entity.

(b) This section does not prohibit the use of I-Light for any of the following:

(1) The provision of communications service to the extent used solely for 911 service, enhanced 911 service, or any other emergency or law enforcement purpose.

(2) The provision of communications service to a state educational institution or a private postsecondary educational institution in furtherance of education or research for the direct benefit of students, faculty, or staff. The provision of communications service under this subdivision may include the provision of communications service to a person that is not a state educational institution or a private postsecondary educational institution if:

(A) the person has a research and development relationship with a state educational institution or a private postsecondary educational institution; and

(B) the communications service required by and provided to the person:

(i) is a one (1) gigabit per second or greater network connection;

(ii) is used in furtherance of the research and development relationship only;

(iii) is provided only for a specific research and development project;

(iv) is provided only for the limited duration of the specific research and development project; and

(v) is not provided in competition with private sector communications service providers' provision of communications service.

(3) The provision of communications service to member licensees of Indiana Public Broadcasting Stations, Inc., for the direct benefit of public broadcasting.

(c) Notwithstanding subsection (a), the state remains subject to any contractual rights, duties, and obligations incurred by the state and owed to any private person under a contract for the provision of communications service that was entered into by the state before April 1, 2012, and that remains in effect after March 31, 2012. All liens, security interests, royalties, and other contracts, rights, and interests owed to a private person under the contract continue in full force and effect and must be paid or performed by the state in the manner specified in the contract, subject to the right of the state and all other contracting parties to renegotiate the terms of the contract at any time before the expiration of the contract.

As added by P.L.79-2012, SEC.1.

IC 8-1-33

Chapter 33. Indiana Broadband Development Program

IC 8-1-33-1

Declaration of purpose

Sec. 1. (a) The general assembly finds that certain areas of Indiana are not being adequately served with broadband services.

(b) The general assembly declares that it is a valid public purpose for the Indiana finance authority to issue bonds and notes, and loan the proceeds of those bonds and notes to the program, so that the authority may provide for financing or refinancing to broadband developers and broadband operators serving underserved areas.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-2

"Affordable broadband services"

Sec. 2. As used in this chapter, "affordable broadband services" means broadband services that are available at a price reasonably comparable to the price charged for broadband services in an area that is not an underserved area.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-3

"Authority"

Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-4

"Broadband developer"

Sec. 4. As used in this chapter, "broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-5

"Broadband development program" or "program"

Sec. 5. As used in this chapter, "broadband development program" or "program" refers to the Indiana broadband development program established by section 15 of this chapter.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-6

"Broadband infrastructure"

Sec. 6. As used in this chapter, "broadband infrastructure" includes all facilities, hardware, and software and other intellectual property used for and necessary to provide broadband services in underserved areas of Indiana, including voice, video, and data.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-7
"Broadband operator"

Sec. 7. As used in this chapter, "broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-8
"Broadband services"

Sec. 8. As used in this chapter, "broadband services" includes services, including voice, video, and data, that provide capacity for transmission of more than three hundred eighty-four (384) kilobits per second in at least one (1) direction regardless of the technology or medium used, including wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services using transmission of more than three hundred eighty-four (384) kilobits per second, the voice transmission capacity may be less than three hundred eighty-four (384) kilobits per second. The authority shall annually reconsider the three hundred eighty-four (384) kilobits threshold under this section with a bias toward raising the threshold in a manner consistent with technological advances.

As added by P.L.235-2005, SEC.105. Amended by P.L.152-2009, SEC.2.

IC 8-1-33-9
"Development costs"

Sec. 9. As used in this chapter, "development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and includes all the following:

(1) The costs for the planning, acquiring, leasing, constructing and maintaining of the broadband infrastructure.

(2) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.

(3) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.

(4) Carrying charges during construction.

(5) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.

(6) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.

(7) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.

(8) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or part of the broadband infrastructure.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-10
"Person"

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a rural electric membership corporation, a limited or general partnership, a joint venture, a limited liability company, or a governmental entity, including a body corporate and politic, political subdivision, municipal corporation, school, college, university, hospital, health care facility, library, or nonprofit organization. The term does not include the state.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-11
"Relevant services"

Sec. 11. (a) As used in this chapter, "relevant services" refers to:

(1) cable service (as defined in 47 U.S.C. 522(6));

(2) telecommunications service (as defined in 47 U.S.C. 153); and

(3) information service (as defined in 47 U.S.C. 153).

(b) The term includes:

(1) advanced services (as defined in 47 CFR 51.5);

(2) broadband service; and

(3) Internet Protocol enabled services;

however classified by the Federal Communications Commission.

As added by P.L.235-2005, SEC.105. Amended by P.L.7-2015, SEC.15.

IC 8-1-33-12
"Political subdivision"

Sec. 12. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13. The term includes any entity:

(1) owned, operated, or controlled by a political subdivision; or

(2) in which a political subdivision otherwise has an interest, whether direct or indirect.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-13
"Underserved area"

Sec. 13. As used in this chapter, "underserved area" means an area within Indiana that the authority determines is not being adequately served with broadband service.

As added by P.L.235-2005, SEC.105. Amended by P.L.27-2006, SEC.57.

IC 8-1-33-14

(As added by P.L.235-2005, SEC.105. Repealed by P.L.27-2006, SEC.61.)

IC 8-1-33-15

Indiana broadband development program established

Sec. 15. (a) The Indiana broadband development program is established in order to encourage the provision of affordable broadband services and networks that will:

(1) ensure the long term growth of and the enhancement and delivery of services by the business, educational, medical, commercial, nonprofit, and governmental entities in underserved areas in Indiana; and

(2) benefit residential, commercial, public, governmental, and nonprofit entities in underserved areas in Indiana.

(b) The authority shall administer the broadband development program.

As added by P.L.235-2005, SEC.105.

IC 8-1-33-16

Powers of the authority

Sec. 16. (a) The powers of the authority under this chapter include all those necessary to carry out and effectuate the purposes of this chapter, including the following:

(1) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for the authority's money.

(2) To receive and distribute state or local funding, including grants, loans, and appropriations.

(3) To make loans or grants to broadband developers and broadband operators that will acquire, construct, maintain, and operate all or part of the broadband infrastructure serving underserved areas.

(4) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers in underserved areas, in conjunction with broadband infrastructure financed by the authority.

(5) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.

(6) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs of Indiana and to encourage and participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in Indiana to maximize the interconnectivity and efficiencies of the broadband

infrastructure.

(7) To make expenditures necessary to carry out the authority's duties under this chapter, including paying the authority's operating expenses.

(b) As part of an application for financing under this chapter, a broadband developer or broadband operator must file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public with respect to the availability of broadband services. The authority may not approve an application unless a plan is submitted under this subsection.

As added by P.L.235-2005, SEC.105.

IC 8-1-34

Chapter 34. Video Service Franchises

IC 8-1-34-1
"Affiliate"

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 23-1-43-1. The term includes a parent company or a subsidiary.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-2
"Certificate"

Sec. 2. As used in this chapter, "certificate" refers to a certificate of franchise authority issued by the commission under section 17 of this chapter.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-3
"Commission"

Sec. 3. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-4
"Franchise"

Sec. 4. As used in this chapter, "franchise" means an initial authorization, or a renewal of an authorization, that:

(1) is issued by the commission under this chapter after June 30, 2006; and

(2) authorizes the construction or operation of a video service system in a designated service area in Indiana.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-5
"Gross revenue"

Sec. 5. As used in this chapter, "gross revenue" means all consideration of any kind or nature, including cash, credits, property, and in kind contributions:

(1) received by a holder from the operation of a video service system in a particular unit in Indiana; and

(2) calculated by the holder under section 23 of this chapter.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-6
"Holder"

Sec. 6. As used in this chapter, "holder" refers to a person that holds a certificate issued by the commission under this chapter after June 30, 2006.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-7
"Incumbent provider"

Sec. 7. As used in this chapter, "incumbent provider" means the provider serving the largest number of video service subscribers in a particular local franchise service area on July 1, 2006.
As added by P.L.27-2006, SEC.58.

IC 8-1-34-8
"Local franchise"

Sec. 8. As used in this chapter, "local franchise" means an initial authorization, or a renewal of an authorization, that:

(1) is issued by a unit before July 1, 2006; and

(2) authorizes the construction or operation of a video service system in a designated service area in the unit.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-9
"Other programming service"

Sec. 9. As used in this chapter, "other programming service" refers to information that a provider makes available to all subscribers generally.
As added by P.L.27-2006, SEC.58.

IC 8-1-34-10
"Person"

Sec. 10. As used in this chapter, "person" means an individual, a corporation, a partnership, a limited liability company, an association, or another entity organized under the laws of any state.
As added by P.L.27-2006, SEC.58.

IC 8-1-34-11
"Provider"

Sec. 11. As used in this chapter, "provider" refers to a multichannel video programming distributor (as defined in 47 U.S.C. 522(13)).
As added by P.L.27-2006, SEC.58.

IC 8-1-34-12
"Unit"

Sec. 12. As used in this chapter, "unit" has the meaning set forth in IC 36-1-2-23.
As added by P.L.27-2006, SEC.58.

IC 8-1-34-13
"Video programming"

Sec. 13. As used in this chapter, "video programming" has the

meaning set forth in 47 U.S.C. 522(20).
As added by P.L.27-2006, SEC.58.

IC 8-1-34-14
"Video service"

Sec. 14. (a) As used in this chapter, "video service" means:

(1) the transmission to subscribers of video programming and other programming service:

(A) through facilities located at least in part in a public right-of-way; and

(B) without regard to the technology used to deliver the video programming or other programming service; and

(2) any subscriber interaction required for the selection or use of the video programming or other programming service.

(b) The term does not include commercial mobile service (as defined in 47 U.S.C. 332).
As added by P.L.27-2006, SEC.58.

IC 8-1-34-15
"Video service system"

Sec. 15. (a) As used in this chapter, "video service system" means a system, consisting of a set of transmission paths and associated signal generation, reception, and control equipment, that is designed to provide video service directly to subscribers within a community. The term includes the:

(1) optical spectrum wavelengths;

(2) bandwidth; or

(3) other current or future technological capacity;

used to provide the video service.

(b) The term does not include a system that transmits video service to subscribers without using any public right-of-way.
As added by P.L.27-2006, SEC.58.

IC 8-1-34-16
Commission as sole franchising authority; application; confidential information; filing fee

Sec. 16. (a) Except as provided in section 21 of this chapter, after June 30, 2006:

(1) the commission is the sole franchising authority (as defined in 47 U.S.C. 522(10)) for the provision of video service in Indiana; and

(2) a unit may not:

(A) require a provider to obtain a separate franchise;

(B) impose any fee, gross receipt tax, licensing requirement, rate regulation, or build-out requirement on a provider;

(C) regulate a holder or provider; or

(D) establish, fund, or otherwise designate an agency, a board, or another subordinate entity to monitor, supervise,

evaluate, or regulate the holder or provider;

except as authorized by this chapter.

(b) Except as provided in section 21 of this chapter, a person who seeks to provide video service in Indiana after June 30, 2006, shall file with the commission an application for a franchise. The application shall be made on a form prescribed by the commission and must include the following:

(1) A sworn affidavit, signed by an officer or another person authorized to bind the applicant, that affirms the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering video service in Indiana.

(B) That the applicant agrees to comply with all federal and state statutes, rules, and regulations applicable to the operation of the applicant's video service system.

(C) That the applicant agrees to:

(i) comply with any local ordinance or regulation governing the use of public rights-of-way in the delivery of video service; and

(ii) recognize the police powers of a unit to enforce the ordinance or regulation.

(D) If the applicant will terminate an existing local franchise under section 21 of this chapter, that the applicant agrees to perform any obligations owed to any private person, as required by section 22 of this chapter.

(2) The applicant's legal name and any name under which the applicant does or will do business in Indiana, as authorized by the secretary of state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of each service area in Indiana to be served by the applicant. A service area described under this subdivision may include an unincorporated area in Indiana.

(7) The expected date for the deployment of video service in each of the areas identified in subdivision (6).

(8) A list of other states in which the applicant provides video service.

(9) If the applicant will terminate an existing local franchise under section 21(b) of this chapter, a copy of the written notice sent to the municipality under section 21(c) of this chapter.

(10) Any other information the commission considers necessary to:

(A) monitor the provision of video service to Indiana customers; and

(B) prepare, under IC 8-1-2.6-4, the commission's annual report to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

(c) This section does not empower the commission to require:

(1) an applicant to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information; or

(2) a provider to disclose more frequently than in each odd numbered year information regarding the areas in which an applicant has deployed, or plans to deploy, video services.

The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(d) The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 17 of this chapter.

(e) Nothing in this title may be construed to require an applicant or a provider to disclose information that identifies by census block, street address, or other similar level of specificity the areas in which the applicant or provider has deployed, or plans to deploy, video service in Indiana. The commission may not disclose, publish, or report by census block, street address, or other similar level of specificity any information identifying the areas in Indiana in which an applicant or a provider has deployed, or plans to deploy, video service.

As added by P.L.27-2006, SEC.58. Amended by P.L.183-2006, SEC.1; P.L.59-2011, SEC.1; P.L.219-2011, SEC.4; P.L.53-2014, SEC.81.

IC 8-1-34-17

Issuance of certificate; build-out requirements prohibited; settlement agreements approved before July 29, 2004; use of rights-of-way

Sec. 17. (a) Not later than fifteen (15) business days after the commission receives an application under section 16 of this chapter, the commission shall determine whether the application is complete and properly verified. If the commission determines that the application is incomplete or is not properly verified, the commission shall notify the applicant of the deficiency and allow the applicant to resubmit the application after correcting the deficiency. If the commission determines that the application is complete and properly verified, the commission shall issue the applicant a certificate of franchise authority. A certificate issued under this section must contain:

(1) a grant of authority to provide the video service requested in

the application;

(2) a grant of authority to use and occupy public rights-of-way in the delivery of the video service, subject to:

(A) state and local laws and regulations governing the use and occupancy of public rights-of-way; and

(B) the police powers of local units to enforce local ordinances and regulations governing the use and occupancy of public rights-of-way; and

(3) a statement that the authority granted under subdivisions (1) and (2) is subject to the holder's lawful provision and operation of the video service.

(b) Except as provided in subsection (c) and sections 16(c) and 28 of this chapter, the commission may not require a provider to:

(1) satisfy any build-out requirements;

(2) deploy, or make investments in, any infrastructure, facilities, or equipment; or

(3) pay an application fee, a document fee, a state franchise fee, a service charge, or any fee other than the franchise fee paid to a local unit under section 24 of this chapter;

as a condition of receiving or holding a certificate under this chapter.

(c) This section does not limit the commission's right to enforce any obligation described in subsection (b) that a provider is subject to under the terms of a settlement agreement approved by the commission before July 29, 2004.

(d) The general assembly, a state agency, or a unit may not adopt a law, rule, ordinance, or regulation governing the use and occupancy of public rights-of-way that:

(1) discriminates against any provider, or is unduly burdensome with respect to any provider, based on the particular facilities or technology used by the provider to deliver video service; or

(2) allows a video service system owned or operated by a unit to use or occupy public rights-of-way on terms or conditions more favorable or less burdensome than those that apply to other providers.

A law, a rule, an ordinance, or a regulation that violates this subsection is void.

As added by P.L.27-2006, SEC.58. Amended by P.L.1-2007, SEC.77.

IC 8-1-34-18
Transfer of certificate

Sec. 18. Subject to the notice requirements under section 20 of this chapter, a certificate issued under this chapter may be transferred to any successor in interest of the holder to which the certificate is originally granted.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-19
Termination of certificate by holder

Sec. 19. A certificate issued under this chapter may be terminated by the holder by submitting notice to the commission under section 20 of this chapter.
As added by P.L.27-2006, SEC.58.

IC 8-1-34-20
Notice of change; notice of intent to provide service; customer notification requirements

Sec. 20. (a) In connection with, or as a condition of receiving, a certificate under this chapter, the commission shall require a holder to notify the commission, after the issuance of a certificate, of any of the following changes involving the holder or the certificate issued:

(1) Any transaction involving a change in the ownership, operation, control, or corporate organization of the holder, including a merger, an acquisition, or a reorganization.

(2) A change in the holder's legal name or the adoption of, or change to, an assumed business name. The holder shall submit to the commission a certified copy of the:

(A) amended certificate of authority; or

(B) certificate of assumed business name;

issued by the secretary of state to reflect the change.

(3) A change in the holder's principal business address or in the name of the person authorized to receive notice on behalf of the holder.

(4) Any transfer of the certificate to a successor in interest of the holder allowed by section 18 of this chapter. The holder shall identify the successor in interest to which the transfer is made.

(5) The termination of any certificate issued under this chapter, as allowed by section 19 of this chapter. The holder shall identify:

(A) any other certificate issued under this chapter that will be retained by the holder;

(B) the number of Indiana customers in the service area covered by the certificate being terminated; and

(C) the method by which the holder's customers were notified of the termination, if required by the commission under subsection (c).

(6) A change in the video programming or other programming service provided in one (1) or more of the services areas identified under section 16(b)(6) of this chapter in the holder's most recent application for a certificate under this chapter.

(7) A change in one (1) or more of the service areas identified under section 16(b)(6) of this chapter that would increase or decrease the territory within the service area. The holder shall describe the new boundaries of the affected service areas after the proposed change is made.

The commission shall prescribe the time in which a holder must

report changes under this section. The commission may prescribe a form for the reporting of changes under this section.

(b) In connection with, or as a condition of, receiving a certificate under this chapter, the commission shall require a holder to notify a unit:

(1) in which the holder does not already provide video service under:

(A) a local franchise issued by the unit before July 1, 2006; or

(B) another certificate issued under this chapter after June 30, 2006; and

(2) that is included in the holder's service area under the certificate being issued;

that the holder intends to provide video service in the unit's jurisdiction. The holder shall give the notice required under this subdivision not later than ten (10) days before the holder begins providing video service in the unit's jurisdiction.

(c) In connection with the issuance of a certificate under this chapter, the commission may require a holder to provide advance notice to the holder's Indiana customers if the holder will do any of the following:

(1) Change the rates and charges for video service that the holder offers in any of its service areas in Indiana.

(2) Cease to offer video service, or any specific video programming or other programming service, that the holder offers in any of the holder's service areas in Indiana.

The commission shall prescribe any customer notification requirements under this subsection in a rule of general application adopted under IC 4-22-2.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-21

Election to operate under local franchise; termination of local franchise; notice; outstanding and prepaid franchise fees

Sec. 21. (a) For purposes of this section, a provider is considered to be a holder of a local franchise on June 30, 2006, if:

(1) the provider; or

(2) any affiliate or successor entity of the provider;

holds a local franchise to provide video service in a unit on June 30, 2006.

(b) After June 30, 2006, a provider that is the holder of a local franchise on June 30, 2006, regardless of whether the provider is the incumbent provider in the local franchise service area, may elect to:

(1) continue providing video service under the local franchise until the local franchise expires; or

(2) subject to section 22 of this chapter, terminate the local franchise and apply to the commission for a certificate under this chapter.

(c) A provider that elects to terminate a local franchise under subsection (b) must provide written notice of the provider's election to:

(1) the commission; and

(2) the affected unit;

not later than November 1, 2006. The local franchise is terminated on the date the commission issues a certificate to the provider under this chapter.

(d) Not later than ninety (90) days after a local franchise is terminated under subsection (c), the provider that terminated the local franchise shall remit to the affected unit any accrued but unpaid franchise fees due under the local franchise. If the provider has credit remaining from any prepaid franchise fees, the provider may deduct the amount of the credit from any future fees or taxes owed to the affected unit.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-22

Terminated local franchise; rights, duties, and obligations owed to private persons; right of action; "private person"

Sec. 22. (a) A provider that elects to terminate a local franchise under section 21 of this chapter remains subject to the contractual rights, duties, and obligations incurred by the provider that are owed to any private person.

(b) All liens, security interests, royalties, and other contracts, rights, and interests owed to a private person, shall:

(1) continue in full force and effect without the need for renewal, extension, or continuance; and

(2) be paid or performed by the provider after becoming a holder of a certificate under this chapter.

(c) The commission shall condition the issuance or renewal of a certificate under this chapter on a provider's payment and performance of the rights, duties, and obligations described in this section. In applying for an initial certificate or a renewal certificate under this chapter, a provider shall agree to pay or perform the obligations described in this section, as required by section 16(b)(1)(D) of this chapter.

(d) A private person that claims to be:

(1) owed any rights, duties, or obligations by a holder under this section; and

(2) aggrieved by a holder's alleged violation of this section;

may bring an action in a court with jurisdiction to enforce the rights, duties, or obligations claimed to be owed to the person.

(e) As used in this section, "private person" does not include:

(1) the unit that issued the terminated local franchise;

(2) a political subdivision (as defined in IC 36-1-2-13) not described in subdivision (1); or

(3) any official, agent, or employee of:

(A) the unit that issued the terminated local franchise; or
(B) a political subdivision described in subdivision (2);
in the individual's official capacity.

As added by P.L.27-2006, SEC.58. Amended by P.L.183-2006, SEC.2.

IC 8-1-34-23

Gross revenue; determination under existing local franchise; determination when no local franchise exists; unincorporated areas; annexed territory

Sec. 23. (a) Except as provided in subsection (b), the holder of a certificate under this chapter shall, at the end of each calendar quarter, determine under subsections (c) and (d) the gross revenue received during that quarter from the holder's provision of video service in each unit included in the holder's service area under the certificate.

(b) This subsection applies to a holder or other provider providing video service in a unit in which a provider of video service is required on June 30, 2006, to pay a franchise fee based on a percentage of gross revenues. The holder's or provider's gross revenue shall be determined as follows:

(1) If only one (1) local franchise is in effect on June 30, 2006, the holder or provider shall determine gross revenue as the term is defined in the local franchise in effect on June 30, 2006.

(2) If:

(A) more than one (1) local franchise is in effect on June 30, 2006; and

(B) the holder or provider is subject to a local franchise in the unit on June 30, 2006;

the holder or provider shall determine gross revenue as the term is defined in the local franchise to which the holder or provider is subject on June 30, 2006.

(3) If:

(A) more than one (1) local franchise is in effect on June 30, 2006; and

(B) the holder is not subject to a local franchise in the unit on June 30, 2006;

the holder shall determine gross revenue as the term is defined in the local franchise in effect on June 30, 2006, that is most favorable to the unit.

(c) This subsection does not apply to a holder that is required to determine gross revenue under subsection (b). The holder shall include the following in determining the gross revenue received during the quarter with respect to a particular unit:

(1) Fees and charges charged to subscribers for video service provided by the holder. Fees and charges under this subdivision include the following:

(A) Recurring monthly charges for video service.

(B) Event based charges for video service, including pay per view and video on demand charges.

(C) Charges for the rental of set top boxes and other equipment.

(D) Service charges related to the provision of video service, including activation, installation, repair, and maintenance charges.

(E) Administrative charges related to the provision of video service, including service order and service termination charges.

(2) Revenue received by an affiliate of the holder from the affiliate's provision of video service, to the extent that treating the revenue as revenue of the affiliate, instead of revenue of the holder, would have the effect of evading the payment of fees that would otherwise be paid to the unit. However, revenue of an affiliate may not be considered revenue of the holder if the revenue is otherwise subject to fees to be paid to the unit.

(d) This subsection does not apply to a holder that is required to determine gross revenue under subsection (b). The holder shall not include the following in determining the gross revenue received during the quarter with respect to a particular unit:

(1) Revenue not actually received, regardless of whether it is billed. Revenue described in this subdivision includes bad debt.

(2) Revenue received by an affiliate or any other person in exchange for supplying goods and services used by the holder to provide video service under the holder's certificate.

(3) Refunds, rebates, or discounts made to subscribers, advertisers, the unit, or other providers leasing access to the holder's facilities.

(4) Revenue from providing service other than video service, including revenue from providing:

(A) telecommunications service (as defined in 47 U.S.C. 153);

(B) information service (as defined in 47 U.S.C. 153), other than video service; or

(C) any other service not classified as cable service or video programming by the Federal Communications Commission.

(5) Any fee imposed on the holder under this chapter that is passed through to and paid by subscribers, including the franchise fee:

(A) imposed under section 24 of this chapter for the quarter immediately preceding the quarter for which gross revenue is being computed; and

(B) passed through to and paid by subscribers during the quarter for which gross revenue is being computed.

(6) Revenue from the sale of video service for resale in which the purchaser collects a franchise fee under:

(A) this chapter; or

(B) a local franchise agreement in effect on July 1, 2006;

from the purchaser's customers. This subdivision does not limit the authority of a unit, or the commission on behalf of a unit, to impose a tax, fee, or other assessment upon the purchaser under 47 U.S.C. 542(h).

(7) Any tax of general applicability:

(A) imposed on the holder or on subscribers by a federal, state, or local governmental entity; and

(B) required to be collected by the holder and remitted to the taxing entity;

including the state gross retail and use taxes (IC 6-2.5) and the utility receipts tax (IC 6-2.3).

(8) Any forgone revenue from providing free or reduced cost cable video service to any person, including:

(A) employees of the holder;

(B) the unit; or

(C) public institutions, public schools, or other governmental entities, as required or permitted by this chapter or by federal law.

However, any revenue that the holder chooses to forgo in exchange for goods or services through a trade or barter arrangement shall be included in gross revenue.

(9) Revenue from the sale of:

(A) capital assets; or

(B) surplus equipment that is not used by the purchaser to receive video service from the holder.

(10) Reimbursements that:

(A) are made by programmers to the holder for marketing costs incurred by the holder for the introduction of new programming; and

(B) exceed the actual costs incurred by the holder.

(11) Late payment fees collected from customers.

(12) Charges, other than those described in subsection (c)(1), that are aggregated or bundled with charges described in subsection (c)(1) on a customer's bill, if the holder can reasonably identify the charges on the books and records by the holder in the regular course of business.

(e) If, under the terms of the holder's certificate, the holder provides video service to any unincorporated area in Indiana, the holder shall calculate the holder's gross income received from each unincorporated area served in accordance with:

(1) subsection (b); or

(2) subsections (c) and (d);

whichever is applicable.

(f) If a unit served by the holder under a certificate annexes any territory after the certificate is issued or renewed under this chapter, the holder shall:

(1) include in the calculation of gross revenue for the annexing

unit any revenue generated by the holder from providing video service to the annexed territory; and

(2) subtract from the calculation of gross revenue for any unit or unincorporated area:

(A) of which the annexed territory was formerly a part; and

(B) served by the holder before the effective date of the annexation;

the amount of gross revenue determined under subdivision (1); beginning with the calculation of gross revenue for the calendar quarter in which the annexation becomes effective. The holder shall notify the commission of the new boundaries of the affected service areas as required under section 20(a)(7) of this chapter.

(g) This subsection applies to a unit that:

(1) annexes territory after December 31, 2015; and

(2) is served on the date of the annexation by the holder of a certificate that is issued or renewed under this chapter before the date of the annexation.

The unit shall provide the holder a list of all addresses located within the annexed territory not more than thirty (30) days after the date of the annexation. If the holder is required to pay the franchise fee imposed and calculated under this section, the holder is not required to pay the franchise fee with respect to addresses provided under this subsection until ninety (90) days after the unit provides the holder with the addresses under this subsection.

As added by P.L.27-2006, SEC.58. Amended by P.L.1-2007, SEC.78; P.L.6-2012, SEC.63; P.L.228-2015, SEC.1; P.L.7-2015, SEC.16; P.L.149-2016, SEC.36.

IC 8-1-34-24

Franchise fee; percentage of gross revenue; unincorporated areas; disputes over gross revenue calculation; pass through to subscribers; billing itemization; fee under local franchise

Sec. 24. (a) Subject to subsection (e), not later than forty-five (45) days after the end of each calendar quarter, the holder shall pay to each unit included in the holder's service area under a certificate issued under this chapter a franchise fee equal to:

(1) the amount of gross revenue received from providing video service in the unit during the most recent calendar quarter, as determined under section 23 of this chapter; multiplied by

(2) a percentage equal to one (1) of the following:

(A) If a local franchise has never been in effect in the unit before July 1, 2006, five percent (5%).

(B) If no local franchise is in effect in the unit on July 1, 2006, but one (1) or more local franchises have been in effect in the unit before July 1, 2006, the percentage of gross revenue paid by the holder of the most recent local franchise in effect in the unit, unless the unit elects to impose a different percentage, which may not exceed five percent

(5%).

(C) If there is one (1) local franchise in effect in the unit on July 1, 2006, the percentage of gross revenue paid by the holder of that local franchise as a franchise fee to the unit, unless the unit elects to impose a different percentage, which may not exceed five percent (5%). Upon the expiration of a local franchise described in this clause, the percentage shall be determined by the unit but may not exceed five percent (5%).

(D) If there is more than one (1) local franchise in effect with respect to the unit on July 1, 2006, a percentage determined by the unit, which may not exceed the greater of:

(i) five percent (5%); or

(ii) the percentage paid by a holder of any local franchise in effect in the unit on July 1, 2006.

(b) If the holder provides video service to an unincorporated area in Indiana, as described in section 23(e) of this chapter, the holder shall:

(1) calculate the franchise fee with respect to the unincorporated area in accordance with subsection (a); and

(2) remit the franchise fee to the county in which the unincorporated area is located.

If an unincorporated area served by the provider is located in one (1) or more contiguous counties, the provider shall remit part of the franchise fee calculated under subdivision (1) to each county having territory in the unincorporated area served. The part of the franchise fee remitted to a county must bear the same proportion to the total franchise fee for the area, as calculated under subdivision (1), that the number of subscribers in the county bears to the total number of subscribers in the unincorporated area served.

(c) With each payment of a franchise fee to a unit under this section, the holder shall include a statement explaining the basis for the calculation of the franchise fee. A unit may review the books and records of:

(1) the holder; or

(2) an affiliate of the holder, if appropriate;

to the extent necessary to ensure the holder's compliance with section 23 of this chapter in calculating the gross revenue upon which the remitted franchise fee is based. Each party shall bear the party's own costs of an examination under this subsection. If the holder and the unit cannot agree on the amount of gross revenue on which the franchise fee should be based, either party may petition the commission to determine the amount of gross revenue on which the franchise fee should be based. A determination of the commission under this subsection is final, subject to the right of direct appeal by either party.

(d) A franchise fee owed by a holder to a unit under this section may be passed through to, and collected from, the holder's

subscribers in the unit. To the extent allowed under 47 U.S.C. 542(c), the holder may identify as a separate line item on each regular bill issued to a subscriber:

(1) the amount of the total bill assessed as a franchise fee under this section; and

(2) the identity of the unit to which the franchise fee is paid.

(e) A holder that elects under section 21(b)(1) of this chapter to continue providing video service under a local franchise is not required to pay the franchise fee prescribed under this section, but shall pay any franchise fee imposed under the terms of the local franchise.

As added by P.L.27-2006, SEC.58. Amended by P.L.6-2012, SEC.64.

IC 8-1-34-24.5

Video service franchise fees; local and state reports

Sec. 24.5. (a) This section applies to any unit that receives franchise fees paid to the unit under:

(1) a certificate issued by the commission under this chapter; or

(2) an unexpired local franchise issued by the unit before July 1, 2006;

with respect to a particular calendar year.

(b) For each calendar year, beginning with the calendar year ending December 31, 2012, each unit to which this section applies shall submit to the commission, on a form or in the manner prescribed by the commission, a report that includes the following information for each certificate or local franchise in effect in the unit during the calendar year for which the report is submitted:

(1) The amount of franchise fees paid to the unit under the certificate or local franchise.

(2) The account of the unit into which the franchise fees identified under subdivision (1) were deposited.

(3) The purposes for which any franchise fees received by the unit during:

(A) the calendar year for which the report is submitted; or

(B) a previous calendar year;

were used or spent by the unit during the calendar year for which the report is submitted.

(4) Any other information or data concerning the receipt and use of franchise fees that the commission considers appropriate.

(c) The commission shall prescribe the form of the report and the process, deadlines, and other requirements for submitting the report required under this section.

(d) Upon receiving the annual reports required under this section, the commission shall compile and organize the data and information contained in the reports. The commission shall include a summary of the data and information contained in the reports in the commission's annual report on the communications industry provided, under IC 8-1-2.6-4, to the interim study committee on energy, utilities, and

telecommunications established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6. However, this subsection does not empower the commission to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(e) The commission may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section. An emergency rule adopted by the commission under IC 4-22-2-37.1 expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36 and not ninety (90) days after the rule is accepted for filing as provided in IC 4-22-2-37.1(g). However, any emergency rules adopted by the commission under this subsection must take effect by a date that enables a unit subject to this section to comply with this section with respect to the calendar year ending December 31, 2012.
As added by P.L.152-2012, SEC.9. Amended by P.L.53-2014, SEC.82.

IC 8-1-34-25
PEG channel capacity, facilities, and financial support; unit with existing requirements

Sec. 25. (a) This section applies in a unit that:

(1) is included in the service area of a holder of a certificate issued under this chapter; and

(2) requires a provider described in section 21(a) of this chapter to provide PEG channel capacity, facilities, or financial support under a local franchise issued to the provider by the unit before July 1, 2006, regardless of whether the provider elects to:

(A) continue the local franchise under section 21(b)(1) of this chapter; or

(B) terminate the local franchise under section 21(b)(2) of this chapter and continue providing video service in the unit under a certificate issued under this chapter.

(b) As used in this section, "PEG channel" refers to a channel made available by a provider on the provider's video service system for public, educational, and governmental programming.

(c) The holder of a certificate under this chapter shall provide in the unit at least the number of PEG channels that the provider described in section 21(a) of this chapter is required to provide in the unit under the terms of the local franchise described in subsection (a)(2).

(d) If the local franchise described in subsection (a)(2) requires the provider described in section 21(a) of this chapter to provide financial support for public, educational, or governmental programming in the unit, the holder of a certificate under this chapter shall pay the unit the same cash payments on a per subscriber basis

that the provider described in section 21(a) of this chapter is required to pay the unit under the terms of the local franchise. The holder shall remit payments under this subsection to the unit on a quarterly basis, along with the franchise fee paid to the unit under section 24 of this chapter. For each calendar quarter, the holder shall remit to the unit an amount equal to:

(1) the cash payment for the quarter due from the provider described in section 21(a) of this chapter; multiplied by

(2) a fraction, the numerator of which equals the number of subscribers served by the holder in the unit, and the denominator of which equals the total number of subscribers served by all providers in the unit.

(e) Any payments remitted to a unit under subsection (d):

(1) are made:

(A) for the purposes set forth in 47 U.S.C. 531; and

(B) under the unit's authority under 47 U.S.C. 541(a)(4)(B); and

(2) may not be credited against the franchise fee payable to the unit under section 24 of this chapter.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-26

PEG channel capacity, facilities, and financial support; units or areas without existing requirements; authority of commission to require

Sec. 26. (a) This section applies in a unit or an unincorporated area of Indiana that:

(1) is included in the service area of a holder of a certificate issued under this chapter; and

(2) does not require a provider described in section 21(a) of this chapter to provide PEG channel capacity, facilities, or financial support under a local franchise issued before July 1, 2006.

(b) As used in this section, "PEG channel" has the meaning set forth in section 25(b) of this chapter.

(c) As a condition of issuing or renewing a certificate to a holder under this chapter, and upon:

(1) the petition of a unit or an unincorporated area included in the holder's service area under the certificate; or

(2) the commission's own motion;

the commission may require the holder to provide PEG channel capacity, facilities, or financial support to one (1) or more units or unincorporated areas in the holder's service area under the certificate.

(d) As allowed by 47 U.S.C. 531, the commission may do the following in exercising its authority under this section:

(1) Adopt rules and procedures for the designation or use of PEG channel capacity in each unit or unincorporated area in which the requirements apply.

(2) Enforce any requirement concerning the provision or use of

PEG channel capacity. The commission's enforcement authority under this subdivision includes the authority to enforce any provision that:

(A) is proposed by the holder and incorporated in the holder's certificate; and

(B) concerns services, facilities, or equipment related to PEG channel capacity;

regardless of whether the provision is required in rules or procedures adopted by the commission under subdivision (1).

(3) If PEG channel capacity is designated under the certificate, prescribe rules and procedures:

(A) under which the holder is permitted to use the designated channel capacity to provide other services, if the channel capacity is not being used in the unit or unincorporated area for the designated purposes; and

(B) that set forth the conditions under which the holder must cease any use permitted under clause (A).

As added by P.L.27-2006, SEC.58.

IC 8-1-34-26.5
Additional PEG channel capacity

Sec. 26.5. (a) This section applies in a unit:

(1) that is included in the service area of a holder of a certificate issued under this chapter; and

(2) in which a provider is required to provide PEG channel capacity:

(A) under a local franchise issued to the provider by the unit before July 1, 2006; or

(B) by the commission under section 26 of this chapter.

(b) As used in this section, "PEG channel" has the meaning set forth in section 25(b) of this chapter.

(c) As a condition of issuing or renewing a certificate to a holder under this chapter, and upon:

(1) the petition of the unit; or

(2) the commission's own motion;

the commission may require the holder to provide the unit with PEG channel capacity that is in addition to the channel capacity required to be provided in the unit under the existing local franchise or under an order of the commission under section 26 of this chapter.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-27
Operation of PEG channel; compatibility with provider's system; interconnection of systems; enforcement authority

Sec. 27. (a) The operation of a PEG channel provided under section 25, 26, or 26.5 of this chapter is the responsibility of the unit or unincorporated area that receives the benefit of the channel, and the holder or other provider is responsible only for the transmission

of the channel.

(b) A unit or an unincorporated area that receives the benefit of a PEG channel provided under section 25, 26, or 26.5 of this chapter shall ensure that all transmissions, content, and programming that are transmitted over a channel or other facility of the provider are submitted to the provider in a manner or form that:

(1) is capable of being accepted and transmitted by the provider over the provider's video service system;

(2) does not require additional alteration or change in the content by the provider; and

(3) is compatible with the technology or protocol used by the provider to deliver video service.

(c) If it is technically feasible to do so, the holder of a certificate under this section and a provider described in section 21(a) of this chapter may cooperate to interconnect their systems to provide PEG channel capacity required under section 25, 26, or 26.5 of this chapter. Interconnection under this section may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. The parties shall negotiate the terms of the interconnection in good faith, and a provider described in section 21(a) of this chapter may not withhold interconnection of PEG channel capacity.

(d) Subject to 47 U.S.C. 531, the commission has exclusive authority to enforce any requirement under:

(1) this section; or

(2) section 25, 26, or 26.5 of this chapter.

As added by P.L.27-2006, SEC.58. Amended by P.L.219-2011, SEC.5.

IC 8-1-34-28

Discrimination based on income prohibited; use of alternative technology; petition for equitable relief; order by commission; right to appeal

Sec. 28. (a) This section applies to the following:

(1) A provider that holds a certificate issued by the commission under this chapter.

(2) A provider that provides video service under a local franchise, as permitted under section 21(b)(1) of this chapter.

(b) Subject to section 17(b) of this chapter, a provider may not deny access to video service to any group of potential residential subscribers based on the income level of the residents in the local area in which the group resides. However, a provider:

(1) shall have a reasonable time to become capable of providing video service to all households within a service area included in the provider's franchise; and

(2) may satisfy the requirements of this subsection through the use of an alternative technology that:

(A) offers content, service, and functionality comparable to

that provided through the provider's video service system, as determined by the commission; and

(B) may include a technology that does not require the use of any public right-of-way.

(c) For purposes of this subsection, an "affected person" includes the following:

(1) A potential subscriber of video service from a provider.

(2) A local unit in which a person described in subdivision (1) resides, acting on behalf of the person or other similarly situated persons.

An affected person that alleges a violation of subsection (b) by a provider may petition the commission for equitable relief. Not later than forty-five (45) days after receiving a petition under this subsection, the commission shall, after notice and an opportunity for hearing, make a determination as to whether a violation of subsection (b) has occurred.

(d) If, after holding any hearing requested in the matter, the commission determines that no violation of subsection (b) has occurred, the commission's decision is final, subject to the petitioner's right to appeal the decision in a court having jurisdiction. If the commission determines that a violation of subsection (b) has occurred, the commission may issue an order requiring the provider to offer video service to those persons to whom access to the provider's video service has been denied. An order of the commission under this subsection must specify the following:

(1) A date by which the provider must offer video service to those persons to whom access has been denied as a result of the provider's violation. In specifying a date under this subdivision, the commission shall allow the provider a reasonable time to become capable of providing the required video service to the affected households.

(2) Any alternative technology described in subsection (b)(2) that the commission approves for use by the provider in making video service available to the affected households.

Except as provided in subsection (e), an order of the commission under this subsection is final.

(e) A provider may appeal:

(1) a determination by the commission under subsection (d) that a violation of subsection (b) has occurred; or

(2) any findings or requirements of the order issued in connection with the commission's finding of a violation;

in a court having jurisdiction.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-29

Institutional network capacity; video service to public buildings; provision under terms of local franchise; continuation of services after December 31, 2008, or expiration of franchise; apportionment

of costs

Sec. 29. (a) This section applies to a provider that holds a local franchise to provide video service in a unit at any time before July 1, 2009, regardless of whether:

(1) the provider elects:

(A) under section 21(b)(1) of this chapter, to continue providing video service under the local franchise; or

(B) under section 21(b)(2) of this chapter, to terminate the local franchise and provide video service in the unit under a certificate issued under this chapter;

if the local franchise is in effect on June 30, 2009; or

(2) the provider will provide video service in the unit under a certificate issued under this chapter, if the local franchise expires before July 1, 2009.

(b) As used in this section, "local franchise" refers to:

(1) the existing local franchise, if subsection (a)(1)(A) applies;

(2) the terminated local franchise, if subsection (a)(1)(B) applies; or

(3) the most recent local franchise held by the provider in the unit, if subsection (a)(2) applies.

(c) A holder to which this section applies shall continue to provide the following services under the terms of the local franchise until January 1, 2009, or until the local franchise will expire or would have expired, whichever is later:

(1) Institutional network capacity, however defined or referenced in the local franchise, but generally including private line data network capacity for use by the unit for noncommercial purposes. Institutional network capacity provided under this subdivision shall continue to be provided at the same capacity as required under the terms of the local franchise.

(2) Video service to community public buildings, such as municipal buildings and public schools, however defined or referenced in the local franchise, but generally including cable drop connections to the buildings and a particular tier of video service provided to the buildings. Video service provided under this subdivision shall continue to be provided to the same extent as required under the terms of the local franchise.

Beginning January 1, 2009, or upon the date on which the local franchise will expire or would have expired, whichever is later, a provider that provides services under this subsection shall continue to provide the services under this subsection if the unit requests that the services continue after December 31, 2008, or after the date the local franchise will expire or would have expired, whichever is later.

(d) This subsection applies to services described in subsection (c) that are provided after December 31, 2008, or after the date the local franchise will expire or would have expired, whichever is later. The incremental costs of the services shall be apportioned among all

holders of a franchise to provide video service within the unit. The amount of the incremental costs borne by a particular holder is equal to the total cost of providing the services multiplied by a fraction calculated as follows:

(1) The numerator of the fraction equals the number of subscribers to whom the holder provides video service in the unit.

(2) The denominator of the fraction equals the total number of subscribers to whom all holders provide video service in the unit.

As added by P.L.27-2006, SEC.58.

IC 8-1-34-30

Direct marketing authority for holders; application to commission; designated employees; certification; option to apply for authority from political subdivision; limited local regulation

Sec. 30. (a) As used in this section, "designated employee" means a holder's:

(1) employee; or

(2) authorized agent;

whom the holder designates or will designate to receive direct marketing authority.

(b) As used in this section, "direct marketing authority" means the authority granted by the commission to a holder to market any service or product offered by the holder directly to all households in a service area served by the holder.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) A holder may apply to the commission, in the manner and form prescribed by the commission, for direct marketing authority. An application must include the following information with respect to each designated employee of the holder:

(1) Name.

(2) Home address.

(3) Driver's license number.

(4) A certification described in subsection (e)(1).

(e) In an application under subsection (d), a holder shall include the following:

(1) A certification by the holder that each designated employee satisfies the following requirements:

(A) The employee is at least eighteen (18) years of age.

(B) The employee has a high school diploma or the equivalent of a high school diploma.

(C) The employee has not been convicted of a felony within the seven (7) years immediately preceding the date of the application.

(D) Within the seven (7) years immediately preceding the date of the application, the employee has not been released

from incarceration after serving time for a felony conviction.

(E) The employee has not been convicted of:

(i) a misdemeanor involving fraud, deceit, or dishonesty;

(ii) a battery offense included in IC 35-42-2 as a misdemeanor; or

(iii) two (2) or more misdemeanors involving the illegal use of alcohol or the illegal sale, use, or possession of a controlled substance;

within the five (5) years immediately preceding the date of the application.

(F) The employee has a valid driver's license.

(2) Proof of financial responsibility.

(f) A holder may comply with subsection (e)(1) by submitting to the commission a document signed by the holder in which the holder:

(1) identifies each designated employee by name, home address, and driver's license number;

(2) certifies that each designated employee has been the subject of a criminal history background check for each jurisdiction in the United States in which the designated employee has lived or worked within the seven (7) years immediately preceding the date of the application; and

(3) affirms that the background check described in subdivision (2) for each designated employee indicates that the designated employee satisfies the requirements set forth in subsection (e)(1), as applicable.

(g) Not more than fifteen (15) days after the commission receives an application under subsection (d), the commission shall determine whether the application is complete and properly verified. If the commission determines that the application is incomplete or not properly verified, the commission shall notify the applicant holder of the deficiency and allow the holder to resubmit the application after correcting the deficiency. If the commission determines that the application is complete and properly verified, the commission shall issue an order granting the holder direct marketing authority. The order must contain the following:

(1) The name of the holder.

(2) The names of designated employees of the holder.

(3) A grant of direct marketing authority to the holder and designated employees of the holder.

(4) The date on which the order takes effect.

The commission shall provide public notice of an order granting direct marketing authority under this subsection by posting the order on the commission's Internet web site.

(h) A holder that has direct marketing authority shall notify the commission in a timely manner of any changes to the holder's list of designated employees. A designated employee may exercise direct marketing authority immediately upon the holder's submission to the commission of all information required under subsection (e)(1) with

respect to the designated employee.

(i) Only the commission is authorized to grant direct marketing authority to a holder under this section. However, subject to subsection (j), with respect to direct marketing activities in a holder's service area within a political subdivision, this section does not prohibit a holder from electing to:

(1) apply for marketing or solicitation authority directly from the political subdivision; and

(2) exercise any marketing or solicitation authority under a license, permit, or other authority granted by the political subdivision before, on, or after June 30, 2013;

instead of applying for and exercising direct marketing authority granted by the commission under this section.

(j) A political subdivision may not do any of the following:

(1) Require a holder that is granted direct marketing authority from the commission under this section to also obtain marketing or solicitation authority from the political subdivision in order to engage in direct marketing in the holder's service area within the political subdivision.

(2) Impose any licensing requirement or fee on a holder in connection with any direct marketing authority granted to the holder by the commission under this section with respect to the holder's service area within the political subdivision.

(3) Except as provided in subsection (k), otherwise regulate a holder that is granted direct marketing authority from the commission under this section and that engages in direct marketing in the holder's service area within the political subdivision.

(k) A political subdivision may enforce any ordinance or regulation that:

(1) imposes restrictions as to the hours or manner in which direct marketing activities may be performed in the political subdivision; and

(2) applies uniformly to all persons engaging in direct marketing or other soliciting in the political subdivision, regardless of:

(A) the product or service being marketed; or

(B) the type of business engaged in by the person engaging in the direct marketing or other soliciting.

As added by P.L.241-2013, SEC.2. Amended by P.L.65-2016, SEC.3.

IC 8-1-36
Repealed

(Repealed by P.L.256-2013, SEC.16.)

IC 8-1-37

Chapter 37. Voluntary Clean Energy Portfolio Standard Program

IC 8-1-37-1

"Base year"

Sec. 1. As used in this chapter, "base year" means the calendar year ending December 31, 2010.

As added by P.L.150-2011, SEC.16.

IC 8-1-37-2

"Clean energy"

Sec. 2. As used in this chapter, "clean energy" means electricity that is produced from a clean energy resource.

As added by P.L.150-2011, SEC.16.

IC 8-1-37-3

"Clean energy credit"

Sec. 3. As used in this chapter, "clean energy credit", or "CEC", means an interest that:

(1) represents one (1) megawatt hour of clean energy that satisfies the condition set forth in section 12(c)(2) of this chapter;

(2) is quantifiable and transferrable; and

(3) is possessed by not more than one (1) entity at a time.

As added by P.L.150-2011, SEC.16.

IC 8-1-37-4

"Clean energy resource"

Sec. 4. (a) As used in this chapter, "clean energy resource" means any of the following sources, clean sources, alternative technologies, or programs used in connection with the production or conservation of electricity:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Dedicated crops grown for energy production.

(5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:

(A) Agricultural crops.

(B) Agricultural wastes and residues.

(C) Wood and wood wastes, including the following:

(i) Wood residues.

(ii) Forest thinnings.

(iii) Mill residue wood.

(D) Animal wastes.

(E) Animal byproducts.

(F) Aquatic plants.

(G) Algae.

(6) Hydropower.

(7) Fuel cells.

(8) Hydrogen.

(9) Energy from waste to energy facilities, including energy derived from advanced solid waste conversion technologies.

(10) Energy storage systems or technologies.

(11) Geothermal energy.

(12) Coal bed methane.

(13) Industrial byproduct technologies that use fuel or energy that is a byproduct of an industrial process.

(14) Waste heat recovery from capturing and reusing the waste heat in industrial processes for heating or for generating mechanical or electrical work.

(15) A source, technology, or program approved by the commission and designated as a clean energy resource by a rule adopted by the commission under IC 4-22-2.

(16) Demand side management or energy efficiency initiatives that:

(A) reduce electricity consumption; or

(B) implement load management, demand response, or energy efficiency measures designed to shift customers' electric loads from periods of higher demand to periods of lower demand;

as a result of equipment installed, or customers enrolled, after January 1, 2010.

(17) A clean energy project described in IC 8-1-8.8-2(1).

(18) Nuclear energy.

(19) Electricity that is:

(A) generated by a customer owned distributed generation facility that is interconnected to the electricity supplier's distribution system in accordance with the commission's interconnection standards set forth in 170 IAC 4-4.3; and

(B) supplied back to the electricity supplier for use in meeting the electricity supplier's electricity demand requirements in accordance with the commission's net metering rules set forth in 170 IAC 4-4.2.

(20) Combined heat and power systems.

(21) Electricity that is generated from natural gas at a facility constructed in Indiana after July 1, 2011, which displaces electricity generation from an existing coal fired generation facility.

(b) Except for energy described in subsection (a)(9), the term does not include energy from the incineration, burning, or heating of any of the following:

(1) Tires.

(2) General household, institutional, commercial, industrial, lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.
As added by P.L.150-2011, SEC.16.

IC 8-1-37-5
"Clean portfolio standard goal"
Sec. 5. As used in this chapter, "clean portfolio standard goal", or "CPS goal", refers to a goal set forth in section 12(a) of this chapter that a participating electricity supplier must achieve during a specified period during the program to qualify for one (1) or more of the financial incentives described in section 13 of this chapter.
As added by P.L.150-2011, SEC.16.

IC 8-1-37-6
"Electricity supplier"
Sec. 6. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana on January 1, 2011.
(b) The term does not include a utility that is:
(1) a municipally owned utility (as defined in IC 8-1-2-1(h));
(2) a corporation organized under IC 8-1-13; or
(3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.
As added by P.L.150-2011, SEC.16.

IC 8-1-37-7
"Participating electricity supplier"
Sec. 7. As used in this chapter, "participating electricity supplier" refers to an electricity supplier that has been approved by the commission under section 11 of this chapter to participate in the program.
As added by P.L.150-2011, SEC.16.

IC 8-1-37-8
"Program"
Sec. 8. As used in this chapter, "program" refers to the Indiana voluntary clean energy portfolio standard program established by the commission under section 10 of this chapter.
As added by P.L.150-2011, SEC.16.

IC 8-1-37-9
"Regional transmission organization"
Sec. 9. As used in this chapter, "regional transmission organization", with respect to an electricity supplier, refers to the regional transmission organization approved by the Federal Energy Regulatory Commission for the control area that includes the electricity supplier's assigned service area (as defined in IC 8-1-2.3-2).

As added by P.L.150-2011, SEC.16.

IC 8-1-37-10
Adoption of rules establishing program

Sec. 10. (a) Subject to subsection (d), the commission shall adopt rules under IC 4-22-2 to establish the Indiana voluntary clean energy portfolio standard program. The program established under this section must be a voluntary program that provides incentives to participating electricity suppliers that undertake to supply specified percentages of the total electricity supplied to their Indiana retail electric customers from clean energy.

(b) The rules adopted by the commission under this section to establish the program must:

(1) incorporate:

(A) the CPS goals set forth in section 12(a) of this chapter;

(B) methods for measuring and evaluating a participating electricity supplier's compliance with the CPS goals set forth in section 12(a) of this chapter;

(C) the financial incentives and periodic rate adjustment mechanisms set forth in section 13 of this chapter; and

(D) the reporting requirements set forth in section 14 of this chapter;

(2) require the commission to determine, before approving an application under section 11 of this chapter, that the approval of the application will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved;

(3) take effect not later than January 1, 2012; and

(4) be consistent with this chapter.

(c) Upon the effective date of the rules adopted by the commission under this section, an electricity supplier may apply to the commission under section 11 of this chapter for approval to participate in the program.

(d) The commission may adopt emergency rules under IC 4-22-2-37.1 to adopt the rules required by this section. An emergency rule adopted by the commission under IC 4-22-2-37.1 expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

As added by P.L.150-2011, SEC.16.

IC 8-1-37-11
Application to program; review by the commission

Sec. 11. (a) An electricity supplier that seeks to participate in the program established by the commission under section 10 of this chapter must apply to the commission:

(1) in the manner and on a form prescribed by the commission; and

(2) not later than a date specified by the commission in the rules adopted under section 10 of this chapter;

for approval to participate in the program.

(b) Upon receiving an application under subsection (a), the commission shall review the application for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(c) If the commission determines that:

(1) an application submitted under subsection (a) is complete and reasonably complies with the purpose of this chapter;

(2) the electricity supplier submitting the application has demonstrated that the electricity supplier has a reasonable expectation of obtaining clean energy to meet the energy requirements of its Indiana retail electric customers during the calendar year ending December 31, 2025, in an amount equal to at least ten percent (10%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year, as set forth in section 12(a)(3) of this chapter; and

(3) approving the application will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved;

the commission shall approve the application. If, however, the commission determines that the application does not meet the requirements set forth in this subsection, the commission shall reject the application. The electricity supplier that submitted the application under subsection (a) bears the burden of proving to the commission that the application meets the requirements set forth in this subsection.

As added by P.L.150-2011, SEC.16.

IC 8-1-37-12

Qualifications for shareholder financial incentive; application; considerations and determination by commission

Sec. 12. (a) Subject to subsection (c), to qualify for the financial incentives set forth in section 13 of this chapter, a participating electricity supplier must obtain clean energy to meet the energy requirements of the participating electricity supplier's Indiana retail electric customers according to the following CPS goals:

(1) CPS Goal Period I: For the six (6) calendar years beginning January 1, 2013, and ending December 31, 2018, an average of at least four percent (4%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

(2) CPS Goal Period II: For the six (6) calendar years beginning January 1, 2019, and ending December 31, 2024, an average of

at least seven percent (7%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

(3) CPS Goal Period III: In the calendar year ending December 31, 2025, at least ten percent (10%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

(b) For purposes of subsection (a), electricity is measured in megawatt hours. However, in determining whether a participating electricity supplier has met a CPS goal set forth in subsection (a), the commission shall require that at least fifty percent (50%) of the megawatt hours of clean energy obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the CPS goal period under consideration must originate from clean energy resources located in Indiana.

(c) In determining whether a participating electricity supplier has met a particular CPS goal set forth in subsection (a), the commission shall consider only clean energy that:

(1) except as provided in subsection (f), is obtained by the participating electricity supplier to meet the energy requirements of the participating electricity supplier's Indiana retail electric customers during the CPS goal period under consideration; and

(2) is generated by a facility located in a control area that is part of a regional transmission organization of which an electricity supplier is a member.

(d) An electricity supplier is not required to obtain clean energy to meet a particular CPS goal if the commission determines that the cost of clean energy resources available to the electricity supplier would result in an increase in the rates and charges of the electricity supplier that would not be just and reasonable.

(e) A participating electricity supplier may own or purchase one (1) or more CECs to meet any of the CPS goals set forth in subsection (a) as long as the clean energy represented by the CEC meets the condition set forth in subsection (c)(2).

(f) A participating electricity supplier may apply:

(1) amounts of clean energy supplied by the participating electricity supplier to its Indiana retail electric customers during a particular CPS goal period; or

(2) CECs acquired by the participating electricity supplier during a particular CPS goal period;

that exceed the requirements for the particular CPS goal period to the immediately succeeding CPS goal period.

(g) A participating electricity supplier may use a clean energy resource described in section 4(a)(17) through 4(a)(21) of this

chapter to satisfy not more than thirty percent (30%) of any of the CPS goals set forth in subsection (a).
As added by P.L.150-2011, SEC.16.

IC 8-1-37-13
Shareholder financial incentive; duties of the commission upon approval; application; determination; force and effect of incentive; force and effect of periodic rate adjustment mechanism

Sec. 13. (a) The commission may establish a shareholder incentive consisting of the authorization of an increased overall rate of return on equity, not to exceed fifty (50) basis points over a participating electricity supplier's authorized rate of return, whenever the participating electricity supplier attains a CPS goal set forth in section 12(a) of this chapter. The number of additional basis points authorized by the commission under this subsection may:

(1) be different for each of the CPS goal periods identified in section 12(a) of this chapter, as the commission determines is appropriate; and

(2) in the case of a particular participating electricity supplier, be based on the extent to which the participating electricity supplier met a particular CPS goal using clean energy resources listed in section 4(a)(1) through 4(a)(16) of this chapter.

The additional basis points authorized by the commission under this subsection for each CPS goal period are not cumulative and may not be authorized for a clean energy resource for which the commission has authorized an incentive under IC 8-1-8.8-11(a)(2). In determining a participating electricity supplier's authorized rate of return to which additional basis points may be added upon the participating electricity supplier's achievement of a particular CPS goal, the commission shall not include as part of the authorized rate of return any additional basis points awarded to the participating electricity supplier for having achieved the immediately preceding CPS goal.

(b) If the commission approves an electricity supplier's application under section 11(c) of this chapter, the commission shall authorize the incentive described in subsection (a) and the recovery of costs, by means of a periodic rate adjustment mechanism, as described in subsection (c), based on the following considerations:

(1) The sharing of achieved savings or as a percentage of costs.

(2) Avoided costs resulting from achieving demand side management or energy efficiency targets.

(3) The recovery of lost revenues associated with implementation of demand side management or energy efficiency initiatives.

(4) The designation of electricity produced or conserved by a clean energy resource as an energy savings for purposes of any initiative, rule, or order approved by the commission to promote the efficient use and production of electricity, including initiatives to implement demand side management, energy

efficiency, or conservation measures in accordance with commission rules.

(c) If the commission approved an electricity supplier's application under section 11(c) of this chapter, the commission shall permit the recovery, by means of a periodic rate adjustment mechanism, of all just, reasonable, and necessary program costs incurred by a participating electricity supplier in:

(1) constructing, operating, or maintaining facilities that generate clean energy that:

(A) is used by the participating electricity supplier in its efforts to meet a CPS goal set forth in section 12(a) of this chapter; and

(B) meets the requirements set forth in section 12(c) of this chapter; or

(2) otherwise generating or purchasing clean energy that is used by the participating electricity supplier in its efforts to meet a CPS goal set forth in section 12(a) of this chapter.

For purposes of this subsection and subsection (h)(1), "program costs" includes administrative costs, ancillary costs, capacity costs, costs associated with CECs, capital costs, depreciation costs, tax costs, and financing costs incurred in connection with an activity described in subdivision (1) or (2).

(d) A participating electricity supplier that seeks an incentive established by the commission under subsection (a) or a periodic rate adjustment mechanism established by the commission under subsection (c) must apply to the commission:

(1) in the manner and on a form prescribed by the commission; and

(2) not later than any dates specified by the commission in rules adopted under section 10 of this chapter;

for approval for the incentive or periodic rate adjustment mechanism sought.

(e) The commission shall review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(f) The commission shall, after notice and hearing, issue a determination of a participating electricity supplier's eligibility for the financial incentive or periodic rate adjustment mechanism sought. The commission shall issue a determination under this subsection not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

(g) Subject to the participating electricity supplier's continuing compliance with the applicable CPS goal, as determined according to the measurement and evaluation procedures described in section 10(b)(1)(B) of this chapter, a shareholder incentive described in subsection (a) continues in effect until the earlier of the following:

(1) A time or upon an event specified in the commission's order approving the shareholder incentive.

(2) The commission issues a new order authorizing the participating electricity supplier to receive a shareholder incentive for meeting the next CPS program goal.

(h) Subject to the participating electricity supplier's continuing compliance with the applicable CPS goal, as determined according to the measurement and evaluation procedures described in section 10(b)(1)(B) of this chapter, a periodic rate adjustment mechanism described in subsection (c) continues in effect until the earlier of the following:

(1) The participating electricity supplier has recovered the program costs for which the periodic rate adjustment mechanism was allowed.

(2) A time or upon an event specified in the commission's order approving the periodic rate adjustment mechanism.

As added by P.L.150-2011, SEC.16.

IC 8-1-37-14

Annual report to commission required; content requirements; force and effect of duty to report; commission's annual report

Sec. 14. (a) Beginning in 2014, each participating electricity supplier shall report to the commission not later than March 1 of each year on the following:

(1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year.

(2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric customers during the most recently ended calendar year, including a breakdown of the following:

(A) The amount of clean energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:

(i) name and location;

(ii) total generating capacity;

(iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and

(iv) total amount of clean energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.

(B) The amount of clean energy purchased from other

suppliers of clean energy. The participating electricity supplier shall identify:

(i) each supplier from whom clean energy was purchased;

(ii) the amount of clean energy purchased from each supplier;

(iii) the price paid by the participating electricity supplier for the clean energy purchased from each supplier; and

(iv) to the extent known, the name and location of each facility at which the clean energy purchased from each supplier was generated.

(3) The number of CECs purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:

(A) each person from whom one (1) or more CECs was purchased;

(B) the price paid to each person identified in clause (A) for the CECs purchased;

(C) the number of CECs applied, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year; and

(D) the number of CECs, if any, that the participating electricity supplier plans to carry over to the next succeeding CPS goal period, as permitted by section 12(f) of this chapter.

(4) The participating electricity supplier's plans for meeting the CPS goal applicable to the calendar year in which the report is submitted.

(5) Advances in clean energy technology that affect activities described in subdivisions (1) and (4).

(6) Any other information that the commission prescribes in rules adopted under IC 4-22-2.

For purposes of this subsection, amounts of clean energy and electricity shall be reported in megawatt hours. A participating electricity supplier's duty to submit a report under this subsection terminates after the participating electricity supplier has submitted the report that applies to the calendar year ending December 31, 2025.

(b) Beginning in 2014, the commission's annual report, under IC 8-1-2.5-9(b), to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 must include a summary of the information provided by participating electricity suppliers under subsection (a) with respect to the most recently ended calendar year. The commission's duty to include the information specified in this subsection in its annual report to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 terminates after the commission has submitted the information that applies to the calendar year ending December 31, 2025.

As added by P.L.150-2011, SEC.16. Amended by P.L.53-2014, SEC.83; P.L.5-2015, SEC.22.

IC 8-1-38

Chapter 38. Transmission Reliability

IC 8-1-38-1

"Electric transmission facility"

Sec. 1. As used in this chapter, "electric transmission facility" means a high voltage transmission line with a rating of at least one hundred (100) kilovolts and related transmission facilities and controls.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-2

"Incumbent electric transmission owner"

Sec. 2. As used in this chapter, "incumbent electric transmission owner" means a public utility that owns, operates, and maintains an electric transmission facility in whole or in part in Indiana.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-3

"Local reliability electric transmission facility"

Sec. 3. (a) As used in this chapter, "local reliability electric transmission facility" means an electric transmission facility located in whole or in part in Indiana that is required by a regional transmission organization to satisfy the reliability standards of the North American Electric Reliability Corporation, a regional reliability organization, or a successor corporation or organization. If the electricity transmission facility is located in the territory of the PJM Interconnection regional transmission organization territory, or its successor organization, its rating must be:

(1) at least one hundred (100) kilovolts; and

(2) not more than three hundred (300) kilovolts.

(b) The term does not include an electric transmission facility to the extent the facility is required by a regional transmission organization primarily to address nonreliability drivers.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-4

"New electric transmission owner"

Sec. 4. As used in this chapter, "new electric transmission owner" means a corporation, company, partnership, limited liability company, or other organization that:

(1) on the date of its incorporation or organization, does not own, operate, or maintain an electric transmission facility located in whole or in part in Indiana; and

(2) is incorporated or organized to construct, own, operate, and maintain an electric transmission facility located in whole or in part in Indiana.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-5
"Public utility"

Sec. 5. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-8.5-1.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-6
"Regional transmission organization"

Sec. 6. As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-7
Authority to operate; findings

Sec. 7. (a) The commission shall grant a new electric transmission owner authority to operate as a public utility in Indiana if the commission makes the following findings:

(1) The new electric transmission owner has the financial, managerial, and technical capability to construct, own, operate, and maintain an electric transmission facility.

(2) The new electric transmission owner has the ability and intent to comply with all statutes, rules, and regulations enforced by the commission.

(3) The new electric transmission owner has the intent to construct, own, operate, and maintain an electric transmission facility that is under consideration by an applicable regional transmission organization.

(4) The new electric transmission owner has provided written notice of its request for authority under this section to each incumbent electric transmission owner that may connect its existing electric transmission facility to the new electric transmission facility of the new electric transmission owner.

(b) In making findings under subsection (a), the commission may consider the creditworthiness of the new electric transmission owner, including:

(1) the new electric transmission owner's investment grade rating;

(2) guarantees of a parent company of the new electric transmission owner that has an investment grade rating;

(3) a bank reference letter or bonding commitment on behalf of the new electric transmission owner;

(4) the authority of the new electric transmission owner to directly set rates or impose taxes; and

(5) the capability of the new electric transmission owner to meet its financial obligations if it abandons the new electric transmission facility after its construction.

As added by P.L.174-2013, SEC.1.

IC 8-1-38-8
Notice of construction

Sec. 8. A new electric transmission owner shall notify the commission in a timely manner of the dates on which construction of the new electric transmission facility began and was completed.
As added by P.L.174-2013, SEC.1.

IC 8-1-38-9
Right of first refusal

Sec. 9. (a) An incumbent electric transmission owner has the right to construct, own, operate, and maintain the following:

(1) A local reliability electric transmission facility that connects to an electric transmission facility owned by the incumbent electric transmission owner.

(2) Upgrades to an existing electric transmission facility owned by the incumbent electric transmission owner.

(b) The right to construct, own, operate, and maintain a local reliability facility that connects to electric transmission facilities owned by two (2) or more incumbent electric transmission owners belongs individually and proportionately to each incumbent electric transmission owner, unless the incumbent electric transmission owners otherwise agree in writing.
As added by P.L.174-2013, SEC.1.

IC 8-1-38-10
Contract between incumbent and new electric transmission owners; jurisdiction of commission

Sec. 10. (a) An incumbent electric transmission owner may enter into a contract with a new electric transmission owner that proposes to connect a new electric transmission facility to the electric transmission facility of the incumbent electric transmission owner. The contract may assign responsibility for:

(1) maintenance and upgrades; and

(2) reliability compliance;

with respect to the new electric transmission facility.

(b) The commission has jurisdiction to resolve a dispute arising under a contract described in subsection (a).
As added by P.L.174-2013, SEC.1.

IC 8-1-38-11
Existing property rights

Sec. 11. This chapter does not affect an incumbent electric transmission owner's use and control of existing property rights.
As added by P.L.174-2013, SEC.1.

IC 8-1-39

Chapter 39. Transmission, Distribution, and Storage System Improvement Charges and Deferrals

IC 8-1-39-1

Application of definitions in IC 8-1-2-1

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-2

"Eligible transmission, distribution, and storage system improvements"

Sec. 2. As used in this chapter, "eligible transmission, distribution, and storage system improvements" means new or replacement electric or gas transmission, distribution, or storage utility projects that:

(1) a public utility undertakes for purposes of safety, reliability, system modernization, or economic development, including the extension of gas service to rural areas;

(2) were not included in the public utility's rate base in its most recent general rate case; and

(3) either were:

(A) designated in the public utility's seven (7) year plan and approved by the commission under section 10 of this chapter as eligible for TDSIC treatment; or

(B) approved as a targeted economic development project under section 11 of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-3

"Pretax return"

Sec. 3. As used in this chapter, "pretax return" means the TDSIC revenues necessary to:

(1) produce net operating income equal to the public utility's weighted cost of capital multiplied by investments in eligible transmission, distribution, and storage system improvements;

(2) pay state and federal income taxes imposed on the net operating income calculated under subdivision (1); and

(3) pay state utility receipts taxes associated with TDSIC revenues.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-4

"Public utility"

Sec. 4. As used in this chapter, "public utility" means:

(1) an energy utility (as defined in IC 8-1-2.5-2);

(2) a municipally owned utility (as defined in IC 8-1-2-1(h)); or

(3) a department of public utilities created by IC 8-1-11.1.
As added by P.L.133-2013, SEC.5.

IC 8-1-39-5
"Targeted economic development project"
Sec. 5. As used in this chapter, "targeted economic development project" means a project approved by the commission under section 10(c) of this chapter.
As added by P.L.133-2013, SEC.5.

IC 8-1-39-6
"TDSIC"
Sec. 6. As used in this chapter, "TDSIC" refers to a transmission, distribution, and storage system improvement charge.
As added by P.L.133-2013, SEC.5.

IC 8-1-39-7
"TDSIC costs"
Sec. 7. As used in this chapter, "TDSIC costs" means the following costs incurred with respect to eligible transmission, distribution, and storage system improvements incurred both while the improvements are under construction and post in service:
(1) Depreciation expenses.
(2) Operation and maintenance expenses.
(3) Extensions and replacements to the extent not provided for through depreciation, in the manner provided for in IC 8-1.5-3-8.
(4) Property taxes.
(5) Pretax returns.
The term includes costs associated with a targeted economic development project approved under section 11 of this chapter.
As added by P.L.133-2013, SEC.5.

IC 8-1-39-8
"TDSIC revenues"
Sec. 8. As used in this chapter, "TDSIC revenues" means revenues produced through a TDSIC and excluding revenues from all other rates and charges.
As added by P.L.133-2013, SEC.5.

IC 8-1-39-9
Petition; contents; recovery and deferral of TDSIC costs
Sec. 9. (a) Subject to subsection (c), a public utility that provides electric or gas utility service may file with the commission rate schedules establishing a TDSIC that will allow the periodic automatic adjustment of the public utility's basic rates and charges to provide for timely recovery of eighty percent (80%) of approved capital expenditures and TDSIC costs. The petition must:

(1) use the customer class revenue allocation factor based on firm load approved in the public utility's most recent retail base rate case order;

(2) include the public utility's seven (7) year plan for eligible transmission, distribution, and storage system improvements; and

(3) identify projected effects of the plan described in subdivision (2) on retail rates and charges.

The public utility shall provide a copy of the petition to the office of the utility consumer counselor when the petition is filed with the commission. The public utility shall update the public utility's seven (7) year plan under subdivision (2) with each petition the public utility files under this section. An update may include a petition for approval of a targeted economic development project under section 11 of this chapter.

(b) A public utility that recovers capital expenditures and TDSIC costs under subsection (a) shall defer the remaining twenty percent (20%) of approved capital expenditures and TDSIC costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, and shall recover those capital expenditures and TDSIC costs as part of the next general rate case that the public utility files with the commission.

(c) Except as provided in section 15 of this chapter, a public utility may not file a petition under subsection (a) within nine (9) months after the date on which the commission issues an order changing the public utility's basic rates and charges with respect to the same type of utility service.

(d) A public utility that implements a TDSIC under this chapter shall, before the expiration of the public utility's approved seven (7) year plan, petition the commission for review and approval of the public utility's basic rates and charges with respect to the same type of utility service.

(e) A public utility may file a petition under this section not more than one (1) time every six (6) months.

(f) Actual capital expenditures and TDSIC costs that exceed the approved capital expenditures and TDSIC costs require specific justification by the public utility and specific approval by the commission before being authorized for recovery in customer rates.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-10

Approval of seven year plan; inclusion of targeted economic development project; notice, hearing, and order

Sec. 10. (a) A public utility shall petition the commission for approval of the public utility's seven (7) year plan for eligible transmission, distribution, and storage improvements. A plan submitted under this subsection may include for approval a targeted economic development project described in section 11 of this

chapter.

(b) Following notice and hearing, and not more than two hundred ten (210) days after the public utility petitions the commission under subsection (a), the commission shall issue an order on the petition. The order must include the following:

(1) A finding of the best estimate of the cost of the eligible improvements included in the plan.

(2) A determination whether public convenience and necessity require or will require the eligible improvements included in the plan.

(3) A determination whether the estimated costs of the eligible improvements included in the plan are justified by incremental benefits attributable to the plan.

If the commission determines that the public utility's seven (7) year plan is reasonable, the commission shall approve the plan and designate the eligible transmission, distribution, and storage improvements included in the plan as eligible for TDSIC treatment.

(c) A public utility that provides gas service may petition the commission to approve a targeted economic development project as part of the public utility's seven (7) year plan under subsection (a). The commission shall review within sixty (60) days the part of the petition concerning the targeted economic development project and approve the inclusion of the project if the commission determines that the inclusion of the project is consistent with the requirements of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-11

Extension of gas service to targeted economic development project; approval by Indiana economic development corporation of costs as TDSIC costs; rural gas service

Sec. 11. (a) The extension, construction, addition, or improvement of the plant and equipment of a public utility that is installed to provide gas service to a targeted economic development project is used and useful in the public service.

(b) A public utility shall apply to the Indiana economic development corporation for approval to treat costs associated with a targeted economic development project as TDSIC costs. Costs approved by the Indiana economic development corporation shall be treated as TDSIC costs and may be recovered through a TDSIC under section 12 of this chapter. The TDSIC revenues associated with a targeted economic development project shall not be included in a public utility's total retail revenues for purposes of determining an aggregate increase under section 14 of this chapter.

(c) Notwithstanding any law or rule governing extension of service, a public utility that provides gas service may, on a nondiscriminatory basis, extend service in rural areas without a deposit or other adequate assurance of performance from the

customer, to the extent that the extension of service results in a positive contribution to the utility's overall cost of service over a twenty (20) year period. However, if the public utility determines that the extension of service to a targeted economic development project will not result in a positive contribution to the utility's overall cost of service over a twenty (20) year period, the public utility may require a deposit or other adequate assurance of performance from:

(1) the developer of the targeted economic development project; or

(2) a local, regional, or state economic development organization.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-12

Commission hearing and order; examination by office of utility consumer counselor and intervenors

Sec. 12. (a) Not more than ninety (90) days after a public utility files a petition under section 9 of this chapter, the commission shall conduct a hearing and issue an order on the petition.

(b) Not more than sixty (60) days after a public utility files a petition under section 9 of this chapter, the office of the utility consumer counselor and other intervenors, if any, may:

(1) examine the information of the public utility to confirm that the proposed transmission, distribution, and storage system improvements comply with this chapter; and

(2) report its findings to the commission.

(c) If the commission determines that the petition satisfies the requirements of this chapter and the capital expenditures and TDSIC costs are reasonable, the commission shall approve the petition, including:

(1) capital expenditures;

(2) timely recovery of TDSIC costs, including costs associated with a targeted economic development project, through a TDSIC; and

(3) if requested, authority to defer TDSIC costs under section 9(b) of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-13

Determination of pretax return

Sec. 13. (a) For purposes of calculating the TDSIC costs of a public utility, the commission shall determine an appropriate pretax return for the public utility. In determining the appropriate pretax return, the commission may consider the following factors:

(1) The current state and federal income tax rates.

(2) The public utility's capital structure.

(3) The actual cost rates for the public utility's long term debt and preferred stock.

(4) The public utility's cost of common equity determined by the commission in the public utility's most recent general rate proceeding.

(5) Other information that the commission determines is necessary.

(b) The commission shall adjust a public utility's authorized return for purposes of IC 8-1-2-42(d)(3) or IC 8-1-2-42(g)(3) to reflect incremental earnings from an approved TDSIC.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-14

Total retail revenues; average aggregate increase

Sec. 14. (a) The commission may not approve a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than two percent (2%) in a twelve (12) month period. For purposes of this subsection, a public utility's total retail revenues do not include TDSIC revenues associated with a targeted economic development project.

(b) If a public utility incurs TDSIC costs under the public utility's seven (7) year capital expenditure plan that exceed the percentage increase in a TDSIC approved by the commission, the public utility shall defer recovery of the TDSIC costs as set forth in section 9(b) of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-15

Revised rate schedule following general increase in rates and charges

Sec. 15. A public utility that has implemented a TDSIC under this chapter shall file revised rate schedules resetting the charge if new basic rates and charges become effective for the public utility following a commission order authorizing a general increase in rates and charges that includes in the public utility's rate base eligible transmission, distribution, and storage system improvements reflected in the TDSIC.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-16

Exclusions from general increase in basic rates and charges

Sec. 16. (a) For purposes of this chapter, the following are not a general increase in basic rates and charges under IC 8-1-2-42(a):

(1) The filing of a TDSIC.

(2) A change in a TDSIC.

(3) The deferral of depreciation expenses, operation and maintenance expenses, property taxes, or post in service allowance for funds used during construction under section 9(b) of this chapter.

(b) This chapter does not limit:

(1) a public utility's ability to recover eligible transmission, distribution, and storage system improvements in a general retail rate case; or

(2) the commission's valuation of utility property under IC 8-1-2-6.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-17

Adoption of rules

Sec. 17. The commission may adopt by rule under IC 4-22-2 or by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer a TDSIC.

As added by P.L.133-2013, SEC.5.

IC 8-1.5

ARTICLE 1.5. MUNICIPAL UTILITIES

IC 8-1.5-1

Chapter 1. Definitions

IC 8-1.5-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this article.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-2

"Acquisition"

Sec. 2. "Acquisition" includes the following methods of obtaining property:

(1) Purchases.
(2) Condemnation.
(3) Leases.
(4) Exchanges.
(5) Acceptance of gifts.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-3

"Commission"

Sec. 3. "Commission" refers to the utility regulatory commission.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.23-1988, SEC.61.

IC 8-1.5-1-4

"Disposition"

Sec. 4. "Disposition" includes the sale, lease, exchange, or other transfer of property.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-5

"Executive"

Sec. 5. "Executive" means:

(1) mayor, for a city; or
(2) president of the town council, for a town.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.8-1989, SEC.40.

IC 8-1.5-1-6

"Fiscal officer"

Sec. 6. "Fiscal officer" means:

(1) controller, for a second class city;
(2) clerk-treasurer, for a third class city; or

(3) clerk-treasurer, for a town.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-7
"Legislative body"
Sec. 7. "Legislative body" means:
(1) common council, for a city; or
(2) town council, for a town.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.8-1989, SEC.41.

IC 8-1.5-1-8
"Municipality"
Sec. 8. "Municipality" means city or town.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-1-9
"Person"
Sec. 9. "Person" means individual, firm, corporation, partnership, limited liability company, trustee, lessee, or receiver.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.8-1993, SEC.132.

IC 8-1.5-1-10
"Utility"; "municipally owned utility"; "public utility"
Sec. 10. "Utility", "municipally owned utility", and "public utility" have the meanings set forth in IC 8-1-2-1. However, notwithstanding IC 8-1-2-1(g), for purposes of IC 8-1.5-2-4 through IC 8-1.5-2-6.1, the term:
(1) "utility" includes any plant or equipment that is:
(A) used within Indiana for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste; and
(B) acquired, owned, or operated by a municipality described in subdivision (2); and
(2) "municipally owned utility" includes a municipality that acquires, owns, or operates facilities for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.98-2016, SEC.6.

IC 8-1.5-2

Chapter 2. Transfer, Acquisition, and Improvement of Utilities by Municipalities

IC 8-1.5-2-1

Application of chapter; exception

Sec. 1. This chapter applies to all municipalities except consolidated cities.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-2

Application of chapter; additional exceptions

Sec. 2. (a) This chapter does not apply to utilities governed by:

(1) IC 8-1-13; or

(2) IC 8-1-2 except for a municipally owned water, wastewater, or combined water and wastewater utility.

(b) The law relating to acquisition of electric utility property and to electricity suppliers' service area assignments shall be governed by IC 8-1-2.3 and IC 8-1-2-95.1, and nothing in this chapter modifies or abridges those provisions.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.68-2015, SEC.1.

IC 8-1.5-2-3

Disposition, construction, and acquisition of utilities; lease and operation of waterworks facilities

Sec. 3. (a) Subject to restrictions imposed by a bond ordinance, resolution, indenture, contract under IC 8-1-2.2, or similar instrument binding upon it, a municipality may sell or otherwise dispose of any of its municipally owned utilities under this chapter.

(b) A municipality may own, lease, acquire, or construct a utility within the corporate boundaries of the municipality, and within a radius of six (6) miles from those boundaries or any place within the county in which the municipality is located, under this chapter without the consent of any agency other than the municipal legislative body. Waterworks facilities may be leased from a public utility and operated in conjunction with its municipal waterworks, whether or not the leased facilities are located within the corporate boundaries of the municipality, if the area served by the leased facilities outside those boundaries is contiguous to, or within one (1) mile of, those boundaries. For purposes of IC 36-4-3, a municipality that leases and operates waterworks serving such an area is considered to be furnishing water service to the area.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-4

Sale of nonsurplus property; written document providing for appraisal

Sec. 4. Whenever the municipal legislative body or the municipal executive determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall provide for the following in a written document that shall be made available for inspection and copying at the offices of the municipality's municipally owned utility in accordance with IC 5-14-3.

(1) The appointment, as follows, of three (3) residents of Indiana to serve as appraisers:

(A) One (1) disinterested person who is an engineer licensed under IC 25-31-1.

(B) One (1) disinterested appraiser licensed under IC 25-34.1.

(C) One disinterested person who is either:

(i) an engineer licensed under IC 25-31-1; or

(ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property.

(3) The time that the appraisal is due.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.113-2006, SEC.2; P.L.103-2008, SEC.2; P.L.68-2015, SEC.2; P.L.98-2016, SEC.7.

IC 8-1.5-2-5

Sale of nonsurplus property; appraiser qualifications; public hearing; ordinance for sale; effective date; petitions opposing sale; submission to voters; ordinances adopted after March 28, 2016

Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;

(2) be a disinterested person; and

(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:

(1) be sworn to make a just and true valuation of the property; and

(2) return their appraisal, in writing, to the:

(A) municipal legislative body; or

(B) municipal executive;

that appointed them within the time fixed in the written document appointing them under section 4 of this chapter.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) If, after the return of the appraisal by the appraisers, the legislative body and the municipal executive decide to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not earlier than the thirty (30)

day period described in subsection (e) and not later than ninety (90) days after the return of the appraisal, hold a public hearing to do the following:

(1) Review and explain the appraisal.

(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

Not less than thirty (30) days or more than sixty (60) days after the date of a hearing under this section, the legislative body may adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property, subject to subsections (f) and (g) and, in the case of an ordinance adopted under this subsection after March 28, 2016, subject to section 6.1 of this chapter. The legislative body is not required to adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property if, after the hearing, the legislative body determines it is not in the interest of the municipality to proceed with the sale or disposition. Notice of a hearing under this section shall be published in the manner prescribed by IC 5-3-1.

(e) The hearing on the proposed sale or disposition of the nonsurplus municipally owned utility property may not be held less than thirty (30) days after notice of the hearing is given as required by subsection (d).

(f) Subject to subsection (j), an ordinance adopted under subsection (d) does not take effect until the latest of the following:

(1) The expiration of the thirty (30) day period described in subsection (g), if the question as to whether the sale or disposition should be made is not submitted to the voters of the municipality under subsection (g).

(2) If:

(A) the question as to whether the sale or disposition shall be made is submitted to the voters of the municipality under subsection (g); and

(B) a majority of the voters voting on the question vote for the sale or disposition;

at such time that the vote is determined to be final.

(3) The effective date specified by the legislative body in the ordinance.

(g) Subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016, if:

(1) the legislative body adopts an ordinance under subsection (d); and

(2) not later than thirty (30) days after the date the ordinance is adopted at least the number of the registered voters of the municipality set forth in subsection (h) sign and present a petition to the legislative body opposing the sale or disposition;

the legislative body shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a

special or general election. In submitting the public question to the voters, the legislative body shall certify within the time set forth in IC 3-10-9-3, if applicable, the question to the county election board of the county containing the greatest percentage of population of the municipality. The county election board shall adopt a resolution setting forth the text of the public question and shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special or general election on a date specified by the municipal legislative body. Pending the results of an election under this subsection, the municipality may not take further action to sell or dispose of the property as provided in the ordinance.

(h) Subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016, the number of signatures required on a petition opposing the sale or disposition under subsection (g) is as follows:

(1) In a municipality with not more than one thousand (1,000) registered voters, thirty percent (30%) of the registered voters.

(2) In a municipality with at least one thousand one (1,001) registered voters and not more than five thousand (5,000) registered voters, fifteen percent (15%) of the registered voters.

(3) In a municipality with at least five thousand one (5,001) registered voters and not more than twenty-five thousand (25,000) registered voters, ten percent (10%) of the registered voters.

(4) In a municipality with at least twenty-five thousand one (25,001) registered voters, five percent (5%) of the registered voters.

(i) If a majority of the voters voting on the question vote for the sale or disposition, the legislative body shall proceed to sell or dispose of the property as provided in the ordinance, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(j) If a majority of the voters voting on the question vote against the sale or disposition, the ordinance adopted under subsection (d) does not take effect and the sale or disposition may not be made, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(k) If:

(1) the legislative body adopts an ordinance under subsection (d); and

(2) after the expiration of the thirty (30) day period described in subsection (g), a petition is not filed;

the municipal legislative body may proceed to sell the property as provided in the ordinance, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(l) Notwithstanding the procedures set forth in this section, if:

(1) before July 1, 2015, a municipality adopts an ordinance

under this section for the sale or disposition of nonsurplus municipally owned utility property in accordance with the procedures set forth in this section before its amendment on July 1, 2015; and

(2) the ordinance adopted takes effect before July 1, 2015, in accordance with the procedures set forth in this section before its amendment on July 1, 2015;

the ordinance is not subject to challenge under subsection (g) after June 30, 2015, regardless of whether the thirty (30) day period described in subsection (g) expires after June 30, 2015. An ordinance described in this subsection is effective for all purposes and is legalized and validated.

(m) Subsections (g) through (k) do not apply to an ordinance adopted under subsection (d) after March 28, 2016, if the commission determines, in reviewing the proposed sale or disposition under section 6.1(h) of this chapter, that the factors set forth in IC 8-1-30.3-5(c) are satisfied as applied to the proposed sale or disposition.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.12-1995, SEC.99; P.L.3-1997, SEC.425; P.L.2-1998, SEC.34; P.L.103-2008, SEC.3; P.L.68-2015, SEC.3; P.L.149-2016, SEC.37; P.L.98-2016, SEC.8.

IC 8-1.5-2-6

Sale of nonsurplus property; terms of ordinance; satisfaction of existing obligations; bid submitted by trust; proceeds; sale for less than appraised value

Sec. 6. (a) The ordinance adopted by the municipal legislative body under section 5(d) of this chapter must provide for:

(1) the sale or disposition of the municipally owned utility property;

(2) the manner of the sale or disposition;

(3) the price, terms, and conditions of the sale or disposition, which must be consistent with any contractual obligations previously incurred under IC 8-1-2.2; and

(4) the officer or officers who are to execute the proper documents conveying title on behalf of the municipality.

(b) Except as provided in subsection (e), the property may not be sold for less than its full appraised value, as set forth in the appraisal, less the amount of any bonds, liens, or other indebtedness due upon the property, and only in accordance with contractual obligations incurred under IC 8-1-2.2. The indebtedness shall either:

(1) be paid in accordance with the terms and conditions of the instruments governing the indebtedness before the sale; or

(2) be assumed and paid by the purchaser as part of the purchase price of the property.

(c) This subsection applies if a municipal legislative body adopts an ordinance for the sale or disposition of municipally owned utility

real property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

(d) The proceeds of any sale under this chapter shall be paid into the treasury of the municipality making the sale and become part of the general fund, unless the municipal legislative body adopts an ordinance to provide that the proceeds of the sale shall be paid into a restricted fund to be used only in the manner set forth in the ordinance.

(e) The municipally owned utility property that is the subject of an ordinance adopted under section 5(d) of this chapter may be sold for less than its full appraised value, as set forth in the appraisal, if the municipal legislative body determines that it would be in the municipality's best interests to sell the property for less than its full appraised value so as to result in lower utility rates to be charged by the prospective purchaser to customers of the municipality's municipally owned utility.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.104-1983, SEC.1; P.L.336-1989(ss), SEC.18; P.L.103-2008, SEC.4; P.L.98-2016, SEC.9.

IC 8-1.5-2-6.1

Sale of nonsurplus property; ordinance adopted after March 28, 2016; approval of commission; terms and conditions; public interest determination; net original cost rate base; submission to voters

Sec. 6.1. (a) This section applies to a municipality that adopts an ordinance under section 5(d) of this chapter after March 28, 2016.

(b) Before a municipality may proceed to sell or otherwise dispose of all or part of its nonsurplus utility property under an ordinance adopted under section 5(d) of this chapter, the municipality and the prospective purchaser must obtain the approval of the commission under this section.

(c) As part of the sale or disposition of the property, the municipality and the prospective purchaser may include terms and conditions that the municipality and the prospective purchaser consider to be equitable to the existing utility customers of:

(1) the municipality's municipally owned utility; and

(2) the prospective purchaser;

as applicable.

(d) The commission shall approve the sale or disposition of the property according to the terms and conditions proposed by the municipality and the prospective purchaser if the commission finds that the sale or disposition according to the terms and conditions proposed is in the public interest. For purposes of this section, the purchase price of the municipality's nonsurplus utility property shall be considered reasonable if it does not exceed the appraised value set

forth in the appraisal required under section 5 of this chapter.

(e) The following apply to the commission's determination under subsection (d) as to whether the proposed sale or disposition according to the proposed terms and conditions is in the public interest:

(1) If:

(A) the municipality's municipally owned utility petitions the commission under IC 8-1-30.3-5(d); and

(B) the commission approves the municipality's municipally owned utility's petition under IC 8-1-30.3-5(c);

the proposed sale or disposition is considered to be in the public interest.

(2) If subdivision (1) does not apply and subject to subsection (h), the commission shall consider the extent to which the proposed terms and conditions of the proposed sale or disposition would require the existing utility customers of either the prospective purchaser or the municipality's municipally owned utility, as applicable, to pay rates that would subsidize utility service to the other party's existing customers. If the commission determines that:

(A) the proposed terms and conditions would result in a subsidy described in this subdivision; and

(B) the subsidy would cause the proposed terms and conditions of the proposed sale or disposition not to be in the public interest;

the commission shall calculate the amount of the subsidy that would result and shall set forth in an order under this section such changes to the proposed terms and conditions as the commission considers appropriate to address the subsidy. The prospective purchaser and the municipality shall each have thirty (30) days from the date of the commission's order setting forth the commission's changes to either accept or reject the changes. If either party rejects the commission's changes, the proposed sale or disposition is considered not to be in the public interest.

(3) In reviewing the proposed terms and conditions of the proposed sale or disposition under either subdivision (1) or (2), the commission shall consider the financial, managerial, and technical ability of the prospective purchaser to provide the utility service required after the proposed sale or disposition.

(f) As part of an order approving a sale or disposition of property under this section, the commission shall, without regard to amounts that may be recorded on the books and records of the municipality and without regard to any grants or contributions previously received by the municipality, provide that for ratemaking purposes, the prospective purchaser shall record as the net original cost rate base an amount equal to:

(1) the full purchase price;

(2) incidental expenses; and
(3) other costs of acquisition;
allocated in a reasonable manner among appropriate utility plant in service accounts.

(g) The commission shall issue a final order under this section not later than two hundred ten (210) days after the filing of the parties' case in chief.

(h) In reviewing a proposed sale or disposition under subsection (e), the commission shall determine whether the factors set forth in IC 8-1-30.3-5(c) are satisfied as applied to the proposed sale or disposition of the municipality's nonsurplus municipally owned utility property for purposes of section 5(m) of this chapter. If the commission determines that the factors set forth in IC 8-1-30.3-5(c):

(1) are satisfied as applied to the proposed sale or disposition, section 5(g) through 5(k) of this chapter does not apply to the municipality's ordinance adopted under section 5(d) of this chapter; or

(2) are not satisfied as applied to the proposed sale or disposition:

(A) section 5(g) through 5(k) of this chapter applies to the municipality's ordinance adopted under section 5(d) of this chapter; and

(B) the question as to whether the sale or disposition should be made must be submitted to the voters of the municipality at a special or general election if at least the number of the registered voters of the municipality set forth in section 5(h) of this chapter sign and present a petition to the legislative body opposing the sale or disposition, in accordance with section 5(g) through 5(k) of this chapter.

However, not withstanding this subsection, in reviewing a proposed sale or disposition under subsection (e)(2), the commission may not condition its approval of the proposed sale or disposition on whether the factors set forth in IC 8-1-30.3-5(c) are satisfied or on any other factors except those provided for in subsection (e)(2) and (e)(3).

As added by P.L.98-2016, SEC.10.

IC 8-1.5-2-7

Public convenience and necessity; declaratory resolution

Sec. 7. (a) A certificate of public convenience and necessity is not required as a condition precedent to the owning, leasing, acquisition, construction, or operation of a utility by a municipality, even if there is a public utility engaged in a similar service. The acquisition of electric utility property and assignment of a municipal electric utility's service area are, however, subject to the provisions of IC 8-1-2.3 and IC 8-1-2-95.1.

(b) Subsection (d) applies to the following:

(1) A municipality that wants to acquire an existing utility, including by purchase or condemnation under IC 8-1-2-92,

IC 8-1-2-93, or otherwise.

(2) A municipality that wants to own and operate a utility in a location where, or contiguous to where, there is a public utility engaged in a similar service:

(A) under a franchise granted by the municipality; or

(B) under an indeterminate permit as defined in IC 8-1-2-1.

(c) Notwithstanding subsection (b), subsection (d) does not apply to the following:

(1) A municipality that owns and operates a water utility as of July 1, 2012.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(d) Before a municipality described in subsection (b) may declare by ordinance that public convenience and necessity require the establishment of a municipally owned utility, the municipality shall conduct a hearing under section 10 of this chapter.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.172-2009, SEC.3; P.L.270-2013, SEC.4.

IC 8-1.5-2-8

Preliminary expenses; appropriation

Sec. 8. Before a municipal legislative body:

(1) proposes to construct or acquire a utility; and

(2) makes a determination as to public convenience and necessity;

it may appropriate out of its general fund an amount not exceeding five percent (5%) of the total estimated cost of constructing or acquiring the utility, as necessary to pay the expenses of a preliminary investigation, surveys, plans, specifications, and appraisals, including engineering and legal expenses in constructing or acquiring the utility. Any action by the municipal legislative body in making an appropriation is final and not subject to review by the department of local government finance. The municipal legislative body may renew or adjust the appropriation on an annual basis until the construction or acquisition of the utility is complete.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.90-2002, SEC.313; P.L.172-2009, SEC.4.

IC 8-1.5-2-9

Appropriation for preliminary expenses; repayment

Sec. 9. If the municipal legislative body proceeds to construct or acquire the utility, there must be included in the total amount of money to be raised by the issuance of bonds in connection with the construction or acquisition of the utility the amount of the expenditures that will be repaid to the general fund of the

municipality from the money derived from the issuance and sale of the bonds.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-10
Ordinance declaring public convenience and necessity; notice and hearing

Sec. 10. (a) Before a municipal legislative body adopts an ordinance declaring that public convenience and necessity require the construction or acquisition of a utility as provided by section 7 of this chapter, each public utility furnishing a similar utility service in the municipality, or in the contiguous territory in which the municipality proposes to operate, shall be given ten (10) days notice by the legislative body of the time and place where the hearing will be held. At the hearing, the public utility is entitled to be heard in person or by counsel in opposition to the proposed action.

(b) Notice must be served by delivering a copy to an officer or manager of the public utility in the municipality, if possible, or to an officer of the public utility elsewhere in Indiana.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-11
Repealed

(As added by Acts 1982, P.L.74, SEC.1. Repealed by P.L.172-2009, SEC.8.)

IC 8-1.5-2-12
Sale of heat, light, water, or power to municipality

Sec. 12. (a) Upon the approval by resolution of the municipal legislative body, a municipally owned utility may sell or furnish heat, light, water, or power to the municipality to be used exclusively for the furnishing of utility service to the municipality for its own municipal purposes.

(b) This section is not intended to permit the sale or furnishing of power to the municipality where the sale would affect the obligation of any contract or franchise.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-13
Contracts for acquisition, construction, or replacement of public utility property; authorizing ordinance

Sec. 13. A contract made by the municipal legislative body for the acquisition, construction, extension, or replacement of the property of a public utility must be authorized by ordinance. The ordinance must provide for the principal and interest of bonds issued for the payment of the cost of the acquisition, construction, extension, or replacement to be paid exclusively from the income and revenue of the property acquired with the proceeds of the bonds.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-14
Costs of construction or acquisition; security for payment

Sec. 14. A municipality that constructs or acquires a utility may, through its municipal legislative body, provide for and secure the payment of the cost of constructing, acquiring, extending, or improving the utility by assigning or otherwise pledging the property acquired, together with the net earnings or profits derived or to be derived from the operation of the utility or utilities. Contracts, warrants, debentures, or pledges of future revenues entered into by a municipally owned utility are not an indebtedness of the municipality within the meaning of any constitutional debt limitation.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-15
Condemnation; authorization

Sec. 15. (a) This section applies to the following:

(1) A municipality that, as of July 1, 2012, had established and operated a water utility.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(b) If the municipality and the owners of a public utility are unable to agree upon a price to be paid for the property of the public utility, the municipality may:

(1) by ordinance declare that a public necessity exists for the condemnation of the utility property; and

(2) bring an action in the circuit or superior court of the county where the municipality is located against the utility for the condemnation of the property.

(c) An ordinance adopted under subsection (b) is final.

(d) For the purpose of acquiring the property of a public utility, the municipality:

(1) may exercise the power of eminent domain in accordance with IC 32-24; and

(2) is required only to establish the necessity of taking as this chapter requires.

(e) The provisions of this section do not apply to the acquisition of electric utility property or the assignment of service areas covered by IC 8-1-2.3 and IC 8-1-2-95.1.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.2-2002, SEC.38; P.L.270-2013, SEC.5.

IC 8-1.5-2-15.5
Condemnation of public utility

Sec. 15.5. (a) This section does not apply to the following:

(1) A municipality that, as of July 1, 2012, had established a water utility.

(2) An action brought under:

(A) IC 8-1-2-92;

(B) IC 8-1-2-93; or

(C) this chapter;

before March 1, 2013.

(3) The acquisition of electric utility property or the assignment of service areas covered by IC 8-1-2.3 and IC 8-1-2-95.1.

(4) The acquisition of water or sewer utility property, unless the requirements of IC 8-1-30 are satisfied.

(b) If the municipality and the owners of a public utility are unable to agree upon a price to be paid for the property of the public utility, the municipality may bring an action in the circuit or superior court of the county where the municipality is located against the utility for the condemnation of the property.

(c) For the purpose of acquiring the property of a public utility, the municipality shall exercise the power of eminent domain in accordance with IC 32-24-1.

As added by P.L.270-2013, SEC.6.

IC 8-1.5-2-16

Repealed

(As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.3-1997, SEC.426; P.L.2-1998, SEC.35. Repealed by P.L.172-2009, SEC.8.)

IC 8-1.5-2-17

Acquisition of property rights inside or outside boundaries; utility lines; protection of services from injury or pollution; attachments from abuse, destruction, or waste

Sec. 17. (a) A municipality, by exercising the power of eminent domain in accordance with IC 32-24 or other applicable law, may acquire property rights inside or outside its corporate boundaries as necessary for the business of a municipally owned utility.

(b) The municipal legislative body may provide for utility lines to be laid through the municipality as the municipally owned utility requires. The municipality may use any property or property rights necessary for constructing, acquiring, operating, or protecting from injury or pollution the municipally owned utility services.

(c) For the purpose of preserving and protecting from injury or pollution the municipal water services, the municipality may exercise its powers in areas within twenty-five (25) miles outside its corporate boundaries.

(d) All attachments made to the utility fixtures, whether intended for public or private use, are subject to the supervision and rules of the utility for protection against abuse or destruction or the inordinate use or waste of utility services.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.2-2002, SEC.39.

IC 8-1.5-2-18
Bonds; payable out of special account; issuance

Sec. 18. (a) To provide money to pay for the construction or acquisition of a utility under this chapter, or its extension, improvement, or replacement in whole or in part, or its repair, the municipal legislative body may issue and sell bonds bearing interest at any rate, executed and payable at times not to exceed forty (40) years from the date of issuance, and at places as the legislative body determines. The bonds and interest on them are payable only out of a special account, and the bonds do not constitute an indebtedness of the municipality within the meaning of the constitutional limitations.

(b) Each bond must state plainly upon its face:

(1) that it is payable only from a special account;

(2) the account and the ordinance creating it; and

(3) that it does not constitute an indebtedness of the municipality within the meaning of any constitutional debt limitation.

(c) The bonds shall be sold in accordance with IC 5-1-11.

(d) This section provides an alternative method of financing for all municipalities, notwithstanding any other law.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-19
Bonds, notes, or other obligations; issuance; approval by commission for long term bonds

Sec. 19. (a) A municipality may not issue bonds, notes, or other obligations under this chapter without the approval of the commission if the bond, notes, or other obligations are payable more than twelve (12) months after their execution, except as authorized by IC 8-1-2.2-11.

(b) If the evidence presented to the commission establishes that the rates and charges proposed by the municipally owned utility will provide sufficient funds for the operation, maintenance, and depreciation of the utility, and to pay the principal and interest of the proposed bond issue, together with a surplus or margin of at least ten percent (10%) in excess, the commission shall so certify in its order approving the issuance of bonds.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.103-2008, SEC.5.

IC 8-1.5-2-19.5
Purchase of equipment requiring lead time before availability; approval of contracts if sufficient funds available

Sec. 19.5. If a municipality desires to purchase and install equipment for its utility which requires more than three (3) months

lead time for the supplier to make such equipment and installation available, the legislative body may, by ordinance, approve a contract therefor even though it does not have sufficient funds appropriated or on hand to pay for such purchase if the utility:

(1) has annual net operating revenues for the immediately preceding calendar year sufficient to permit the municipality:

(A) to pay the principal of and interest on an issue of its utility revenue bonds in the principal amount necessary to fund such purchase (including engineering costs, legal costs, and costs of bond issuance associated therewith); and

(B) a margin of safety which it deems necessary to market such bonds on acceptable terms;

(2) if required by section 19 of this chapter, has received approval from the commission to issue bonds, notes, or other obligations sufficient to fund such purchase; or

(3) has received approval from the commission to raise its rates and charges in an amount sufficient to permit the issuance of said bonds.

As added by P.L.105-1983, SEC.1. Amended by P.L.103-2008, SEC.6.

IC 8-1.5-2-20

Bonds; payment from revenues not derived from particular utility; restriction

Sec. 20. Except as provided by section 22 of this chapter, the municipal legislative body may not adopt an ordinance, or enter into or ratify a contract, for the payment, directly or indirectly, of a bond or bonds by revenues derived by the municipality from the levy of taxes, from the issuance of any bonds other than from the issuance of bonds specifically authorized by this chapter or by a refunding statute, or from any source except the revenues derived from that particular utility.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-21

Bonds payable out of special account; purchase by municipality

Sec. 21. A municipality may invest its own money in the bonds issued under section 18 of this chapter.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-22

General obligation bonds; authorization; limitation

Sec. 22. (a) If the municipal legislative body decides that it is impracticable to raise the entire amount necessary to construct or acquire the utility solely by the issuance and sale of revenue bonds, the legislative body may, by ordinance, provide that a part of the amount may be raised by the issuance and sale of bonds pledging the general credit of the municipality.

(b) The bonds shall be issued in accordance with IC 6-1.1-20. The bonds may not exceed one-third (1/3) of the total cost of the utility. This limitation does not apply to a utility to be owned and operated by a municipality exclusively for the purpose of furnishing utility service to the municipality for its own municipal purposes.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-23
General obligation bonds; terms; sale

Sec. 23. If general obligation bonds are issued, they:

(1) may be issued in any denomination;

(2) are payable at a time not to exceed forty (40) years from issuance;

(3) may bear interest at any rate payable semiannually; and

(4) shall be sold for not less than par value and accrued interest;

as provided by ordinance. The bonds shall be sold in accordance with IC 5-1-11.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-24
Revenue bonds; money set aside for payment of interest and principal

Sec. 24. (a) The board of a municipally owned utility, as defined by IC 8-1.5-3-2, shall, at least semiannually, set aside from the net earnings a sufficient amount to pay the interest and principal, as they become due, on revenue bonds issued in payment for the utility or for its improvement. This money may not be used for any other purpose.

(b) The commission shall approve the amount set aside for the payment of the interest and principal when the commission approves the rates and charges of the municipality.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-25
Special utility account; establishment by municipality; use

Sec. 25. (a) The municipal legislative body, after providing for the:

(1) payment of operation and maintenance expenses of the utility;

(2) payment of the interest and principal on revenue bonds and creation of reserves for them;

(3) payment of the interest and principal on general obligation bonds and creation of reserves for them; and

(4) payment of assessed taxes;

shall set aside a sufficient remainder of the earnings into a separate and special account to be identified as the special utility account, to be used and applied in the extension, replacement in whole or in part, repair, and operation and maintenance of the utility.

(b) The remaining earnings may be applied to:

(1) the general fund of the municipality in accordance with IC 8-1.5-3-11, outstanding bond ordinances, and contract provisions under IC 8-1-2.2;

(2) the payment of the interest on a loan made for utility construction; or

(3) the creation of a sinking fund for the liquidation of the debt;

as the legislative body determines.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-26

Tax levy for payment of bonds

Sec. 26. (a) To pay the principal and interest on bonds issued for the construction, acquisition, extension, or improvement of a municipally owned utility, the municipal legislative body may levy an annual tax of sufficient amount on all taxable property of the municipality.

(b) If the legislative body:

(1) has contracted with a person for supplying utility services or has agreed to lease or purchase utility services; and

(2) has, in the contract, agreed to pay a stated rental, a stipulated purchase price, or other compensation to the person, or has issued bonds to pay for stock in the company or to purchase the plant;

it may levy an annual tax for payment of the rent or other consideration or purchase price to be paid for utility services, or for the purchase price of a plant, and to pay the principal and interest on the bonds.

(c) The tax under this section shall be levied and collected as other municipal taxes are levied and collected, and the proceeds shall be used only for the purpose for which the tax was levied.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-27

Lease of waterworks facilities; term; option to purchase or renew; transfer of property to municipality

Sec. 27. (a) A municipality may lease waterworks facilities from a not-for-profit corporation, a public utility, a county, or a municipality. The term of the lease may not exceed fifty (50) years. The lease must provide that the municipality has an option to:

(1) renew the lease for a further term on like conditions; and

(2) purchase the waterworks facilities covered by the lease contract with the terms and conditions of the purchase specified in the lease.

(b) If the option to purchase the waterworks facilities covered by the lease is exercised, the municipality, for the purpose of procuring money to pay the purchase price, may issue and sell revenue bonds under other laws governing the issuance and sale of waterworks revenue bonds for additions and extensions to municipal waterworks.

(c) If the municipality has not exercised an option to purchase the property covered by the lease at the expiration of the lease, and upon the full discharge and performance by the municipality of its obligations under the lease contract, the property covered by the lease thereupon becomes the absolute property of the municipality, and the lessor shall execute proper instruments conveying to the municipality good and merchantable title thereto.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.35-1990, SEC.26; P.L.252-2015, SEC.20.

IC 8-1.5-2-28
Lease of waterworks facilities; payment of operating expenses; sufficiency of rates and charges

Sec. 28. (a) A waterworks lease may provide that as a part of the lease rental for the waterworks facilities the lessee agrees to:

(1) pay all property taxes and assessments levied against or on account of the leased facilities;

(2) maintain insurance on the leased facilities for the benefit of the lessor; and

(3) assume all responsibilities for the operation, maintenance, repair, alterations, and additions of the leased facilities.

(b) All of the expenses incurred under subsection (a) and the lease rental are payable solely from the revenues derived from water rates and charges to be collected by the lessee from property and users in the area served by the leased facilities.

(c) The lessee may establish, fix, bill, and collect rates and charges with respect to the property and users in the area served by the leased facilities that are sufficient:

(1) to pay the costs of operation, maintenance, repair, alterations, depreciation, and additions of the leased facilities; and

(2) to pay the lease rental as it becomes due.

Rates and charges too low to meet these requirements are unlawful. These rates and charges are subject to approval in accordance with IC 8-1.5-3-8.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-29
Lease of waterworks facilities; notice and hearing

Sec. 29. (a) When the municipality and the lessor have agreed upon the terms and conditions of any waterworks lease proposed to be entered into under this chapter and before the final execution of the lease, a notice shall be given by publication in accordance with IC 5-3-1 to all persons interested, of a hearing to be held before the municipal legislative body, which hearing must be on a day not earlier than twenty (20) days after publication of the notice.

(b) The notice must:

(1) name the day, place, and hour of the hearing; and

(2) set forth a brief summary of the principal terms agreed upon, including:

(A) the name of the lessor;

(B) the character of the property to be leased;

(C) the lease rental to be paid; and

(D) the number of years the lease is to be in effect.

(c) The proposed lease must be available for inspection by the public during the twenty (20) day period and at the hearing.

(d) All persons interested are entitled to be heard, at the time fixed, upon the necessity for the execution of the lease and whether the rental to be paid to the proposed lessor is a fair and reasonable rental for the waterworks facilities. The hearing may be adjourned to a later date or dates.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.35-1990, SEC.27.

IC 8-1.5-2-30

Lease of waterworks facilities; execution; limitation of actions

Sec. 30. (a) After the hearing under section 29 of this chapter, the municipal legislative body may:

(1) authorize the execution of the waterworks lease as originally agreed upon; or

(2) make modifications as may be agreed upon with the proposed lessor;

but the lease rental as set out in the published notice may not be increased without a new notice and hearing.

(b) If the execution of the lease as originally agreed upon, or as modified by agreement, is authorized by the legislative body, a notice of the signing of the contract of lease shall be given by publication in accordance with IC 5-3-1.

(c) An action to:

(1) contest the validity of the lease; or

(2) enjoin the performance of any of the terms and conditions of the lease;

must be brought not later than thirty (30) days after publication of the notice of execution of the lease.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-31

Leased waterworks facilities; tax exemptions

Sec. 31. All waterworks facilities leased by a lessor contracting with a municipality under this chapter are exempt from all state, county, and other taxes. However, the rental paid to a lessor under the terms of such a lease is subject to all applicable taxes.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-32

Leased waterworks facilities; applicable statutes

Sec. 32. As to waterworks facilities leased and acquired under this chapter, it is not necessary to comply with any other statutes concerning the leasing and acquisition of waterworks facilities by municipalities except as specifically required by this chapter.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-2-33
Action to determine public convenience and necessity

Sec. 33. (a) This section does not apply to the following:
(1) A municipality that, as of July 1, 2012, had established and operated a water utility.
(2) An action brought under:
(A) IC 8-1-2-92;
(B) IC 8-1-2-93; or
(C) this chapter;
before March 1, 2013.

(b) Not more than thirty (30) days after a municipality described in section 7(b)(1) or 7(b)(2) of this chapter adopts an ordinance under section 7 of this chapter, the utility may bring an action against the municipality in the circuit or superior court of the county in which the municipality is located to determine the question of public convenience and necessity.

(c) The court shall stay further action by the municipality under the ordinance adopted under section 7 of this chapter pending the court's determination.

(d) The court shall try the cause without delay and without a jury and review the evidence de novo.
As added by P.L.270-2013, SEC.7.

IC 8-1.5-3

Chapter 3. Operation of Municipally Owned Utilities Generally

IC 8-1.5-3-1

Application of chapter

Sec. 1. This chapter applies to all municipalities, except consolidated cities, that own or operate utilities.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the board operating a municipally owned utility as determined under section 3 of this chapter.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-3

Control of utilities; control of storm water facilities in third class cities; ordinance; creation of utility service board

Sec. 3. (a) The legislative body of a municipality may, by ordinance, provide for the control of any or all of its municipally owned utilities by:

(1) the municipal works board;

(2) a board consisting of the members of the municipal legislative body;

(3) a utility service board established under subsection (f) or established before January 1, 1983, under IC 8-1-2-100 (repealed); or

(4) the board of directors of a department of waterworks established under IC 8-1.5-4.

The legislative body of a third class city also may adopt an ordinance under this subsection to provide for the control of any or all of its storm water facilities by a board described in subdivisions (1) through (4). An ordinance granting control of any or all of a third class city's storm water facilities to a board described in this subsection may be separate from or combined with an ordinance granting control of the third class city's municipally owned utilities to a board described in this subsection.

(b) If, at the time an ordinance is adopted under subsection (a) to grant control of any or all of a third class city's storm water facilities to a board described in subsection (a) the third class city has a department of storm water management under IC 8-1.5-5, the ordinance must specify a procedure for the transition of control of the affected storm water facilities from the board of directors of the department of storm water management to the board described in subsection (a).

(c) The registered voters of a municipality may file a petition

addressed to the legislative body requesting that the question of the creation of a utility service board be submitted to a referendum. The petition must be signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot.

(d) Within thirty (30) days after a petition is filed, the municipal clerk shall certify to the legislative body and to the county election board that a sufficient petition has been filed.

(e) Following certification, the legislative body shall submit the question of the creation of a utility service board to a referendum at the next election. The question shall be submitted to the registered voters of the municipality by placement on the ballot in the form prescribed by IC 3-10-9-4 and must state:

"Shall the legislative body of the municipality of _____ adopt an ordinance providing for the appointment of a utility service board to operate _____ (Insert name of utility here)?".

(f) If a majority of the voters voting on the question vote for the creation of a utility service board, the legislative body shall, by ordinance, establish a utility service board consisting of not less than three (3) nor more than seven (7) members. Not more than two-thirds (2/3) of the members may be of the same political party. All members must be residents of the area served by the board. The ordinance must provide for:

(1) a majority of the members to be appointed by the executive and a minority of the members to be appointed by the legislative body;

(2) the terms of the members, which may not exceed four (4) years, with initial terms prescribed so that the members' terms will be staggered;

(3) the salaries, if any, to be paid to the members; and

(4) the selection by the board of a chairman, who shall not be considered the head of a department for purposes of IC 36-4-9-2.

(g) The registered voters of the municipality may also file a petition requesting that the question of the abolition of the utility service board be submitted to a referendum. The procedure for filing of the petition and the referendum is the same as that prescribed by subsections (c) through (e).

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.16-1983, SEC.6; P.L.3-1987, SEC.500; P.L.12-1995, SEC.100; P.L.282-2003, SEC.1.

IC 8-1.5-3-3.3

Legalization of certain utility service boards

Sec. 3.3. For purposes of section 3 of this chapter, a utility service board that:

(1) was established before January 1, 1983, under IC 8-1-2-100 (before its repeal and formerly Acts 1913, c.76, s.109, as

amended);

(2) has continued in existence without interruption since its creation; and

(3) was established without submitting the question of its creation to the voters of the municipality for approval in a referendum;

is legalized and its actions validated.

As added by P.L.220-2011, SEC.187.

IC 8-1.5-3-4

Board; powers and duties

Sec. 4. (a) The board has general supervisory powers over the utilities under its control, with responsibility for the detailed supervision of each utility to be vested in its superintendent, who is responsible to the board for the business and technical operation of the utility. The board shall:

(1) fix the number and compensation of employees;

(2) adopt rules governing the appointment of employees including making proper classifications and rules to:

(A) determine the eligibility of applicants;

(B) determine by competitive examination the relative fitness of applicants for positions;

(C) establish eligible lists arranged according to the ratings secured;

(D) provide for the appointment of those having the highest ratings; and

(E) provide for the promotion of employees;

(3) subject to IC 36-4-9-2, appoint a superintendent or manager of each utility under its control who is responsible to the board for the business and technical operation of the utility; the board shall make the appointment on the basis of fitness to manage the particular utility to which he is to be assigned, taking into account his executive ability and his knowledge of the utility industry;

(4) subject to IC 36-4-9-12, hire attorneys when required for the operation of the utility;

(5) hire professional or expert personnel when required for the operation of the utility;

(6) submit a budget of its financial needs for the next year in the detail required by the municipal legislative body;

(7) recommend to the legislative body reasonable and just rates and charges for services to the patrons of each utility;

(8) appropriate, lease, rent, purchase, and hold all real and personal property of the utility;

(9) enter upon lands for the purpose of surveying or examining the land to determine the location of any plant or appurtenances;

(10) award contracts for:

(A) the purchase of capital equipment;
(B) the construction of capital improvements; or
(C) other property or purposes that are necessary for the full and efficient construction, management, and operation of each utility;

(11) adopt rules for the safe, economical, and efficient management and protection of each utility;

(12) deposit at least weekly with the municipal fiscal officer all money collected from each utility to be kept in a separate fund subject to the order of the board; and

(13) make monthly reports to the fiscal officer of the receipts and disbursements of money belonging to each utility and an annual report of the condition of the utility.

(b) The board may purchase by contract electricity, water, gas, power, or any other commodity or service for the purpose of furnishing the commodity or service to the patrons of the municipally owned utility or to the municipality itself.

(c) If the board wants to purchase the commodity or service from a public utility and the parties cannot agree on a rate or charge to be paid for it, either party may apply to the commission or other appropriate state or federal regulatory agency to establish a fair and reasonable rate or charge to be paid for the commodity or service.

(d) The board may discontinue water service by a waterworks to:

(1) a water consumer; or

(2) any property;

upon failure by the water consumer or the property owner to pay charges legally due for sewer or sewage disposal plant service. However, the water service may not be discontinued for nonpayment of sewer or sewage disposal plant service charges until the charges have been due and unpaid for at least thirty (30) days.

(e) Before water service is discontinued under subsection (d), the board must give written notice to the water consumer or property owner of its intention to discontinue water service if the unpaid sewer or sewage disposal plant service charges are not paid before a date specified in the notice. The notice must be mailed not less than ten (10) days before water service is to be discontinued and addressed to the water consumer or the property owner at his last known address.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-4.5

Application of section; bid, proposal, or quotation submitted by trust

Sec. 4.5. (a) This section applies to the award of a contract under this chapter by acceptance of bids, proposals, or quotations.

(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.
As added by P.L.336-1989(ss), SEC.19.

IC 8-1.5-3-5
Superintendent; powers and duties; compensation; bond; removal

Sec. 5. (a) The superintendent of each utility shall:

(1) appoint, supervise, and dismiss all employees of the utility;

(2) employ unskilled labor when needed, without competitive examination;

(3) investigate all claims against the utility;

(4) oversee the operation of the utility and any construction work, repairs, or alterations to the system; and

(5) advise the board in all matters that will bring about an efficient and economical operation and maintenance of the utility.

(b) The superintendent is entitled to the compensation for his services that is determined by resolution of the board.

(c) The superintendent shall give bond in a sum not less than double the estimated amount of money that may be in his hands at any time. The bond shall be conditioned upon the faithful discharge of his duties and the payment to the proper person of all money in his hands. The bond is subject to the approval of the executive of the municipality.

(d) The superintendent may be removed by the board for cause at any time after notice and a hearing.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-6
Load building appliances; purchase; sale and advertisement

Sec. 6. (a) The board may purchase, sell, and advertise, for the purpose of sale, load building appliances.

(b) Load building appliances shall be designed to be used in:

(1) the consumption of the products; or

(2) the use of the services;

that the utility furnishes or is equipped to furnish to its customers.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-7
Retirement account

Sec. 7. The board may set up a retirement account for the benefit of the employees and past employees of each utility. The board may provide for the method, manner, and amount of contributions by the utility out of its earnings, reserves, or earned surplus, and by employees if required by the plan, and may create an account for the utilities and allocate to the account contributions sufficient to establish the plan on a sound actuarial basis, including contributions for past services of employees. However, the plan may not require contributions from an employee to exceed six percent (6%) of his

wage or salary.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-8
Rates and charges

Sec. 8. (a) A municipality owning a utility under this chapter shall furnish reasonably adequate services and facilities.

(b) The rates and charges made by a municipality for a service rendered or to be rendered, either directly or in connection therewith, must be nondiscriminatory, reasonable, and just.

(c) "Reasonable and just rates and charges for services" means rates and charges that produce sufficient revenue to:

(1) pay all the legal and other necessary expenses incident to the operation of the utility, including:
(A) maintenance costs;
(B) operating charges;
(C) upkeep;
(D) repairs;
(E) depreciation;
(F) interest charges on bonds or other obligations, including leases; and
(G) costs associated with the acquisition of utility property under IC 8-1.5-2;
(2) provide a sinking fund for the liquidation of bonds or other obligations, including leases;
(3) provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;
(4) provide adequate money for working capital;
(5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and
(6) provide money for the payment of any taxes that may be assessed against the utility.

(d) It is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful.

(e) The board may recommend to the municipal legislative body rates and charges sufficient to include a reasonable return on the utility plant of the municipality.

(f) Rates and charges established under this section are subject to the approval of:

(1) the municipal legislative body by ordinance; and
(2) the commission, in accordance with the procedures set forth in IC 8-1-2.

The commission shall approve rates and charges that are sufficient, in addition to the cash revenue requirements set forth in subsection (c), to include a reasonable return on the utility plant of the municipality if the legislative body so elects.

(g) Except for a municipally owned utility taxed under IC 6-1.1-8-3, the commission shall approve rates and charges sufficient to compensate the municipality for taxes that would be due the municipality on the utility property were it privately owned. These rates and charges in lieu of taxes may be transferred to the municipal general fund, if the legislative body so elects.

(h) The commission shall grant a request that an increase in rates and charges not be effective until after the occurrence of a future event if the legislative body so requests.

(i) A municipality that acquires and operates a utility under IC 8-1.5-2 by exercising the power of eminent domain may not impose a special rate, charge, surcharge, or other fee, other than rates and charges approved under this section or otherwise authorized by law, on the customers of the utility in order to pay for the costs associated with acquiring the utility through the exercise of the power of eminent domain.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.105-1983, SEC.2; P.L.35-1990, SEC.28; P.L.172-2009, SEC.5.

IC 8-1.5-3-8.1

Hearings; adoption of rates and charges; notice; contents

Sec. 8.1. (a) As used in this section, "utility" refers to a municipally owned:

(1) water utility;

(2) wastewater utility; or

(3) combined water and wastewater utility;

that is not under the jurisdiction of the commission for the approval of rates and charges.

(b) As used in this section, "works" refers to water or wastewater utility works.

(c) After the introduction of the ordinance establishing the rates and charges under section 8 of this chapter, but before the ordinance is finally adopted, the municipal legislative body shall hold a public hearing at which users of the works, owners of property served or to be served by the works, and other interested persons may be heard concerning the proposed rates and charges. Notice of the hearing, setting forth the proposed schedule of rates and charges, shall be:

(1) published in accordance with IC 5-3-1 (IC 5-3-1-1 through IC 5-3-1-9);

(2) mailed to owners of vacant or unimproved property if the ordinance includes a fee for water or wastewater service to vacant or unimproved property; and

(3) mailed to users of the works for service to property located outside the municipality's corporate boundaries.

The notice may be mailed in any form so long as the notice of hearing is conspicuous. The hearing may be adjourned from time to time. Notice mailed under subdivision (3) must include a statement that, following adoption of the ordinance, the users described in subdivision (3) may be entitled to petition the commission under section 8.3 of this chapter to review and adjust the rates and charges imposed on the users if a petition under section 8.2 of this chapter or under IC 36-9-23-26.1 with respect to the same rate ordinance has not been filed.

(d) After the hearing, the municipal legislative body shall adopt the ordinance establishing the rates and charges, either as originally introduced or as modified. A copy of the schedule of rates and charges adopted shall be kept on file and available for public inspection in the offices of the board and the municipal clerk. An ordinance adopted after March 31, 2012, that imposes different rates and charges for service to property located outside the corporate boundaries of the municipality as compared to property located within the corporate boundaries of the municipality must state in plain language the percentage difference between the rates and charges.

(e) The rates and charges established for any class of users or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

(f) The municipal legislative body may change or readjust the rates and charges in the same manner as they were established.

(g) Rates and charges collected under this chapter are considered revenues of the utility.

As added by P.L.77-1991, SEC.1. Amended by P.L.139-2012, SEC.1.

IC 8-1.5-3-8.2

Objections to rates and charges; bonds; hearings

Sec. 8.2. (a) As used in this section:

(1) "utility"; and

(2) "works";

have the meaning set forth for those terms in section 8.1 of this chapter.

(b) Owners of property connected or to be connected to and served by the works authorized under this chapter may file a written petition objecting to the rates and charges of the utility so long as:

(1) the petition contains the names and addresses of the petitioners;

(2) the petitioners attended the public hearing provided under section 8.1 of this chapter;

(3) the written petition is filed with the municipal legislative body within five (5) days after the ordinance establishing the rates and charges is adopted under section 8.1 of this chapter;

(4) the written petition states specifically the ground or grounds

of objection; and

(5) a petition has not been filed with the commission under section 8.3 of this chapter or under IC 36-9-23-26.1 appealing the same rates and charges of the utility.

(c) Unless the objecting petition is abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the rate ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest date possible, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first signer of the petition at the address shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the rates and charges until the matters presented by the petition have been heard and determined by the court.

(d) At the discretion and upon direction of the court, the petitioners shall file with the petition a bond in the sum and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(e) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court may confirm the decision of the municipal legislative body or sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of the court, and no collateral attack upon the decision of the municipal legislative body or order of the court is permitted.

(f) If the court sustains the petition, or if the petition is sustained on appeal, the municipal legislative body shall set the rates and charges in accordance with the decision of the court.

As added by P.L.77-1991, SEC.2. Amended by P.L.139-2012, SEC.2.

IC 8-1.5-3-8.3

Objection to extraterritorial rates and charges; review by commission

Sec. 8.3. (a) This section applies to a utility that provides service to property located outside the corporate boundaries of the municipality.

(b) As used in this section:

(1) "utility"; and

(2) "works";

have the meaning set forth for those terms in section 8.1 of this chapter.

(c) This subsection applies if a municipal legislative body adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 that is in effect on March 31, 2012, and that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed by more than fifteen percent (15%), but not more than fifty percent (50%), the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality. Not later than September 30, 2012, the municipality may petition the commission to approve the percentage difference between rates and charges established in the ordinance for property within and property outside the corporate boundaries. In the petition, the municipality shall set forth the following:

(1) The date on which the ordinance took effect.

(2) The percentage difference between rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and to property located within the corporate boundaries of the municipality.

(3) Whether the works that is the subject of the ordinance is a water utility works, a wastewater utility works, or both a water and wastewater utility works.

If the commission determines that a petition filed under this subsection satisfies the requirements of this subsection, the commission shall approve the petition, including the percentage difference between rates and charges described in subdivision (2). If the commission determines that a petition filed under this subsection does not satisfy the requirements of this subsection, the commission shall disapprove the petition. However, if the percentage difference imposed in the ordinance was the subject of an objecting petition that was filed under section 8.2 of this chapter or under IC 36-9-23-26.1 and sustained on final judgment or appeal, as applicable, by a court, the percentage difference is considered approved without the filing of a petition under this subsection.

(d) If a municipality that files, or that is exempt from filing, a petition under subsection (c) adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 after March 31, 2012, that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality by more than the sum of the percentage difference approved or considered approved by the commission under subsection (c) plus fifteen percent (15%), either or both of the following may petition the commission to review and adjust, if necessary, the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality:

(1) The municipality.
(2) The lesser of:
(A) ten percent (10%) of all; or
(B) twenty-five (25);
users of the works whose property is located outside the corporate boundaries of the municipality.

A petition filed under this subsection must be filed not more than fourteen (14) days after the date on which the ordinance referred to in this subsection is adopted. A petition may not be filed under this subsection if a petition has already been filed under section 8.2 of this chapter appealing the same rates and charges.

(e) If a municipal legislative body, other than a municipal legislative body described in subsection (c), adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 after March 31, 2012, that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality by more than fifteen percent (15%), either or both of the following may petition the commission to review and adjust, if necessary, the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality:

(1) The municipality.
(2) The lesser of:
(A) ten percent (10%) of all; or
(B) twenty-five (25);
users of the works whose property is located outside the corporate boundaries of the municipality.

A petition must be filed not more than fourteen (14) days after the date on which the ordinance is adopted. A petition may not be filed under this subsection if a petition has already been filed under section 8.2 of this chapter or under IC 36-9-23-26.1 appealing the same rates and charges.

(f) The filing of a petition with the commission under subsection (d), (e), or (m) stays the ordinance adopted under section 8.1 of this chapter or under IC 36-9-23-26. The rates and charges in effect before the adoption of the ordinance remain in effect until:

(1) the commission approves or disapproves the petition; and
(2) if applicable, the commission adjusts the rates and charges imposed by the ordinance on users of the works whose property is located outside the corporate boundaries of the municipality.

(g) The commission shall prescribe the form and manner in which a petition must be filed under subsection (d), (e), or (m). A petition filed under subsection (d)(2), (e)(2), or (m)(2) must be signed by:

(1) each individual user seeking review by the commission; or
(2) one (1) or more attorneys licensed to practice law in Indiana who represent the individual users seeking review by the

commission.

The burden of proof to demonstrate that the proposed rates and charges are nondiscriminatory, reasonable, and just is on the municipality, regardless of who petitions the commission. The commission shall approve or disapprove a petition within one hundred twenty (120) days after the petition is filed in the form and manner prescribed by the commission. However, the commission may extend the one hundred twenty (120) day deadline for up to sixty (60) days for good cause if all parties to the proceeding agree. A petition is automatically disapproved if the petitioner has filed a petition under section 8.2 of this chapter or under IC 36-9-23-26.1 with respect to the same rate ordinance.

(h) For purposes of determining whether the percentage difference between rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality is nondiscriminatory, reasonable, and just under section 8 of this chapter, the commission:

(1) may consider the benefit and expense to all users of the works of extending the works outside the corporate boundaries of the municipality; and

(2) may not consider any connection fees or capital surcharges imposed on users of the works for service to property that is located outside the corporate boundaries of the municipality that are specifically designated to pay for the costs associated with main extensions to the users of the works.

(i) If the commission determines that the percentage difference between the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality and the rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality is not nondiscriminatory, reasonable, and just under section 8 of this chapter, the commission may:

(1) establish nondiscriminatory, reasonable, and just rates and charges for users of the works for service to property located outside the corporate boundaries of the municipality; and

(2) order the municipal legislative body to adopt an ordinance imposing the nondiscriminatory, reasonable, and just rates and charges.

However, with respect to rates and charges imposed in an ordinance that was the subject of an objecting petition filed under section 8.2 of this chapter or under IC 36-9-23-26.1 and sustained on final judgment or appeal, as applicable, by a court, the commission may not establish rates and charges such that the percentage difference between rates and charges established by the commission is less than the percentage difference between rates and charges imposed in the ordinance.

(j) This section does not:

(1) authorize the commission to review or revise rates and charges imposed on users of the works for service to property located within the corporate boundaries of the municipality; or

(2) otherwise return or subject a utility to the jurisdiction of the commission for the approval of rates and charges.

(k) The commission may adopt rules under IC 4-22-2 to implement this section.

(l) The commission may not impose a fee with respect to proceedings under this section.

(m) This subsection applies if a municipal legislative body, other than a municipal legislative body described in subsection (c), adopts an ordinance under section 8.1 of this chapter or under IC 36-9-23-26 that is in effect on March 31, 2012, and that imposes rates and charges on users of the works for service to property located outside the corporate boundaries of the municipality that exceed by more than fifty percent (50%) the rates and charges imposed on users of the works for service to property located anywhere within the corporate boundaries of the municipality. Not later than December 31, 2013, either or both of the following may petition the commission to review and adjust, if necessary, the rates and charges imposed on users of the works for service to property located outside the corporate boundaries of the municipality:

(1) The municipality.

(2) Subject to subsection (n), the lesser of:

(A) ten percent (10%) of all; or

(B) twenty-five (25);

users of the works whose property is located outside the corporate boundaries of the municipality.

(n) At least twenty (20) days before a group of users described in subsection (m)(2) may petition the commission under subsection (m), the group of users must file the petition with the municipal legislative body. The municipal legislative body and the group of users shall attempt to resolve the issues set forth in the petition concerning the rates and charges imposed on the group of users. If the group of users and the municipal legislative body are unable to resolve the issues within ten (10) days, the group of users may petition the commission under subsection (m).

As added by P.L.139-2012, SEC.3. Amended by P.L.163-2013, SEC.1; P.L.270-2013, SEC.8.

IC 8-1.5-3-9

Removal of utility from jurisdiction of commission for approval of rates and charges; procedure

Sec. 9. (a) This subsection applies to a municipally owned utility that before June 1, 1987, was taken out of the jurisdiction of the commission for the approval of rates and charges. A utility to which this subsection applies is removed from the jurisdiction of the

commission for approval of the issuance of stocks, bonds, notes, or other evidence of indebtedness.

(b) Except as provided in subsection (a), a municipal legislative body that wants to be taken out of the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness may submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be taken out of the jurisdiction of the utility regulatory commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

(c) A municipal legislative body shall certify the public question to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3 and submit the question under subsection (b) if it receives a petition that:

(1) is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) requests that the municipally owned utility be removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness.

(d) If a majority of those voting favor taking the municipally owned utility out of the jurisdiction of the commission, the utility:

(1) is removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness; and

(2) shall mail written notice of the withdrawal from commission jurisdiction to the commission within thirty (30) days after the utility's withdrawal.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.124-1987, SEC.1; P.L.23-1988, SEC.62; P.L.10-1988, SEC.217; P.L.12-1995, SEC.101.

IC 8-1.5-3-9.1

Removal of utility from jurisdiction of commission for approval of rates, charges, and evidences of indebtedness; alternative procedure

Sec. 9.1. (a) This section applies to the following:

(1) Water utilities that are owned or operated by second class cities.

(2) Third class cities.

(3) Towns.

(b) In addition to section 9 of this chapter, a municipally owned utility to which this section applies may be removed from the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of

indebtedness, if the municipal legislative body adopts an ordinance removing the utility from commission jurisdiction. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to all ratepayers of the utility and to the commission. For a second class city the municipal legislative body must hold two (2) public meetings before the final vote on an ordinance removing the utility from commission jurisdiction may be adopted. An explanation of the removal process must be provided at each public meeting under this section. Each public meeting must be held in a different location.

(c) The ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) The question of removal from commission jurisdiction shall be submitted to the registered voters of the municipality if, within the sixty (60) day period described in subsection (c), the legislative body receives a petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) that requests the legislative body to submit the question of removal from commission jurisdiction to the registered voters of the municipality at the next election.

The municipal legislative body shall certify the public question in subsection (e) to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3.

(e) If the legislative body receives a petition described in subsection (d) in the proper form, the legislative body shall submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be taken out of the jurisdiction of the Indiana utility regulatory commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

The legislative body shall mail written notice of the referendum to the commission at least ten (10) days before the date of the election.

(f) If a majority of those voting on the question described in subsection (e) favor taking the municipally owned utility out of the jurisdiction of the commission, the utility is removed from the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidences of indebtedness.

(g) If the legislative body receives a petition in proper form under subsection (d), the ordinance does not take effect until after removal is approved by a majority of those voting. If a majority of those voting vote against removal, the utility remains under the jurisdiction of the commission and the ordinance does not take effect.

(h) In addition to the notice required by subsection (b), if the municipal legislative body adopts the ordinance, described in subsection (b), the municipal legislative body shall mail written notice of the withdrawal from commission jurisdiction to the commission within thirty (30) days after the ordinance becomes effective.

(i) Notwithstanding this section or section 9 of this chapter, the commission may require a municipally owned utility that generates electric power to provide information to the permanent forecasting group under IC 8-1-8.5-3.5.

(j) This section does not affect the obligations of a municipally owned utility under IC 8-1-2.3, IC 8-1-8.5, IC 8-1-22.5, or IC 8-1.5-3-14.

(k) Notwithstanding subsection (a) and the procedure set forth in section 9 of this chapter, if a city adopts an ordinance under this section before January 1, 2013, to remove the city's municipally owned electric utility from the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness, the removal of the city's municipally owned electric utility from the commission's jurisdiction for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness is effective for all purposes and is legalized and validated.

As added by P.L.82-1988, SEC.6. Amended by P.L.77-1991, SEC.3; P.L.12-1995, SEC.102; P.L.163-2013, SEC.2.

IC 8-1.5-3-9.5

Return of utility to commission jurisdiction following removal

Sec. 9.5. (a) This section applies to municipally owned utilities that are withdrawn from commission jurisdiction under section 9 of this chapter, including a municipally owned utility described in section 9(a) of this chapter.

(b) A municipal legislative body that wants to return a municipally owned utility to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness may submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

> "Shall the municipally owned utility be returned to the jurisdiction of the utility regulatory commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

(c) A municipal legislative body shall certify the public question to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3. The county election board shall submit the question under subsection (b) if it receives a petition that:

(1) is signed by at least the number of the registered voters of

the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) requests that the municipally owned utility be returned to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness.

(d) If a majority of those voting favor returning the municipally owned utility to the jurisdiction of the commission, the utility is returned to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness. If a majority of those voting disapprove of returning the municipally owned utility to the jurisdiction of the commission, an election may not be conducted on the public question of returning to the jurisdiction of the commission for four (4) years from the date of the last election on that public question.

(e) The public question of returning to the jurisdiction of the commission may not be submitted to the registered voters of the municipality at an election conducted within four (4) years after the date the municipally owned utility was last withdrawn from commission jurisdiction.

(f) If a municipally owned utility is returned to the jurisdiction of the commission under this section, the municipal legislative body shall mail written notice to the commission.

As added by P.L.82-1988, SEC.7. Amended by P.L.12-1995, SEC.103.

IC 8-1.5-3-9.6

Return of utility to commission jurisdiction following removal under alternative procedure

Sec. 9.6. (a) This section applies to municipally owned utilities that are withdrawn from commission jurisdiction under section 9.1 of this chapter.

(b) The municipal legislative body may adopt an ordinance returning the municipally owned utility to the jurisdiction of the commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness if it receives a petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot; and

(2) that requests the legislative body to adopt an ordinance returning the municipally owned utility to the jurisdiction of the commission.

If the municipal legislative body fails to adopt an ordinance under this subsection within ninety (90) days after receipt of the petition, a petition requesting the adoption of an ordinance to return to commission jurisdiction may not be submitted for four (4) years from the date the last petition was submitted under this subsection.

(c) If the municipal legislative body fails to adopt the ordinance described in subsection (b) within ninety (90) days after receipt of the petition, the public question of the return to commission jurisdiction shall be submitted to the registered voters of the municipality if the legislative body receives a second petition:

(1) that is signed by at least the number of the registered voters of the municipality required under IC 3-8-6-3 to place a candidate on the ballot;

(2) that requests the legislative body to submit the question of the return to commission jurisdiction to the registered voters of the municipality at the next election; and

(3) that is submitted to the legislative body after the expiration of the ninety (90) day period described in this subsection.

The municipal legislative body shall certify the public question described in subsection (d) to the county election board of the county that contains the greatest percentage of population of the municipality under IC 3-10-9-3.

(d) If the legislative body receives a petition described in subsection (c) in the proper form, the legislative body shall submit the following public question to the registered voters of the municipality at the next election in the form prescribed by IC 3-10-9-4:

"Shall the municipally owned utility be returned to the jurisdiction of the utility regulatory commission for the approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness?".

The legislative body shall mail written notice of the referendum to the commission at least ten (10) days before the date of the election.

(e) If a majority of those voting on the question described in subsection (d) favor returning the municipally owned utility to the jurisdiction of the commission, the utility is returned to the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness. If a majority of those voting disapprove of returning the municipally owned utility to the jurisdiction of the commission, an election may not be conducted on the public question of returning to the jurisdiction of the commission for four (4) years from the date of the last election on that public question.

(f) The public question of returning to the jurisdiction of the commission may not be submitted to the registered voters of the municipality at an election conducted within four (4) years after the date the municipally owned utility was last withdrawn from commission jurisdiction. In addition, a petition requesting the adoption of an ordinance under subsection (b) may not be submitted within four (4) years after the date the municipally owned utility was last withdrawn from commission jurisdiction.

(g) If a municipally owned utility is returned to commission jurisdiction under this section, the municipal legislative body shall

mail written notice to the commission.
As added by P.L.82-1988, SEC.8. Amended by P.L.12-1995, SEC.104.

IC 8-1.5-3-10
Rates and charges; electric service outside corporate boundaries

Sec. 10. Whenever a municipality operates an electric utility that provides service outside the corporate boundaries of the municipality, the charges for service outside the corporate boundaries may not differ from the charges for service inside the corporate boundaries unless the utility clearly demonstrates significant cost factors that make different charges nondiscriminatory, reasonable, and just.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-11
Funds; management

Sec. 11. (a) The money belonging to each municipally owned utility shall be kept by the municipal fiscal officer as separate funds as required by any bond ordinance or accounting procedures established by the commission or the state board of accounts. The municipal legislative body, with the approval of the board, may transfer surplus earnings of the utility to the general fund. The money may not, however, be transferred unless the terms and conditions of any bond ordinance, resolution, indenture, contract under IC 8-1-2.2, or similar instrument binding upon the utility are complied with.

(b) A cash reserve fund shall be created by ordinance and carried on the records of the utility or utilities by providing for monthly contributions or transfers to the cash reserve fund of surplus earnings of the utility or utilities.

(c) "Surplus earnings" are those cash earnings remaining after provision has been made to take care of current obligations, including:

(1) operating expense;
(2) depreciation or replacement fund;
(3) bond and interest sinking fund;
(4) retirement fund; or
(5) any other priority fund requirements fixed by law.

(d) After creation of the cash reserve fund, the legislative body may include in the municipal general fund budget, as revenue in lieu of taxes, an amount equal to the actual balance in the cash reserve fund as of June 30 of the current year. However, the available cash reserve fund balance may be transferred to the municipal general fund only during the calendar year for which the budget was adopted, and transfers may not be made from any utility funds to the general fund except from the cash reserve fund.

(e) If at any time after the final approval of the budget an emergency should arise for further appropriations from the general

fund, the legislative body may, by ordinance, transfer additional money from the cash reserve fund to the general fund to provide for the additional appropriations, the transfer to be limited to the accretions to the cash reserve fund since the preceding June 30.

(f) A cash reserve fund, if authorized by ordinance, may be used to make loans to another utility owned by the same municipality, for periods not to exceed five (5) years, at any interest rate. The repayment of the loan and interest shall be returned to the cash reserve fund.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3-12

Loan from utility to municipality; loan requirements; limitation on amount

Sec. 12. (a) A municipality may, by ordinance of its legislative body, borrow money from a utility owned by the municipality for any of the following purposes:

(1) Current purposes in anticipation of taxes levied and to be collected during the current or following year.

(2) Carrying out an eligible efficiency project (as defined in IC 36-9-41-1.5) within the municipality.

(b) The board may by resolution lend money to the municipality if the utility has on hand:

(1) a surplus of cash exceeding by at least the amount loaned the sum of all amounts required to pay the indebtedness of the utility falling due during the current calendar year and the following year;

(2) the amount necessary to meet current expenses during the year; and

(3) the amount necessary to pay for improvements contemplated to be made during the current calendar year minus the estimated receipts during the calendar year.

(c) A loan made under subsection (a)(1) may not be made for a sum in excess of fifty percent (50%) of the amount estimated to be collected from anticipated taxes.

(d) A loan under this section:

(1) must be evidenced by an obligation of the municipality;

(2) must be signed by the executive;

(3) is due:

(A) on or before thirty (30) days after the last day for the payment of anticipated taxes, in the case of a loan made under subsection (a)(1); and

(B) on a date determined by the board (but not more than six (6) years after the date of the loan), in the case of a loan made under subsection (a)(2); and

(4) may bear interest at any rate as determined by the board, payable at maturity.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.88-2009,

SEC.2.

IC 8-1.5-3-13
Investments of surplus money; authorization of officers

Sec. 13. The municipal legislative body may, by ordinance, authorize officers charged by law with custodial care, expenditure, and investment of utility money to invest or reinvest surplus money of a utility in the manner prescribed by IC 5-13-9.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.19-1987, SEC.20.

IC 8-1.5-3-14
Annual report; exemption; examination of accounts

Sec. 14. (a) A municipally owned utility under the jurisdiction of the commission for approval of rates and charges and of the issuance of stocks, bonds, notes, or other evidence of indebtedness shall file with the commission an annual report of the operation of the plant on forms prescribed by the commission. The annual reports shall be kept in the office of the commission as a public record. A municipally owned utility that has withdrawn from commission jurisdiction under IC 8-1-2-100 (before its repeal on January 1, 1983) or section 9 or 9.1 of this chapter is not required to file the annual report required by this section.

(b) The state board of accounts shall examine all accounts of every municipally owned utility. In the examination, inquiry shall be made as to:

(1) the financial condition and resources of the utility;
(2) whether the laws of the state have been complied with; and
(3) the methods and accuracy of the accounts and reports of the utilities examined.

The examination shall be made without notice, and its cost shall be paid out of the funds of the utility.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.68-1990, SEC.2; P.L.181-2015, SEC.30.

IC 8-1.5-3-15
Utilities operated under IC 8-1-11.1; rights and powers

Sec. 15. A utility operated under IC 8-1-11.1 retains the rights and powers conferred by IC 8-1-11.1-3.1, notwithstanding section 1 of this chapter.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-3.5

Chapter 3.5. Water Bill Adjustments for Undetected Leaks

IC 8-1.5-3.5-1

"Unusually large bill"

Sec. 1. As used in this chapter, "unusually large bill" means a residential water bill that reflects monthly water usage, in whatever units measured, that is at least two (2) times the customer's average monthly usage at the premises.

As added by P.L.53-2004, SEC.1. Amended by P.L.2-2005, SEC.26.

IC 8-1.5-3.5-2

"Utility"

Sec. 2. As used in this chapter, "utility" refers to a water utility owned or operated by a municipality.

As added by P.L.53-2004, SEC.1. Amended by P.L.2-2005, SEC.27.

IC 8-1.5-3.5-3

Utility's discretion to adjust unusually large bill when excess usage caused by undetectable damage to equipment

Sec. 3. Notwithstanding IC 8-1-2-103(a), a utility may adjust an unusually large bill if the excess usage reflected in the bill is caused by physical damage to any facility or equipment supplying water to the premises and the damage:

(1) is not visible or detectable on the customer's premises except upon excavation or some other disturbance of the property; and

(2) is not the result of an act of the customer, or of any agent or contractor hired by the customer.

As added by P.L.53-2004, SEC.1.

IC 8-1.5-3.5-4

Adjustments to be in accordance with policies adopted by utility

Sec. 4. A utility that elects to adjust unusually large bills must do so in accordance with policies adopted by the utility. The utility's policies must specify the procedures by which a customer may request an adjustment and prove the damage described in section 3 of this chapter.

As added by P.L.53-2004, SEC.1.

IC 8-1.5-4

Chapter 4. Department of Waterworks in Certain Municipalities

IC 8-1.5-4-0.3

Effective date of certain amendments made to section 14 of this chapter

Sec. 0.3. Notwithstanding the amendments made to section 14 of this chapter by P.L.93-1993, in the case of a public utility that is described in IC 8-1-2-103(c), as amended by P.L.93-1993, the effective date for the implementation of the amendments made to section 14 of this chapter by P.L.93-1993 is July 1, 1993.

As added by P.L.220-2011, SEC.188.

IC 8-1.5-4-1

Application of chapter

Sec. 1. This chapter applies to all municipalities that:

(1) own or operate waterworks; and

(2) adopt the provisions of this chapter by ordinance.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-1.5

Certain municipalities operating a waterworks through a department before January 1, 1982

Sec. 1.5. (a) A municipality having and operating a waterworks through a department of waterworks before January 1, 1982, under IC 19-3-15 (before its repeal on January 1, 1983) or under IC 19-3-27 (before its repeal on January 1, 1983) shall be deemed to have established a department of waterworks, as authorized by section 2 of this chapter, having the same number of board members as the board operating before January 1, 1982, and having the same powers, obligations, and duties as would be the case if the legislative body of the municipality had adopted an ordinance doing so before January 1, 1983, in accordance with Acts 1982, P.L.74, SECTION 5(b).

(b) Except as provided in subsection (c), the board of directors of the department of waterworks shall operate as both the board and the municipal legislative body for the purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.

(c) This subsection applies to water utilities that have been removed from the jurisdiction of the Indiana utility regulatory commission under IC 8-1.5-3-9.1 after June 30, 1991. The board of directors of the department of waterworks shall operate as the board for the purposes of IC 8-1.5-3-4 and IC 8-1.5-3-8.

As added by P.L.105-1983, SEC.3. Amended by P.L.16-1984, SEC.7; P.L.3-1990, SEC.29; P.L.56-1992, SEC.1.

IC 8-1.5-4-2

Department of waterworks; establishment; board of directors

Sec. 2. (a) If the legislative body of a municipality, by ordinance, adopts the provisions of this chapter, there is established a department of waterworks to be controlled by a board of directors (referred to as "the board" in this chapter). The board consists of either three (3) or five (5) directors, as determined by ordinance, who shall be appointed by the municipal executive.

(b) In case there are three (3) directors, not more than two (2) may be of the same political party. In case there are five (5) directors, not more than three (3) may be of the same political party.

(c) The terms of directors shall be prescribed by ordinance, but initial terms must be prescribed so that the directors' terms will be staggered. Each director shall give a bond, which shall be fixed by the municipal fiscal officer and is subject to his approval.

(d) The executive may remove a director at any time when, in his judgment, it is for the best interest of the department.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-3

Special taxing district

Sec. 3. The department of waterworks has jurisdiction over a special taxing district (referred to as "the waterworks district" in this chapter) that consists of:

(1) in the case of a second class city located in a county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000), all the territory within that county; or

(2) in the case of any other municipality, all the territory within the corporate boundaries of the municipality, or the territory served by the waterworks if larger or smaller than the corporate boundaries.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.12-1992, SEC.59; P.L.170-2002, SEC.60; P.L.119-2012, SEC.84.

IC 8-1.5-4-4

Board; powers and duties

Sec. 4. The board has the powers and duties prescribed by IC 8-1.5-3-4. In addition, the board:

(1) may hold hearings following public notice;

(2) may make findings and determinations;

(3) may design, order, contract for or construct pumping plants or stations, filtration plants, reservoirs, water mains, hydrants, and other equipment, structures, and appurtenances and rebuild, equip, improve, extend, and repair plants, equipment, and structures;

(4) may build or have built all roads, levees, walls, or other structures that may be necessary or desirable in connection with waterworks;

(5) make all necessary or desirable improvements of the

grounds and premises under its control;

(6) may issue and sell bonds for the construction, alteration, addition, or extension to the waterworks, in the manner prescribed by law, including the provisions of IC 8-1.5-2; and

(7) shall furnish an adequate supply of water to consumers within the waterworks district.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-5

Water filtration and service facilities; acquisition, construction, and operation; financing methods

Sec. 5. The acquisition, construction, installation, operation, and maintenance of facilities and land for water filtration and water service may be financed through proceeds from tax levies, proceeds of special taxing district bonds of the waterworks district, service rates, revenue bonds, or any other available funds.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-6

Authority to set aside revenues for operation and maintenance, a depreciation account, and payment of bonds

Sec. 6. The board may fix and set aside:

(1) the proportion of the revenues of the waterworks department necessary for reasonable and proper operation and maintenance;

(2) the proportion of the revenues for a proper and adequate depreciation account; and

(3) the fixed proportion of the revenues to be applied to the payment of the principal and interest of the authorized bonds.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-7

Revenues set aside for operation and maintenance

Sec. 7. (a) In fixing the proportion of the revenues of the waterworks department required for operation and maintenance, the board shall consider the cost of the operation and maintenance of the waterworks, and may not set aside into the special fund a greater amount of the revenues and proceeds than, in its judgment, is required for the operation and maintenance.

(b) If a surplus is accumulated in the operating and maintenance fund, and that surplus is equal to the cost of maintaining and operating the waterworks system during the remainder of the current calendar, operating, or fiscal year and during the next calendar, operating, or fiscal year, any excess over that surplus may be transferred by the board to either the depreciation account, to be used for any improvements, extensions, or additions to the waterworks, or to the bond and interest redemption account.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-8
Revenues set aside for payment of bonds

Sec. 8. (a) The fixed proportion set aside for the payment of the principal and interest of the authorized bonds shall, from month to month, as accrued and received, be set apart and paid into a special account identified as "the bond and interest redemption account".

(b) In fixing and determining the amount that is to be set aside for the payment of the principal and interest of the authorized bonds, the board may provide that the amount to be set aside and paid into the bond and interest redemption account for any year or years should not exceed a fixed sum, which must be at least sufficient to provide for the payment of the interest and principal of the bonds maturing and becoming payable in each year, together with a surplus or margin of ten percent (10%) in excess.

(c) If a surplus created in the bond and interest redemption account exceeds the interest and principal of any bonds becoming payable during the current calendar, operating, or fiscal year and during the next calendar, operating, and fiscal year, the board may transfer any excess over the surplus to either the operation and maintenance account, or the depreciation account, as the board may designate.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-9
Revenues set aside for depreciation account

Sec. 9. (a) The proportion set aside to the depreciation account shall be expended in making good depreciation in the waterworks or in new construction, extensions, or additions to the property of the waterworks.

(b) Any accumulations in the depreciation account may be invested by the board, and if invested, the income from the investment shall be carried in the depreciation account. The board may invest the funds in accordance with IC 5-13-9.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.19-1987, SEC.21.

IC 8-1.5-4-10
Secured debt or charge

Sec. 10. (a) The board may authorize and set apart bonds equal to the amount of any secured debt or charge subject to which a waterworks may be purchased or acquired in any proceeding, and shall set aside for interest and sinking fund from the income and revenue of the waterworks a sum sufficient to comply with the requirements of the instrument creating the lien or securing the charge.

(b) If the instrument does not make any provision, the board shall set aside into the secured-debt account from month to month for interest on the secured debt or charge an amount sufficient to provide

for the payment of the interest on the secured debt or charge, and at the option of the board either an annual amount sufficient to retire the secured debt or charge at maturity or bonds issued under this chapter equal to the secured debt or charge. Any surplus after satisfying the secured debt or charge may be transferred to the bond and interest redemption account.

(c) Waterworks bonds set aside for a debt may, from time to time, be issued in an amount sufficient with the amount then in the sinking fund to pay and retire the debt or any part thereof. The bonds may not be issued at less than par value in exchange for, or satisfaction of, the secured debt or charge, or may be sold in the manner provided by this chapter, and the proceeds applied in payment of the same at maturity or before maturity by agreement with the holder. A municipality acquiring a waterworks does not assume any liability for the payment of a secured debt or charge, other than the obligation to apply the revenues in the manner prescribed in the ordinance.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-11

Bonds and interest issued against special redemption fund

Sec. 11. (a) The bonds and the interest issued against the special redemption fund:

(1) are a valid claim of the holders only against that fund and the fixed proportion or amount of the revenues pledged to that fund; and

(2) are exempt from taxation in Indiana as provided by IC 6-8-5.

(b) The bonds may be issued either as registered bonds or as coupon bonds payable to bearer. Coupons and bearer bonds may be registered as to principal in the holder's name on the books of the municipality, registration being noted on the bond by the municipal clerk or other designated officer, after which no transfer is valid unless made on the books of the municipality by the registered holder and similarly noted on the bonds. Any bond so registered as to principal may be discharged from registration by being transferred to bearer, after which it is transferable by delivery but may be again registered as to principal as before. The registration of the bonds as to the principal does not restrain the negotiability of the coupons by delivery, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons are surrendered, the surrender and cancellation shall be noted on the bond, and interest on the bond is then payable to the registered holder on order in cash or at his option by check or draft payable at the place or one (1) of the places where the coupons were payable.

(c) Bonds shall be sold in accordance with IC 5-1-11.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-12

Bonds; additional issue or issues for extension, addition, or

improvement

Sec. 12. A board acquiring waterworks and paying for them and for extensions and betterments authorized at the time of acquisition may provide for the extension, addition, or improvement of the waterworks by an additional issue or issues of bonds. A board may issue new bonds in the manner provided in this chapter and secured in the same manner, to provide funds for the payment of the principal and interest of any bonds then outstanding.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-13

Bonds; application of proceeds; default

Sec. 13. (a) All money received from bonds issued under this chapter shall be applied solely to the acquisition of the waterworks and the cost of the issuance of the bonds.

(b) Any holder of the bonds or of any of the coupons attached to them may, by action or other proceeding, compel performance of all duties required by this chapter of the board issuing the bonds or of any officer of the board, including the making and collecting of reasonable and sufficient rates lawfully established for service rendered by the waterworks, the segregation of the income and revenues of the utility, and the application of the respective funds created under this chapter.

(c) If there is any default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may:

(1) appoint an administrator or receiver to administer the waterworks on behalf of the municipality and the bondholders, with power to:

(A) charge and collect rates lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the waterworks; and

(B) apply the income and revenues in conformity with this chapter and the ordinance; or

(2) declare the whole amount of the bonds due and payable and direct the sale of the waterworks.

Under a sale ordered as provided by subdivision (2), the purchaser is vested with an indeterminate permit as defined in IC 8-1-2-1 to maintain and operate the waterworks to supply water to the municipality and its citizens.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-14

Services rendered to municipality; payment

Sec. 14. (a) This subsection applies to a municipality that is not subject to IC 8-1-2-103(c) or has not adopted an ordinance to become subject to IC 8-1-2-103(d). The reasonable cost and value of any

service rendered to the municipality by the waterworks by furnishing water for public purposes or by maintaining hydrants and other facilities for fire protection shall be:

(1) charged against the municipality; and

(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

(b) This subsection applies to a municipality that is subject to IC 8-1-2-103(c), that has adopted an ordinance to become subject to IC 8-1-2-103(d), or that has adopted a plan described in IC 8-1-2-103(d) as prescribed in IC 8-1-2-103(e). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes shall be:

(1) charged against the municipality; and

(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

Except as provided in subsection (d), the cost and value of maintaining hydrants and other facilities for fire protection shall be excluded from the charges against the municipality and shall be recovered from the other customers of the waterworks beginning on January 1, 1994, in a municipality subject to IC 8-1-2-103(c) and beginning on a date provided in the ordinance for a municipality that adopts an ordinance under IC 8-1-2-103(d). The change in the recovery of current revenue authorized by this section shall be reflected in a schedule of new rates to be filed with the commission at least thirty (30) days before the time the schedule of new rates is to take effect.

(c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be paid into the separate and special fund created by setting aside the income and revenues of the waterworks and is subject to apportionment to the operating, maintenance, depreciation, and bond and interest redemption accounts.

(d) This subsection applies to a city having a population of more than forty-seven thousand (47,000) but less than forty-nine thousand (49,000). The cost and value of maintaining hydrants and other facilities for fire protection may be recovered from customers of the waterworks residing in either of the following, beginning on a date determined by the city:

(1) In a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(2) In a township having a population of more than nine thousand (9,000) but less than nine thousand five hundred (9,500) located in a county having a population of more than

one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000).

The city shall file a new schedule of rates with the commission as set forth in subsection (b), but is not subject to commission approval of the rates.

As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.93-1993, SEC.2; P.L.80-1997, SEC.18; P.L.133-1998, SEC.1; P.L.170-2002, SEC.61; P.L.119-2012, SEC.85.

IC 8-1.5-4-15

Construction, extension, or improvement; procedure

Sec. 15. (a) If, upon investigation, the board finds:

(1) that the waterworks, plant, system, or equipment is insufficient to furnish the necessary supply of water to properly protect the public health and welfare and safeguard the property within the waterworks district; or

(2) that it is necessary to rebuild, repair, extend, and improve the waterworks, plant, systems, and equipment and to acquire lands, construct, erect, or acquire other plants, reservoirs, systems, and other structures and equipment appurtenant to them;

the board shall prepare maps, plans, specifications, and drawings with full details and descriptions for the proposed work, together with an estimate of the cost. The board shall also prepare a description of all property rights necessary to be acquired in connection with the proposed work and the manner in which the rights are to be acquired, whether by purchase or appropriation, along with a description of any other lands that may be injuriously affected, together with the estimated cost.

(b) The board shall then adopt a resolution:

(1) declaring that it is necessary for the protection of the public health and welfare of the inhabitants of the waterworks district and the safeguarding of the property within the district;

(2) declaring that it is of public utility and benefit;

(3) appropriating the property described in the resolution;

(4) stating the maximum proposed cost of any land to be purchased; and

(5) adopting plans, maps, specifications, drawings, details, descriptions, and estimates.

(c) If the resolution is adopted, the board shall publish a notice in accordance with IC 5-3-1 of the adoption, the resolution, and the fact that plans, specifications, and estimates have been prepared and can be inspected. The notice must also name a date, not less than ten (10) days after the date of the last publication, when the board will receive or hear remonstrances from the persons interested in, or affected by, the resolution, and when it will determine their public utility and benefit. Notice shall be mailed to the owners of all lands appropriated by the resolution. If a landowner is a nonresident and

his place of residence is known, a notice shall be mailed to the nonresident owner. If the nonresident owner's residence is unknown to the board, then he is considered notified of the pendency of the proceedings by the publication of notice.

(d) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased or to be purchased, or to be appropriated or damaged, to give a description of the entire tract, whether it is one (1) or more lots or parcels and whether it is owned by one (1) or more persons.

(e) All persons affected by the proceedings, including all taxpayers in the waterworks district, are considered to be notified of the proceedings and all subsequent acts, hearings, adjournments, and orders of the board by the original publication of notice.

(f) The board may, before adoption of the resolution, obtain from the owners of the land an option for its purchase or may enter into a contract for its purchase after an appraisal by two (2) qualified land surveyors. Such an option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-16

Lands, rights-of-way, or other property; ownership in name of municipality; remonstrances

Sec. 16. (a) All lands, rights-of-way, or other property, when acquired, either by purchase or appropriation, shall be taken and held in the name of the municipality.

(b) At the time fixed for the hearing or before the hearing, the following persons may file a written remonstrance with the board:

(1) The owner of land, rights-of-way, or other property to be appropriated under the resolution.

(2) A person injuriously affected by the appropriation.

(3) A person owning real or personal property within the waterworks district.

(c) The board shall hear all persons interested in the proceedings, hear all the remonstrances that have been filed, and take final action on the resolution. The final action shall be recorded.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-17

Appeals

Sec. 17. (a) A person who has remonstrated in writing and is aggrieved by the decision of the board may, within thirty (30) days, take an appeal to the circuit or superior court of the county in which the waterworks district is located.

(b) A remonstrator desiring to appeal from the action of the board shall, within thirty (30) days after the final action of the board, file in the office of the clerk of the circuit or superior court a copy of the

order of the board and the remonstrance, together with a bond conditioned to pay the costs of the appeal, should the appeal be determined against him.

(c) The court may hear the appeal only if the question is whether the board acted arbitrarily or capriciously in adopting the resolution.

(d) The cause shall be tried to the court without a jury.

(e) All remonstrances upon which appeals are taken may be consolidated and heard as one (1) claim for relief by the court.

As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-4-18

Special taxing district bonds of the waterworks district; issuance

Sec. 18. (a) To procure money to pay for the required property and the erection and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the municipality, the special taxing district bonds of the waterworks district. The bonds may exceed the total cost of the work and property to be acquired as provided for in the resolution, including:

(1) all expenses necessarily incurred for supervision and inspection during the period of construction; and

(2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.

(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the municipal fiscal officer, who shall then prepare the bonds. The bonds shall be executed by the municipal executive and attested by the fiscal officer. The bonds are exempt from taxation as provided by IC 6-8-5. All bonds issued by the board shall be sold by the fiscal officer under IC 5-1-11.

(c) The board may not issue bonds of the waterworks district, payable by special taxation, when the total of the outstanding bonds of the district, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15.

(d) The bonds are not a corporate obligation or indebtedness of the municipality, but are an indebtedness of the waterworks district. The bonds and interest are payable out of a special benefit tax levied upon all of the property of the waterworks district, or by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued. An action to question the validity of the bonds issued for the waterworks district or to prevent their issuance may not be brought after the date fixed for the sale of

the bonds.
As added by Acts 1982, P.L.74, SEC.1. Amended by P.L.6-1997, SEC.131.

IC 8-1.5-4-19
Tax levy

Sec. 19. (a) To raise the necessary revenues to pay for the bonds issued, and interest on the bonds, the board:

(1) may levy a special benefit tax upon all the property of the waterworks district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together with all accruing interest; and

(2) shall certify the tax levied each year to the fiscal officers of the municipality and of the county in which the waterworks district is located, at the same time the levy of the municipality is certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, collected, and enforced.

(b) In fixing the amount of the necessary levy, the board:

(1) shall consider the amount of revenues derived by the board from the operation of the waterworks plant and system under its jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the waterworks plant and system; and

(2) may, in lieu of making the levy in this section, set aside, by resolution, a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be accumulated and kept in a separate fund to be known as the "waterworks district bond fund", and applied to the payment of the district bonds and interest as they severally mature and are payable. All accumulations in the fund before their use for the payment of bonds and interest shall be deposited at interest with the depository of other public funds of the municipality, and all interest collected belongs to that fund.

(d) If the board adopts the resolution, the board may not use any part of the amount set aside out of its net revenues for any purpose other than the monthly payment of the bonds and interest to the sinking fund. Any amount of net revenues derived from the operation of the waterworks plant and system under the jurisdiction of the board, not required for the payment of the principal and interest on the outstanding waterworks district bonds, shall be paid over to the municipality and deposited in the sinking fund established for the purpose of redeeming and retiring outstanding bonds that the municipality may have issued for the benefit of its waterworks plant. This section does not relieve the municipality from the obligation to

pay outstanding bonds according to their terms and conditions.
As added by Acts 1982, P.L.74, SEC.1.

IC 8-1.5-5

Chapter 5. Department of Storm Water Management

IC 8-1.5-5-1

Application of chapter

Sec. 1. This chapter applies to each:

(1) municipality; and

(2) county that:

(A) does not have a consolidated city; and

(B) receives notification from the department of environmental management that the county will be subject to storm water regulation under 327 IAC 15-13;

that adopts the provisions of this chapter by ordinance.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.2.

IC 8-1.5-5-1.5

Definitions

Sec. 1.5. The definitions in IC 36-1-2 apply throughout this chapter.

As added by P.L.282-2003, SEC.3.

IC 8-1.5-5-2

"Board" defined

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

(1) For a consolidated city, the board of public works established by IC 36-3-5-6.

(2) For all other municipalities, the:

(A) board of directors described in section 4 of this chapter; or

(B) board that controls the third class city's municipally owned utilities under IC 8-1.5-3-3(a) if the city has adopted an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the city's storm water facilities by the board that controls the city's municipally owned utilities.

(3) For a county:

(A) the county executive; and

(B) the county surveyor.

As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.3; P.L.98-1993, SEC.1; P.L.282-2003, SEC.4.

IC 8-1.5-5-3

"Department" defined

Sec. 3. As used in this chapter, "department" means the following:

(1) For a consolidated city, the department of public works.

(2) For all other municipalities, the department of storm water management established under section 4 of this chapter.

(3) For a county, the department of storm water management

established under section 4.5 of this chapter.
As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.4; P.L.98-1993, SEC.2; P.L.282-2003, SEC.5.

IC 8-1.5-5-3.5
"District" defined

Sec. 3.5. As used in this chapter, "district" means the special taxing district established by section 5 of this chapter.
As added by P.L.93-1993, SEC.5 and P.L.98-1993, SEC.3.

IC 8-1.5-5-4
Board of storm water management; directors

Sec. 4. (a) This section applies to all municipalities except a consolidated city.

(b) If the legislative body of a municipality adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) Except as provided in subsections (f) and (g), the board consists of three (3) directors. The executive of the municipality shall appoint the directors, not more than two (2) of whom may be of the same political party.

(d) Except as provided in subsections (f) and (g), the legislative body shall prescribe, by ordinance, the terms of the directors. However, the legislative body must prescribe the initial terms of the directors so that they will be staggered.

(e) The executive may remove a director at any time when, in the judgment of the executive, it is for the best interest of the department.

(f) If a second class city has a department of public sanitation under IC 36-9-25, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management. The terms of the members of the board of directors are the same as the terms of the members of the board of sanitary commissioners under IC 36-9-25-4.

(g) If a third class city:

(1) has a board that controls the city's municipally owned utilities under IC 8-1.5-3-3(a); and

(2) has adopted an ordinance under IC 8-1.5-3-3(a) that provides for the control of any or all of the city's storm water facilities by the board that controls the city's municipally owned utilities;

the members of the board that controls the city's municipally owned utilities shall serve as the board of directors of the department of storm water management, subject to any transition procedure specified in the ordinance under IC 8-1.5-3-3(b). The terms of the members of the board of directors are the same as the terms of the members of the board that controls the city's municipally owned utilities under IC 8-1.5-3-3(a), subject to the completion of any

transition procedure specified in the ordinance under IC 8-1.5-3-3(b).

(h) A member of the board of directors of the department of storm water management who:

(1) is appointed under subsection (f); or

(2) is a member of the board under subsection (g) and receives a salary as a member of the board that controls the third class city's municipally owned utilities;

is not entitled to a salary for serving as a member of the board of directors of the department of storm water management. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.

As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.6; P.L.98-1993, SEC.4; P.L.5-1998, SEC.1; P.L.282-2003, SEC.6.

IC 8-1.5-5-4.5

County department of storm water management; board of directors; compensation

Sec. 4.5. (a) This section applies to a county.

(b) If the county executive adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) An ordinance adopted under this section shall provide for the appointment of:

(1) the members of the county executive; and

(2) the county surveyor;

as the board of directors of the department. The term of office of a member of the board who is appointed from the membership of the county executive is coextensive with the member's term of office on the county executive. The term of the surveyor or the surveyor's designee as a member of the board is coextensive with the surveyor's term of office.

(d) A member of the board of directors is not entitled to a salary or per diem for serving as a member of the board of directors. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.

As added by P.L.282-2003, SEC.7.

IC 8-1.5-5-5

Special taxing district

Sec. 5. (a) The ordinance adopting the provisions of this chapter creates a special taxing district that includes the following:

(1) For a consolidated city, all of the territory of the county containing the consolidated city.

(2) For all other municipalities, all territory within the corporate boundaries of the municipality.

(3) For a county, all the territory in the county that is not located in a municipality.

(b) All the territory within the district constitutes a special taxing

district for the purpose of providing for the collection and disposal of storm water of the district in a manner that protects the public health and welfare and for the purpose of levying special benefit taxes for purposes of storm water collection and disposal. All territory in the district and all territory added to the district is considered to have received a special benefit from the storm water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the territory under this chapter in order to pay all or part of the costs of such facilities.
As added by P.L.125-1987, SEC.1. Amended by P.L.93-1993, SEC.7; P.L.98-1993, SEC.5; P.L.282-2003, SEC.8.

IC 8-1.5-5-6
Powers of board

Sec. 6. The board has the powers and duties prescribed by IC 8-1.5-3-4(a). In addition, the board may:

(1) hold hearings following public notice;
(2) make findings and determinations;
(3) install, maintain, and operate a storm water collection and disposal system;
(4) make all necessary or desirable improvements of the grounds and premises under its control; and
(5) issue and sell bonds of the district in the name of the unit served by the department for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the board.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.9.

IC 8-1.5-5-7
Financing of facilities; user fees

Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

(1) proceeds of special taxing district bonds of the storm water district;
(2) the assumption of liability incurred to construct the storm water system being acquired;
(3) service rates;
(4) revenue bonds; or
(5) any other available funds.

(b) Except as provided in IC 36-9-23-37, the board, after holding a public hearing with notice given under IC 5-3-1 and obtaining the approval of the fiscal body of the unit served by the department, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system. The amount of the user fees must be the minimum amount

necessary for the operation and maintenance of the storm water system. The assessment and collection of user fees under this subsection by the board of a county must also be approved by the county executive.

(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.

(d) The board shall use one (1) or more of the following factors to establish the fees authorized by this section:

(1) A flat charge for each lot, parcel of property, or building.

(2) The amount of impervious surface on the property.

(3) The number and size of storm water outlets on the property.

(4) The amount, strength, or character of storm water discharged.

(5) The existence of improvements on the property that address storm water quality and quantity issues.

(6) The degree to which storm water discharged from the property affects water quality in the storm water district.

(7) Any other factors the board considers necessary.

(e) The board may exercise reasonable discretion in adopting different schedules of fees or making classifications in schedules of fees based on:

(1) variations in the costs, including capital expenditures, of furnishing services to various classes of users or to various locations;

(2) variations in the number of users in various locations; and

(3) whether the property is used primarily for residential, commercial, or agricultural purposes.

As added by P.L.125-1987, SEC.1. Amended by P.L.176-2002, SEC.6; P.L.282-2003, SEC.10; P.L.114-2008, SEC.3.

IC 8-1.5-5-8

Fixing and setting aside revenues

Sec. 8. The board may fix and set aside:

(1) revenues of the department necessary for reasonable and proper operation and maintenance;

(2) revenues for a proper and adequate depreciation account; and

(3) revenues to be applied to the payment of the principal and interest of the authorized bonds.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-9

Maintenance account; surplus

Sec. 9. (a) In fixing the revenues of the department required for operation and maintenance, the board shall consider the cost of the operation and maintenance of the department.

(b) If a surplus is accumulated in the operating and maintenance account, the board may transfer any excess over that surplus to:

(1) the depreciation account, to be used for any improvements, extensions, or additions to the storm water system; or

(2) the bond and interest redemption account.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-10

Bond and interest redemption account; surplus

Sec. 10. (a) The revenues set aside for the payment of the principal and interest of the authorized bonds shall be deposited and credited to a special account identified as "the bond and interest redemption account".

(b) In determining the amount that is to be set aside for the payment of the principal and interest of the authorized bonds, the board may provide that the amount to be set aside and paid into the bond and interest redemption account for any year or years should not exceed a fixed sum, which must be at least sufficient to provide for the payment of the interest and principal of the bonds maturing and becoming payable in each year.

(c) If a surplus is created in the bond and interest redemption account, the board may transfer any excess over the surplus to:

(1) the operation and maintenance account; or

(2) the depreciation account.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-11

Depreciation account; use of revenues

Sec. 11. The revenues set aside to the depreciation account shall be expended for:

(1) the repair of the storm water system;

(2) new acquisition, construction, extensions, or additions to the property of the storm water system; or

(3) transfer to the bond and interest redemption account to prevent a default.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-12

Assumption and payment of liability upon acquisition of storm water system

Sec. 12. (a) If the board acquires a storm water system and assumes the liability incurred by the seller to construct the storm water system, the principal and interest on the liability so assumed shall be paid from the bond and interest redemption account in the same manner as bonds of the district would be paid, and the board shall set aside sufficient revenues to comply with the requirements of the instrument creating the liability.

(b) A unit acquiring a storm water system may not assume any

liability for the payment of a secured debt or charge other than the obligation to apply the revenues in the manner prescribed in the ordinance.

(c) The board may issue bonds in exchange for, or satisfaction of, the liability assumed in the acquisition of a storm water system. The bonds so issued may not be issued at less than ninety-seven percent (97%) of the par value thereof in exchange for, or satisfaction of, the liability. Notwithstanding section 13(c) of this chapter, bonds issued in exchange for, or satisfaction of, the liability need not be sold in accordance with IC 5-1-11. However, the interest rate on such bonds may not exceed the average yield on municipal revenue bonds of comparable credit rating and maturity as of the end of the week immediately preceding the issuance of the bonds.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.11.

IC 8-1.5-5-13

District bonds; nature

Sec. 13. (a) The bonds of the district are:

(1) a valid claim of the holders only against the bond and interest redemption account and the revenues of the storm water system; and

(2) exempt from taxation in Indiana as provided by IC 6-8-5.

(b) The bonds may be issued either as registered bonds or as coupon bonds payable to the bearer.

(c) Except as provided in this chapter or IC 5-1-5, bonds shall be sold in accordance with IC 5-1-11. The registration of bonds does not affect negotiability.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-14

Bond issue

Sec. 14. A board acquiring a storm water system and paying for it and for extensions and betterments authorized at the time of acquisition may provide for the combined cost in one (1) issue of bonds. The board shall issue and secure the bonds in the manner provided in this chapter to provide funds for the original construction of a storm water system.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-15

Use of bond proceeds; actions to compel performance; actions upon default

Sec. 15. (a) All money received from bonds issued under this chapter shall be applied solely to the acquisition, construction, repair, and maintenance of the storm water system, the cost of the issuance of the bonds, and the creation of any reserve for the bonds.

(b) Any holder of the bonds may bring a civil action to compel

performance of all duties required by this chapter of the board issuing the bonds or of any officer of the board, including the following:

(1) Making and collecting reasonable and sufficient user fees lawfully established for service rendered by the storm water system.

(2) Segregating the income and revenues of the department.

(3) Applying the respective funds created under this chapter.

(c) If there is any default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may:

(1) appoint an administrator or receiver to administer the storm water system on behalf of the unit served by the department and the bondholders, with power to:

(A) charge and collect user fees lawfully established sufficient to provide for the payment of the operating expenses and also to pay any bonds or obligations outstanding against the storm water system; and

(B) apply the income and revenues in conformity with this chapter and the ordinance; or

(2) declare the whole amount of the bonds due and payable and direct the sale of the storm water system.

Under a sale ordered under subdivision (2), the purchaser is vested with an indeterminate permit as defined in IC 8-1-2-1 to maintain and operate the storm water system to collect and dispose of storm water for the unit served by the department and its citizens.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.12.

IC 8-1.5-5-16

Charge for services in a municipality; deposit of funds

Sec. 16. (a) This section applies to a municipality.

(b) The reasonable cost and value of any service rendered to the municipality by the storm water system by furnishing storm water collection and disposal shall be:

(1) charged against the municipality; and

(2) paid for as the service accrues out of:

(A) the current revenues of the municipality, collected or in process of collection; or

(B) the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

(c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.13.

IC 8-1.5-5-16.5

Charge for services in a county; deposit of funds

Sec. 16.5. (a) This section applies to a county.

(b) The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal shall be:

(1) charged against all the territory in the county, except territory within a municipality; and

(2) paid for as the service accrues out of:

(A) the current revenues of the county, collected or in process of collection; or

(B) the tax levy of the county made by the county to raise money to meet the county's necessary current expenses.

(c) The compensation for the service provided to the county shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

As added by P.L.282-2003, SEC.14.

IC 8-1.5-5-17

Proposed projects; resolution; notice to property owners; preadoption contracts for purchase

Sec. 17. (a) If, upon investigation, the board finds that:

(1) the storm water system is insufficient to furnish the necessary collection and disposal of storm water to properly protect the public health and welfare and safeguard the property within the district; or

(2) it is necessary to acquire, construct, rebuild, repair, extend, and improve the storm water system and equipment, to acquire lands, or to construct, erect, or acquire other systems and other structures and equipment appurtenant to them;

the board shall prepare maps, plans, specifications, and drawings with full details and descriptions for the proposed work, together with an estimate of the cost. The board shall also prepare a description of all property rights necessary to be acquired in connection with the proposed work and the manner in which the rights are to be acquired, whether by purchase or appropriation, along with a description of any other property that may be injuriously affected, together with the estimated cost.

(b) The board shall then adopt a resolution approving the project by:

(1) declaring that it is necessary for the protection of the public health and welfare of the inhabitants of the storm water district and the safeguarding of the property within the district;

(2) declaring that it is of public utility and benefit;

(3) appropriating the property described in the resolution;

(4) stating the maximum proposed cost of any land to be purchased; and

(5) adopting plans, maps, specifications, drawings, details, descriptions, and estimates.

(c) If the resolution is adopted, the board shall publish a notice in accordance with IC 5-3-1 of the adoption of the resolution and of the fact that plans, specifications, and estimates have been prepared and can be inspected. The notice must also name a date, not less than ten (10) days after the date of the last publication, when the board will receive or hear remonstrances from the persons interested in, or affected by, the resolution, and when it will determine the public utility and benefit of the project. Notice shall be mailed to the owners of all property appropriated by the resolution. If a landowner is a nonresident and the landowner's place of residence is known, a notice shall be mailed to the nonresident owner. If the nonresident owner's residence is unknown to the board, then the owner is considered notified of the pendency of the proceedings by the publication of notice.

(d) Separate descriptions of each piece or parcel of land are not required in the resolution and notice, but it is a sufficient description of the property purchased or to be purchased, or to be appropriated or damaged, to give a description of the entire tract, whether it is one (1) or more lots or parcels and whether it is owned by one (1) or more persons.

(e) All persons affected by the proceedings, including all taxpayers in the storm water district, are considered to be notified of the proceedings and all subsequent acts, hearings, adjournments, and orders of the board by the original publication of notice.

(f) The board may, before adoption of the resolution, obtain from the owners of the property an option for its purchase or may enter into a contract for its purchase after an appraisal by two (2) qualified land appraisers. An option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-18

Remonstrances

Sec. 18. (a) At the time fixed for the hearing or before the hearing, the following persons may file a written remonstrance with the board:

(1) The owner of real property, rights-of-way, or other property to be appropriated under the resolution.

(2) A person injuriously affected by the appropriation.

(3) A person owning real or personal property within the storm water district.

(b) The board shall:

(1) hear all persons interested in the proceedings;

(2) hear all the remonstrances that have been filed; and

(3) take action to confirm, modify, or reject the resolution.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-19

Appeal

Sec. 19. (a) A person who has remonstrated in writing and is aggrieved by the decision of the board may, within thirty (30) days, take an appeal to the circuit or superior court of the county in which the storm water district is located.

(b) A remonstrator desiring to appeal the action of the board shall, within thirty (30) days after the final action of the board, file in the office of the clerk of the circuit or superior court a copy of the order of the board and the remonstrance, together with a bond conditioned to pay the costs of the appeal, should the appeal be determined against the remonstrator.

(c) The court may hear the appeal only if the question is whether the board acted arbitrarily or capriciously in adopting the resolution.

(d) The cause shall be tried by the court without a jury.

(e) All remonstrances upon which appeals are taken may be consolidated and heard as one (1) claim for relief by the court.

As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-20

Property held in name of unit served by the department

Sec. 20. All real property, rights-of-way, or other property acquired by purchase or appropriation shall be taken and held in the name of the unit served by the department.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.15.

IC 8-1.5-5-21

Bonds for proposed work projects

Sec. 21. (a) To procure money to pay for the required property and the acquisition, erection, and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the unit served by the department, special taxing district bonds of the storm water district. The bonds may not exceed the total estimated cost of the work and property to be acquired as provided for in the resolution, including:

(1) all expenses necessarily incurred for supervision and inspection during the period of construction; and

(2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.

(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the fiscal officer, who shall then prepare the bonds. The executive shall execute the bonds, and the fiscal officer shall attest the bonds.

(c) The board may not issue bonds of the storm water district,

payable by a special benefit property tax, when the total of the outstanding bonds of the district that are payable from a special benefit property tax, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. For purposes of this section, bonds are not considered to be outstanding bonds if the payment has been provided for by an irrevocable deposit in escrow of government obligations sufficient to pay the bonds when due or called for redemption.

(d) The bonds are not a corporate obligation or indebtedness of the unit but are an indebtedness of the storm water district. The bonds and interest are payable:

(1) out of a special benefit tax levied upon all of the property of the storm water district; or

(2) by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued.

As added by P.L.125-1987, SEC.1. Amended by P.L.6-1997, SEC.132; P.L.282-2003, SEC.16.

IC 8-1.5-5-22

Special benefit tax

Sec. 22. (a) To raise the necessary revenues to pay for the bonds issued and the interest on the bonds, the board:

(1) after approval by the fiscal body of the unit served by the department, shall levy a special benefit tax upon all the property of the storm water district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together with all accruing interest; and

(2) shall certify the tax levied each year to the fiscal officer of the unit served by the department at the same time and in the same manner as other levies of the unit are certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, and enforced.

(b) In fixing the amount of the necessary levy, the board:

(1) shall consider the amount of revenues derived by the board from the operation of the storm water system under its jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the storm water system; and

(2) may, in lieu of making the levy in this section, set aside by resolution a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be deposited in the bond and interest redemption account.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.17.

IC 8-1.5-5-23
Approval of bond issuance by unit served by the department; applicability of IC 6-1.1-20

Sec. 23. (a) The board may not issue any bonds authorized by this chapter until it has secured the approval for the issuance of the bonds from the fiscal body of the unit served by the department.

(b) IC 6-1.1-20 applies to the issuance of bonds under this chapter which are or may be payable from the special benefit property tax.

As added by P.L.125-1987, SEC.1. Amended by P.L.282-2003, SEC.18.

IC 8-1.5-5-24
Combined sanitary sewer and storm water system projects

Sec. 24. (a) Whenever work on a storm water system (that is combined with a sanitary sewer system) necessitates the repair or replacement of all or part of a sanitary sewer system, the entity that owns or maintains the sanitary sewer system shall assume a proportionate share of the cost of repairing or replacing the sanitary sewer system.

(b) The board and the entity that owns or manages the sanitary sewer system shall negotiate the division of the costs described in subsection (a).

(c) If the parties cannot agree to a division of the costs, they shall petition the circuit court, superior court, or probate court of the county where the majority of the systems are located to divide the costs. The circuit court, superior court, or probate court shall hold a hearing on the division of costs within sixty (60) days after receiving the petition. The court shall publish notice of the hearing in accordance with IC 5-3-1. The decision of the court is binding on both parties.

As added by P.L.125-1987, SEC.1. Amended by P.L.84-2016, SEC.35.

IC 8-1.5-5-25
Use of bond payment revenues; pledge of user fees; reductions in fees

Sec. 25. (a) Revenues received by the department may be used to pay for bonds issued to acquire, construct, install, operate, and maintain facilities and land for storm water collection and disposal systems.

(b) If there are bonds outstanding for which user fees were pledged, the board may not rescind user fees or reduce them below a rate that would produce one hundred twenty-five percent (125%) of the highest annual debt service on the bonds issued under this chapter to their final maturity, based on an average of the

immediately preceding three (3) years of user fee collections, if the user fees have been levied for the preceding three (3) years. If the user fees have not been levied for the preceding three (3) years, the board may not reduce user fees below a rate that would produce one hundred twenty-five percent (125%) of the highest debt service, based upon a study by a qualified public accountant or financial adviser.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-26
User fee pledges; effect of amendments or repeal of chapter

Sec. 26. With respect to bonds for which a pledge has been made under section 25 of this chapter, the general assembly covenants with the holders of these bonds that:

(1) this chapter will not be repealed or amended in a manner that will adversely affect the imposition or collection of the user fees under this chapter; and

(2) this chapter will not be amended in a manner that will change the purpose for which revenues from the user fees imposed under this chapter may be used;

as long as those bonds are outstanding.
As added by P.L.125-1987, SEC.1.

IC 8-1.5-5-27
Maintenance of private property by the department

Sec. 27. If the department:

(1) uses private property for storm water collection or disposal; and

(2) obtains the consent of the owner of the private property to maintain the private property;

the department shall maintain the private property.
As added by P.L.282-2003, SEC.19.

IC 8-1.5-5-28
Screening of storm water outfalls

Sec. 28. A person may not be required to screen a storm water outfall if the pipe diameter of the storm water outfall is less than twenty-four (24) inches.
As added by P.L.282-2003, SEC.20.

IC 8-1.5-5-29
Liens for unpaid fees

Sec. 29. (a) Subsections (c), (d), and (e) do not apply to a city that before January 1, 2005, adopted an ordinance establishing procedures for the collection of unpaid user fees under this chapter through the enforcement of a lien.

(b) Fees assessed against real property under this chapter constitute a lien against the property assessed. The lien is superior to

all other liens except tax liens. Except as provided in subsections (c) and (d), the lien attaches when notice of the lien is filed in the county recorder's office under section 30 of this chapter.

(c) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If property is conveyed before a lien is filed, the department shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

(d) A lien attaches against real property occupied by someone other than the owner only if the department notifies the owner not later than twenty (20) days after the time the user fees become sixty (60) days delinquent. A notice sent to the owner under this subsection must be sent by first class mail or by certified mail, return receipt requested (or an equivalent service permitted under IC 1-1-7-1) to:

(1) the owner of record of real property with a single owner; or
(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice of the delinquency, or to another address specified by the owner, in a written notice to the department, at which the owner requests to receive a notice of delinquency under this subsection. The cost of sending notice under this subsection is an administrative cost that may be billed to the owner.

(e) The department shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and
(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

As added by P.L.131-2005, SEC.1. Amended by P.L.196-2014, SEC.1.

IC 8-1.5-5-30

Collection of unpaid fees; recording of liens; fees, charges, and penalties

Sec. 30. (a) The board may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days. However, in the case of property that is occupied by someone

other than the owner, this subsection does not relieve the department of its duty under section 29(d) of this chapter to notify the owner not later than twenty (20) days after the time user fees become sixty (60) days delinquent.

(b) Except as provided in subsection (k), the board shall enforce payment of fees imposed under this chapter. As often as the board determines necessary in a calendar year, the board shall prepare either of the following:

(1) A list of the delinquent fees and penalties that are enforceable under this section. The list must include the following:

(A) The name of the owner of each lot or parcel of real property on which fees are delinquent.

(B) A description of the premises, as shown by the records of the county auditor.

(C) The amount of the delinquent fees, together with the penalty.

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) An officer of the board shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall mail by certified mail, or by another delivery service providing proof of delivery, to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. A service charge of five dollars ($5), which is in addition to the recording fee charged under this subsection and under subsection (e), shall be added to each delinquent fee that is recorded.

(d) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the board shall, not later than ten (10) days after the list or each individual instrument is recorded under subsection (c), certify to the county auditor a list of the unpaid liens for collection with the next May installment of property taxes. The county and its officers and employees are not liable for any material error in the information on this list.

(e) The board shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(f) Upon receipt of the list under subsection (c), the county auditor of each county shall add a fifteen dollar ($15) certification fee for each lot or parcel of real property on which fees are delinquent. The fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the district the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due not later than the due date of the next May installment of property taxes. The county treasurer shall

include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(g) After certification of liens under subsection (d), the board may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor.

(h) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(i) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the district. The county treasurer shall retain the service charges and certification fees that have been collected and shall deposit them in the county general fund.

(j) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 29(e) of this chapter, files a verified demand with the county auditor.

(k) A board may write off a fee or penalty under subsection (a) that is less than forty dollars ($40).

As added by P.L.131-2005, SEC.2. Amended by P.L.196-2014, SEC.2.

IC 8-1.5-5-31

Foreclosure of liens

Sec. 31. (a) A district may foreclose a lien established by this chapter in order to collect fees and penalties. The district shall recover the amount of the fees and penalties, and a reasonable attorney's fee. The court shall order the sale to be made without relief from valuation or appraisement laws.

(b) Except as otherwise provided by this chapter, actions under this chapter are subject to the general statutes regarding municipal public improvement assessments.

As added by P.L.131-2005, SEC.3.

IC 8-1.5-5-32

Withdrawal from district by excluded municipality; notice; outstanding bonds; payments to municipality

Sec. 32. (a) This section applies to excluded cities and towns in a county containing a consolidated city.

(b) A municipality to which this section applies may withdraw from the district established by the consolidated city if the municipal

legislative body adopts an ordinance withdrawing the municipality from the district. The municipal legislative body shall, at least thirty (30) days before the final vote on the ordinance, mail written notice of the meeting to the following:

(1) All owners of lots and parcels within the municipality that are subject to storm water user fees imposed in the district by the department of public works of the consolidated city.

(2) The department of public works of the consolidated city.

(c) An ordinance described in subsection (b) takes effect sixty (60) days after adoption by the municipal legislative body.

(d) In addition to the notice required by subsection (b), if a municipal legislative body adopts an ordinance under subsection (b), the municipal legislative body shall mail written notice of the withdrawal from the district to the department of public works of the consolidated city not more than thirty (30) days after the ordinance becomes effective.

(e) If on the date of a municipality's withdrawal from the district there are bonds outstanding that have been issued by the board of public works of the consolidated city, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the municipality bears to the assessed valuation of all property included in the district on the date one (1) day before the date of withdrawal, as shown in the most recent assessment for taxation before the date of withdrawal.

(f) If a municipal legislative body adopts an ordinance under subsection (b), the municipality is entitled to receive the following:

(1) An annual lump sum payment equal to the total amount of property taxes paid and allocated to the district's flood debt service fund from all property taxpayers within the municipality, to the extent the property taxes are not necessary to pay the indebtedness owed by the municipality under subsection (e). A payment under this subdivision is required for property taxes assessed beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(2) The total amount of storm water user fees collected by the department of public works of the consolidated city from the lots and parcels in the municipality beginning on the January 1 preceding the effective date of the municipality's withdrawal from the district.

(g) Payments received under subsection (f):

(1) shall be deposited by the municipality in a dedicated fund; and

(2) may be used by the municipality only for purposes of storm water management in the municipality and may not be diverted, directly or indirectly, in any manner to any use other than the purposes of storm water management in the municipality.

As added by P.L.52-2006, SEC.1 and P.L.175-2006, SEC.1. Amended

by P.L.154-2006, SEC.65.

IC 8-1.5-6

Chapter 6. Utility Service in Regulated Territories

IC 8-1.5-6-1

"Municipal utility"

Sec. 1. As used in this chapter, "municipal utility" refers to a municipally owned:

(1) water utility;

(2) wastewater utility; or

(3) combined water and wastewater utility;

regardless of whether the municipal utility is under the jurisdiction of the commission for the approval of rates and charges.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-2

"Regulated territory"

Sec. 2. As used in this chapter, "regulated territory" means the area outside the corporate boundaries of a municipality described in:

(1) IC 36-9-2-18;

(2) IC 36-9-2-19; or

(3) IC 36-9-23-36.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-3

"Regulatory ordinance"

Sec. 3. As used in this chapter, "regulatory ordinance" means an ordinance adopted by a municipality that:

(1) asserts the exclusive authority of a municipal utility to provide service within a regulated territory; or

(2) prohibits another utility from providing utility service in the regulated territory.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-4

"Utility"

Sec. 4. As used in this chapter, "utility" means a utility that provides:

(1) water service;

(2) wastewater service; or

(3) combined water and wastewater service;

regardless of whether the utility is under the jurisdiction of the commission for the approval of rates and charges. The term includes a municipal utility.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-5

"Wholesale sewage petition"

Sec. 5. As used in this chapter, "wholesale sewage petition" refers

to a petition filed under IC 8-1-2-61.7 for review of rates and charges for wholesale sewage service.
As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-6
Jurisdiction of commission

Sec. 6. Notwithstanding any other provision in this title or IC 36, the offering or provision of service by a utility in a regulated territory is under the jurisdiction of the commission as set forth in sections 7, 8, 9, and 10 of this chapter.
As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-7
Resolution of service dispute

Sec. 7. (a) This section applies if:

(1) a municipality adopts a regulatory ordinance before January 1, 2013;

(2) a dispute arises or exists between a utility owned by the municipality and another utility as to which utility provides service to customers that connected to service provided by one (1) of the utilities:

(A) after the date on which the regulatory ordinance was adopted; and

(B) before March 15, 2014; and

(3) the utilities are unable to resolve a dispute described in subdivision (2) through mutual agreement.

(b) Not later than October 1, 2014, a utility shall petition the commission for resolution of the dispute. The petition must be in the form and manner prescribed by the commission. Upon the filing of the petition, the commission shall assume immediate and exclusive jurisdiction over the utilities for purposes of resolving the dispute.

(c) Upon assuming jurisdiction under subsection (b) and after notice and hearing, the commission shall issue an order resolving all issues presented in the petition described in subsection (b), including determining the manner in which the utilities shall provide service to the customers that are the subject of the dispute, in the manner that the commission determines is in the public interest. In making the determination, the commission shall consider the criteria set forth in section 8(g) of this chapter. The commission shall issue the order within three hundred (300) days after the petition described in subsection (b) is filed.
As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-8
Enforcement of regulatory ordinance by municipality whose utility has filed a wholesale sewage petition

Sec. 8. (a) This section applies if:

(1) a municipality adopts a regulatory ordinance after December

31, 2012; and

(2) a utility owned by the municipality files a wholesale sewage petition.

(b) A municipality may not enforce a regulatory ordinance until all the following conditions are satisfied:

(1) There is a final judgment on the wholesale sewage petition that concludes all administrative and judicial proceedings. For purposes of this subdivision, a final judgment includes an order of the commission under subsection (f).

(2) The commission has issued an order under subsection (f) that resolves all issues included in a petition filed under subsection (d) in a manner that the commission determines is in the public interest.

(3) The municipality has modified the regulatory ordinance to comply with the order of the commission described in subdivision (2), if necessary.

(c) A utility may file with the commission a petition alleging that the final judgment of a court on the wholesale sewage petition does not resolve all issues included in the wholesale sewage petition that are related to:

(1) the service territory of the municipality; or

(2) rates and charges for wholesale sewage service.

The commission shall assume immediate and exclusive jurisdiction over the municipal utility upon the filing of the petition for purposes of resolving the remaining issues. After notice and hearing, the commission shall issue an order within three hundred (300) days after the petition is filed resolving all issues presented in the petition in the manner that the commission determines is in the public interest. In making a determination of the public interest, the commission shall consider the factors set forth in subsection (g). The commission may combine a hearing under this subsection with a hearing under subsection (f) and issue a single order on the combined hearing.

(d) Not later than October 1, 2014, a municipal utility shall petition the commission for approval of the regulatory ordinance. The petition must include the following:

(1) A description of the service territory established in the regulatory ordinance.

(2) Proposed rates and charges for the services to be provided in the service territory.

(3) A list of any administrative or judicial proceedings involving the regulatory ordinance or the wholesale sewage petition.

(4) A list of any utilities actually or potentially affected by the regulatory ordinance.

(e) Upon the filing of a petition described in subsection (d), the commission shall do the following:

(1) Encourage all utilities listed under subsection (d)(4) to reach

a mutual agreement that apportions the provision of service in the regulated territory among the utilities. A mutual agreement described in this subdivision is the preferred method of establishing service territories in a regulated territory. To take effect, a mutual agreement must be approved by the commission in an order issued under subsection (f), and the commission may approve a mutual agreement only if the commission determines that the mutual agreement is in the public interest.

(2) If the utilities are unable to reach a mutual agreement under subdivision (1), the commission shall assume immediate and exclusive jurisdiction over the municipal utility, including the wholesale sewage petition if there is no final judgment from a court on the wholesale sewage petition.

(f) Upon assuming jurisdiction under subsection (e)(2) and after notice and hearing, the commission shall issue an order resolving:

(1) all issues presented in the petition described in subsection (d), including the enforceability of the regulatory ordinance; and

(2) any applicable issues presented in the wholesale sewage petition;

in the manner that the commission determines is in the public interest. The commission shall issue the order within three hundred (300) days after the petition described in subsection (d) is filed.

(g) In making a determination under subsection (f), the commission shall consider the following:

(1) The ability of another utility to provide service in the regulated territory.

(2) The effect of a commission order on customer rates and charges for service provided in the regulated territory.

(3) The effect of the commission's order on present and future economic development in the regulated territory.

(4) The history of utility service in the regulated territory, including any contracts for utility service entered into by the municipality that adopted the regulatory ordinance and any other municipalities, municipal utilities, or utilities.

(5) Any other factors the commission considers necessary.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-9

Enforcement of regulatory ordinance in absence of wholesale sewage petition

Sec. 9. (a) This section applies if:

(1) a municipality adopts a regulatory ordinance after December 31, 2012; and

(2) a utility owned by the municipality does not, or is not eligible to, file a wholesale sewage petition.

(b) A municipality may not enforce a regulatory ordinance until the commission issues an order under subsection (c). The

municipality shall petition the commission for approval of the regulatory ordinance. The petition must include the following:

(1) A description of the service territory established in the regulatory ordinance.

(2) Proposed rates and charges for the services to be provided in the service territory.

(3) A list of any administrative or judicial proceedings involving the regulatory ordinance.

(4) A list of any utilities actually or potentially affected by the regulatory ordinance.

(c) After notice and hearing, the commission shall issue an order resolving all issues presented in the petition described in subsection (b), including the enforceability of the regulatory ordinance in the manner that the commission determines is in the public interest. In making a determination of the public interest, the commission shall consider the factors set forth in section 8(g) of this chapter. The commission shall issue the order within three hundred (300) days after the petition described in subsection (b) is filed.

(d) If the commission does not approve the petition, the municipality may modify and resubmit the petition in the manner prescribed by the commission. After notice and hearing, the commission shall review the petition as set forth in subsection (c). If the commission does not approve the resubmitted petition, the regulatory ordinance is void.

(e) The municipality may petition the commission to rescind or modify an order issued under subsection (c) not earlier than five (5) years after the date on which the order was issued.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-10

Service disputes between utilities in regulated territories

Sec. 10. (a) This section applies to a dispute, other than a dispute described in section 7, 8, or 9 of this chapter, that:

(1) arises between two (2) or more utilities as to which utility will provide utility service in a regulated territory; and

(2) is not the subject of an action initially filed in a court before January 1, 2014.

A dispute shall be resolved by the commission under this section.

(b) A proceeding under this section may be initiated:

(1) by a utility that is a party to a dispute described in subsection (a); or

(2) by the commission on its own initiative.

(c) Throughout a proceeding under this section, the commission shall, where feasible, promote the resolution of the dispute described in subsection (a) through a mutual agreement between the utilities that apportions the provision of utility service in the regulated territory. A mutual agreement described in this subsection is the preferred way of resolving a dispute described in subsection (a).

However, to resolve the dispute, a mutual agreement must be approved by the commission in an order issued under subsection (e), and the commission may approve a mutual agreement only if the commission determines that the mutual agreement is in the public interest.

(d) If the utilities are unable to reach a mutual agreement under subsection (c), the commission shall determine the manner in which utilities shall provide service in the regulated territory. In making the determination, the commission shall consider the criteria set forth in section 8(g) of this chapter.

(e) After notice and hearing, the commission shall issue an order:

(1) approving a mutual agreement under subsection (c); or

(2) making a final determination under subsection (d).

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-11

Expansion of service territory after adoption of regulatory ordinance

Sec. 11. This section applies to a municipality that:

(1) after December 31, 2012, adopts a regulatory ordinance that establishes a service territory that is smaller than the regulated territory; and

(2) either:

(A) amends the ordinance described in subdivision (1); or

(B) adopts a new ordinance;

to establish a service territory that is larger than the service territory described in subdivision (1).

Before an ordinance described in subdivision (2) may take effect, the municipality shall submit the ordinance to the commission for approval under section 9 of this chapter.

As added by P.L.213-2014, SEC.7. Amended by P.L.5-2015, SEC.23.

IC 8-1.5-6-12

Order of commission is final order

Sec. 12. An order issued by the commission under this chapter is a final order for purposes of IC 8-1-3 and is enforceable in court.

As added by P.L.213-2014, SEC.7.

IC 8-1.5-6-13

Petition not subject to certain requirements

Sec. 13. A petition filed under this chapter is not subject to the following:

(1) IC 8-1.5-3.

(2) IC 36-9-23.

(3) IC 36-9-25.

As added by P.L.213-2014, SEC.7.

IC 8-2

ARTICLE 2. REGULATION OF CARRIERS GENERALLY

IC 8-2-1

Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-2-2
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2-3

Chapter 3. Fraudulent Bills of Lading

IC 8-2-3-1

Fraudulent bills of lading; offense

Sec. 1. A person who, with intent to defraud:

(1) falsely makes, alters, forges, counterfeits, prints, or photographs any bill of lading purporting to represent goods received for shipment intrastate in Indiana;

(2) utters or publishes as true and genuine any such falsely made, altered, forged, counterfeited, printed, or photographed bill of lading; or

(3) issues, negotiates, or transfers for value a bill which contains a false statement as to the receipt of the goods, or as to any other matter;

commits a Level 6 felony.

(Formerly: Acts 1943, c.53, s.41.) As amended by Acts 1978, P.L.2, SEC.810; P.L.158-2013, SEC.132.

IC 8-2-4

Chapter 4. Fatal Accidents Involving Common Carriers

IC 8-2-4-1

Leaving scene of accident

Sec. 1. When any person shall have come to his death by violence or casualty caused by a collision with a train, car or other conveyance of any common carrier, it shall be lawful for such train, car or conveyance to proceed on its journey before the arrival of the coroner and the holding of an inquest, if the body of such person be left in charge of a member of the crew of such train, car or other conveyance, or of some other agent of such common carrier.

(Formerly: Acts 1939, c.29, s.1.)

IC 8-2-5
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-6

Chapter 6. Disposition by Common Carrier of Unclaimed Property

IC 8-2-6-1

Time for sale

Sec. 1. When any freight or any baggage of passengers has been conveyed by a common carrier to any point in this state and shall remain unclaimed for the space of three (3) months at the place to which it is consigned or checked, and the owner, whether known or unknown, fails, within that time, to claim such freight or baggage, and to pay the proper charges, if any there be against it, then it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each box, bale, trunk, valise or other article separately as consigned or checked.

(Formerly: Acts 1865(ss), c.97, s.1.)

IC 8-2-6-2

Notice of sale; sale; proceeds; disposition

Sec. 2. Sixty (60) days' notice of the time and place of sale and a descriptive list of the articles to be sold, with the names, numbers, or other marks found thereon, shall be posted up in three (3) public places of the county where the sale is to be made and one (1) on the door of the depot or warehouse, if any, where the goods are; and shall also give notice in at least one (1) paper in the county for sixty (60) days before sale; and, out of the proceeds of such sale, the carrier shall pay the proper charges on such freight or baggage, including costs for storage for the previous three (3) months, and hold the overplus, if any, subject to the order of the owner, at any time with five (5) years, on proof of ownership, made by the affidavit of the claimant or his duly authorized agent or attorney. Also, after five (5) years, all sums of money remaining unclaimed to be paid into the county treasury, to be placed to the account of common schools.

(Formerly: Acts 1865(ss), c.97, s.2.)

IC 8-2-6-3

Records; inspection

Sec. 3. The carrier shall keep a copy of the notice, a copy of the sale-bill, and the expenses thereof proportioned to each article sold, and also the oath of the claimant of the residue of the proceeds as aforesaid; and shall furnish an inspection of the same, and, if required, copies thereof, to any one, on payment of the proper charges therefor.

(Formerly: Acts 1865(ss), c.97, s.3.)

IC 8-2-6-4

Perishable property or live stock

Sec. 4. If any perishable property or live stock shall be so

conveyed, either as freight or baggage as aforesaid, and remain unclaimed until in danger of great depreciation, or such live stock be falling away because the carrier has not facilities to feed and water the same, then the carrier may, after the expiration of five (5) days from the time said property is conveyed to the place to which it is consigned or checked, sell, at private sale or auction, without giving the sixty (60) days notice, for the best price it will bring, and apply the proceeds as aforesaid.

(Formerly: Acts 1865(ss), c.97, s.4.) As amended by P.L.5-1988, SEC.49.

IC 8-2-7
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2-7.5
Repealed

(Repealed by P.L.107-1983, SEC.2 and P.L.108-1983, SEC.13.)

IC 8-2-8
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2-9
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2-10
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2-11
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2-12
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-13
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-14
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-15

Chapter 15. Ferries – Licensing by Counties

IC 8-2-15-1

License; application; duration

Sec. 1. No person, company or corporation shall be permitted to keep, have or maintain any public ferry across any stream running through or bounding on any county in this state, to and from any points without the limits of this state, without first having obtained a license from the board of commissioners of the proper county for that purpose. Such license shall continue in force for five (5) years, and application therefor must be in writing.

(Formerly: Acts 1881(ss), c.52, s.1; Acts 1911, c.126, s.1.)

IC 8-2-15-2

License; publication of intention to establish

Sec. 2. The board shall not grant a license to the applicant unless he shall produce satisfactory evidence to the court that he has set up in the township where the ferry is proposed to be kept and maintained written or printed notices in three (3) public places of his intention to apply to such board for a license to keep a ferry: Provided, There be a newspaper of general circulation published in the township where such ferry is to be kept, such notice may be given by publishing same in such newspaper not less than ten (10) days before the meeting of said board of commissioners.

(Formerly: Acts 1881(ss), c.52, s.2; Acts 1911, c.126, s.2.)

IC 8-2-15-3

License; fee; operating interstate ferry

Sec. 3. The board, upon being satisfied that the notice hereby required has been given and that a ferry is needed at such place and that the applicant is a suitable person, may grant to the applicant a license to keep and maintain the same for the term of five (5) years, on his paying to the county treasurer of the proper county as a license fee a sum to be fixed by the board, not less than two dollars ($2.00), nor more than fifty dollars ($50.00) per year, and said license fee may be paid in full for the five (5) years in advance or yearly in advance as said board may direct and order.

(Formerly: Acts 1881(ss), c.52, s.3; Acts 1911, c.126, s.3.)

IC 8-2-15-4

Recognizance; licensee

Sec. 4. Before such license shall be granted, the applicant shall produce the county treasurer's receipt for the sum so fixed, and shall also enter into a recognizance to the state of Indiana, in a penal sum to be fixed by such board, not less than one hundred dollars ($100) nor more than five hundred dollars ($500), with at least one (1) sufficient freehold surety, conditioned faithfully to keep and

maintain such ferry with good and sufficient boats for the safe conveyance of persons and property, a sufficient number of hands to work and manage such boats, together with sufficient implements and appliances for such ferry, during the several hours in each day, and at such rates of ferriage as the board granting the license shall from time to time order and direct, which recognizance shall be kept on file with the county auditor.
(Formerly: Acts 1881(ss), c.52, s.4.)

IC 8-2-15-5
Mutual rights; landowners on both sides of stream

Sec. 5. The person owning or possessing lands on both sides of any stream where a ferry is proposed to be established shall have the exclusive right of a license for a ferry at such place; and when the opposite banks are owned by different persons, the right to the ferry shall be mutual; but if the owner does not apply, the board shall grant a license to any person applying for the same; except where either of the landings is not on a public highway, the consent of the owner of the ground shall first be had in writing.
(Formerly: Acts 1881(ss), c.52, s.5.)

IC 8-2-15-6
Temporary permit to operate during high water

Sec. 6. Nothing herein contained shall be so construed as to prevent any person from ferrying passengers across a small stream in high water; and the board may authorize the auditor to give any person a permit for such purpose, when, in its opinion, the stream is too small to justify the expense of a license; any when any person applies for a renewal of his license at the same place where he kept and maintained a ferry during the preceding year, upon payment of the license fee and filing of a new recognizance, executed and conditioned as above provided, the license may be granted or renewed without notice or formal application in writing.
(Formerly: Acts 1881(ss), c.52, s.6.)

IC 8-2-15-7
License; recordation fee

Sec. 7. The auditor shall record each license; and for the issuing of a license, he shall receive from the applicant a fee of fifty cents (50 cents).
(Formerly: Acts 1881(ss), c.52, s.7.)

IC 8-2-15-8
Number of boats; hours for operation

Sec. 8. Each licensed ferry-keeper shall constantly keep a sufficient number of boats, if more than one (1) be required by the board of commissioners, and give due attendance to the transportation of all persons, with their property, who shall apply for

the same, between daylight in the morning and dark in the evening, and at any hour of the night, if required, except in cases of evident danger, to all other persons requiring the same, on their tendering double the rate of ferriage allowed to be taken in the daytime; and such board may require such ferry-keepers to keep such ferry open till midnight.
(Formerly: Acts 1881(ss), c.52, s.8.)

IC 8-2-15-9
Banks of river or creek

Sec. 9. All persons, companies, or corporations keeping, having, or maintaining any public ferries across any stream to and from any point in Indiana shall cause the banks of the river or creek to be dug sufficiently low and kept in good passable order for the passage of persons, horses, and wagons and other vehicles.
(Formerly: Acts 1881(ss), c.52, s.9.) As amended by P.L.4-2006, SEC.1.

IC 8-2-15-10
Rates and charges; appeal

Sec. 10. The rates of ferriage shall be fixed by the board of county commissioners at the time of licensing the ferry, and from time to time thereafter, as they shall think proper; and it shall be the duty of the auditor to furnish every applicant, on taking out a license to keep a ferry, with a list of the rates of ferriage, which list the ferry-keeper shall put up either at the door of his ferryhouse, or on his boats, or on some conspicuous place convenient to the ferry: Provided, That if any person be aggrieved by the establishing of such rates, he shall have the right to appeal to the circuit court of the proper county upon filing a bond within thirty (30) days (of) the fixing of the same by such board, payable to the state of Indiana, with security to be approved by the county auditor, and conditioned for the due prosecution of such appeal and the payment of all costs if judgment be rendered against such appellant, and the county auditor shall cause such bond, with a certified copy of the proceedings of said board and all of the original papers of the same, to be filed in the office of the clerk of the circuit court within twenty (20) days thereafter, and such cause shall be docketed for the ensuing term, and further proceedings had and judgment rendered therein as in other cases of appeal. And upon such appeal, the circuit court shall have the power to review such rates of ferriage and fix the same as may be just and proper.
(Formerly: Acts 1881(ss), c.52, s.10; Acts 1897, c.73, s.1.)

IC 8-2-15-11
Discontinuance

Sec. 11. If any ferry shall not be furnished with the necessary boats and ferrymen within six (6) months after the establishment

thereof, or if the proprietor shall willfully neglect to attend to the same, or shall fail to comply with any of the requirements of the proper board of commissioners, such board, on complaint to them, shall cause the proprietor of such ferry to be summoned to show cause, at the next meeting of the board, why such ferry shall not be discontinued; and such board shall vacate such ferry or dismiss such complaint, according to the testimony adduced, and may award costs against the complainant, if such complaint is dismissed, or against the proprietor, if the ferry be vacated.
(Formerly: Acts 1881(ss), c.52, s.11.)

IC 8-2-15-12
Landings; obstruction

Sec. 12. It shall not be lawful to obstruct, by steamboats, keelboats, flatboats, or otherwise, the landings of ferries established under this chapter, but such ferries shall be entitled to the exclusive use of the whole width of the routes leading thereto for all appropriate purposes.
(Formerly: Acts 1881(ss), c.52, s.12.) As amended by P.L.59-1984, SEC.112.

IC 8-2-15-13
Operation without license or authorization

Sec. 13. (a) A person who keeps, maintains, works, or runs a ferry without being licensed or authorized according to this chapter commits a Class C infraction.

(b) Each day of violation of subsection (a) of this section constitutes a separate offense.
(Formerly: Acts 1881(ss), c.52, s.13.) As amended by Acts 1978, P.L.2, SEC.815.

IC 8-2-15-14
Violation of conditions of license

Sec. 14. A person licensed under this chapter who does any act in violation of the conditions of his license commits a Class C infraction.
(Formerly: Acts 1881(ss), c.52, s.14.) As amended by Acts 1978, P.L.2, SEC.816.

IC 8-2-16
Chapter 16. Ferries–State Purchase of Displaced Ferries

IC 8-2-16-1
Valuation of property

Sec. 1. (a) Within one (1) year after the opening for public use of any interstate bridge, the construction of which is authorized by any law of the state, regardless of the state agency, commission, or administrative body authorized to make such construction, the state agency, commission or administrative body so authorized to construct, operate, and maintain any interstate bridge shall purchase the ferry, equipment, real estate or interests therein, franchises, rights, and privileges used in connection with the operation of any ferry which has been in continuous operation for at least fifteen (15) years prior thereto and which is located within ten (10) miles of the site of the bridge, and pay the owner therefor a fair cash value. If the agency, commission, or administrative body and the owner of the ferry shall be unable to agree upon a fair cash value, the valuation of the property shall be determined in the manner provided by law for the condemnation of property for appropriate county purposes by counties. In the event the owner of the ferry shall not agree to the establishment of the valuation according to the foregoing method, then the agency, commission, or administrative body shall not be required to purchase the assets from the owner of the ferry.

(b) In the event that any agency, commission, or administrative body shall purchase any ferry, equipment, or real estate or interests therein, they shall forthwith proceed to have appraised and to sell the ferry, equipment, and real estate or rights. After the appraisal and proposed sale of the property, it shall be first offered for sale for a period of not less than ninety (90) days to the local, county, or municipal unit of government in which the ferry, equipment, and real estate or rights therein are situated.

(Formerly: Acts 1961, c.334, s.1.) As amended by Acts 1978, P.L.56, SEC.1; P.L.18-1990, SEC.29.

IC 8-2-16-2
"Interstate bridge" defined

Sec. 2. For the purposes of this chapter the term "interstate bridge," means any bridge across a navigable stream one terminus of which is located in the state of Indiana and the other terminus which is located in a neighboring state other than the state of Illinois.

(Formerly: Acts 1961, c.334, s.2.) As amended by Acts 1978, P.L.56, SEC.2.

IC 8-2-16-3
Scope of law

Sec. 3. The provisions of this chapter shall apply to any bridge or bridges constructed by or paid for by, in whole or in part, any

agency, commission or administrative body of the state of Indiana acting alone or in conjunction with any agency, commission or administrative body of any other state or with any agency, commission or administrative body of the Federal Government.

(Formerly: Acts 1961, c.334, s.3.) As amended by Acts 1978, P.L.56, SEC.3.

IC 8-2-17

Chapter 17. Ferries–Licensing by Cities

IC 8-2-17-1

Application; duration

Sec. 1. No person, company, or corporation shall be permitted to keep, have or maintain any public ferry across any lake, river, or stream running through or bounding any city or town in this state, from the city or town to any points without the limits of this state, without first having obtained a license from the legislative body of the proper city or town for that purpose. The license shall continue in force for five (5) years and application therefor must be in writing.
(Formerly: Acts 1921, c.137, s.1; Acts 1959, c.235, s.1.) As amended by P.L.8-1989, SEC.42.

IC 8-2-17-2

Notice of intent to establish; publication

Sec. 2. The legislative body shall not grant a license to the applicant until satisfactory evidence is produced showing that the application has been on file in the office of the city or town clerk for not less than fourteen (14) days and that notice of the filing of the application has been posted for at least two (2) weeks at the door of the city hall of any city or at some public place in any town and published once each week for two (2) consecutive weeks in a newspaper of general circulation in the city or town. Where there is no newspaper, notice by posting is sufficient notice.
(Formerly: Acts 1921, c.137, s.2; Acts 1959, c.235, s.2.) As amended by P.L.8-1989, SEC.43.

IC 8-2-17-3

Fee

Sec. 3. The legislative body upon being satisfied that the notice required under section 2 of this chapter has been given, and that a ferry is needed at the place, and that the applicant is a suitable person, may grant to the applicant a license to keep and maintain the same for the term of five (5) years on the applicant's paying as a license fee a sum to be fixed by the legislative body, not less than ten dollars ($10) nor more than fifty dollars ($50) per year, payable annually in advance. The payment of such license fee shall not release such person from payment of any lawful charge for wharfage.
(Formerly: Acts 1921, c.137, s.3; Acts 1959, c.235, s.3.) As amended by Acts 1981, P.L.11, SEC.47; P.L.8-1989, SEC.44.

IC 8-2-17-4

Recognizance by licensee

Sec. 4. Before the license is granted, the applicant shall enter into a recognizance to the city or town, in a penal sum to be fixed by the legislative body, not less than five hundred dollars ($500) nor more

than two thousand dollars ($2,000), with sufficient surety, conditioned faithfully to keep, maintain, and operate the ferry with good and sufficient boats and landing places for the safe conveyance of persons and property, a sufficient number of hands to work and manage the boats, together with sufficient implements and appliances for the ferry, in compliance with the rules for operation, on the schedule fixed by the legislative body and at rates of ferriage that the legislative body shall from time to time fix. The bond shall be kept on file with the city or town clerk.
(Formerly: Acts 1921, c.137, s.4; Acts 1959, c.235, s.4.) As amended by P.L.8-1989, SEC.45.

IC 8-2-17-5
Rates and schedules; appeals

Sec. 5. The rates of ferriage, reasonable rules for operation, and the schedule upon which the ferry shall be operated shall be fixed by the legislative body at the time of licensing the ferry, and from time to time thereafter as the body shall think proper. A list of rates, rules, and schedules shall be posted at one (1) or more conspicuous places on each ferryboat and at the place of landing. If the ferrykeeper, or any user of the ferry, is aggrieved by the establishing of the rates, rules, or schedules, the ferrykeeper or user shall have the right to appeal to the circuit court, superior court, or probate court of the proper county upon filing a bond, within thirty (30) days after the fixing of the rates, payable to the state, with security to be approved by the court, and conditioned for the due prosecution of the appeal, and the payment of all costs if judgment is rendered against the appellant. Upon appeal, the circuit court, superior court, or probate court shall have the power to review the rates of ferriage, rules, or schedules and fix the rates, rules, or schedules as may be just and proper.
(Formerly: Acts 1921, c.137, s.5; Acts 1959, c.235, s.5.) As amended by P.L.8-1989, SEC.46; P.L.84-2016, SEC.36.

IC 8-2-17-6
Vacation of ferry; appeals

Sec. 6. If any ferry is not faithfully maintained and operated according to the terms of the recognizance provided for in section 4 of this chapter, the legislative body on complaint to them shall cause the proprietor of the ferry to be summoned before the legislative body to show cause why the ferry shall not be discontinued. The legislative body shall vacate the ferry or dismiss the complaint, according to the testimony, and may award costs against the complainant if such complaint is dismissed, or against the proprietor if the ferry be vacated. The vacation of the ferry shall not prevent the city or town, or any interested person, from recovering damages for any breach of the bond provided for in section 4 of this chapter. The ferrykeeper or any user of the ferry shall have the right to appeal

from the decision of the legislative body to the circuit court, superior court, or probate court of the proper county upon filing therein a bond, within thirty (30) days thereafter, payable to the state, with security to be approved by the court, and conditioned for the due prosecution of the appeal, and the payment of all costs if judgment be rendered against the appellant. Upon appeal, the circuit court, superior court, or probate court shall have the power to try the question of whether cause for the discontinuance of the ferry has been established.

(Formerly: Acts 1921, c.137, s.6; Acts 1959, c.235, s.6.) As amended by P.L.59-1984, SEC.113; P.L.8-1989, SEC.47; P.L.84-2016, SEC.37.

IC 8-2-17-7

Violation of conditions of license

Sec. 7. A person licensed to keep and maintain a ferry under this chapter who does any act in violation of the conditions of his license commits a Class C infraction.

(Formerly: Acts 1921, c.137, s.7; Acts 1959, c.235, s.7.) As amended by Acts 1978, P.L.2, SEC.817.

IC 8-2-17-8

Operation without license or authorization

Sec. 8. A person who keeps, maintains, or runs a ferry without being licensed or authorized according to this chapter commits a Class C infraction.

(Formerly: Acts 1921, c.137, s.8.) As amended by Acts 1978, P.L.2, SEC.818.

IC 8-2-18

Chapter 18. Intrastate Railroad Freight Rates

IC 8-2-18-1

Statements to patrons; offenses; civil damages

Sec. 1. (a) Every common carrier doing intrastate business within Indiana shall, within a reasonable time, give a written statement of the rate applicable to a described shipment between stated points in Indiana under the schedules or tariffs of the carrier, upon written request by a person who is a bona fide prospective shipper or receiver of freight, or who has a bona fide interest therein, made upon a general or local freight or station agent of the carrier.

(b) If a carrier refuses or omits to give a statement under subsection (a) within a reasonable time, or misstates in writing the applicable rate, and the person, firm, limited liability company, or corporation making the request suffers harm in consequence of the refusal, omission, or misstatement of the rate, either through making the shipment over a line or route for which the proper rate is higher than the rate over another available line or route or through entering into a sale, purchase, or contract by which the person, firm, limited liability company, or corporation is or becomes obligated to make or receive a shipment of freight, the carrier is liable to a penalty of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250), which accrues to the state.

(c) The fine under subsection (b) may be recovered, together with reasonable attorney's fees, in a civil action by the Indiana department of transportation.

(d) In addition to being liable to the Indiana department of transportation, a carrier is liable to the person, firm, limited liability company, or corporation injured for the amount of the injury, together with six percent (6%) interest from the date of the injury and reasonable attorney's fees.

(e) Liability under this section is not discharged by the carrier unless the discharge is approved by the Indiana department of transportation as being free from any attempt or purpose to evade a law of this state.

(f) If during the course of any action upon the liability to the person injured it appears to the satisfaction of the court or jury trying the cause that the parties have combined or agreed to obtain or allow any undue advantage or rebate or preference to the injured person, upon a finding to that effect, the cause shall be dismissed and the dismissal and finding reported by the court to the Indiana department of transportation and to the proper prosecuting attorney having jurisdiction.

(Formerly: Acts 1911, c.184, s.1.) As amended by P.L.59-1984, SEC.114; P.L.384-1987(ss), SEC.9; P.L.18-1990, SEC.30; P.L.8-1993, SEC.133.

IC 8-2-18-2
Appeals

Sec. 2. Such dismissal shall be taken and deemed a final judgment, and appeal may be taken therefrom or from any other judgment in any such cause the same as in other civil cases.
(Formerly: Acts 1911, c.184, s.2.)

IC 8-2-18-3
Penalties or forfeitures; double jeopardy

Sec. 3. No carrier making any settlement or payment upon the approval of the said commission or pursuant to a judgment or order of court under this chapter shall be liable for any penalty or forfeiture or subject to any prosecution under any other law of this state on account of the said payment or settlement.
(Formerly: Acts 1911, c.184, s.3.) As amended by P.L.59-1984, SEC.115.

IC 8-2-18-4
Submission of information

Sec. 4. The Indiana department of transportation may require from a person, firm, limited liability company, or corporation any information necessary to the determination of whether the department shall give its approval to a claim under this chapter. If a request for information is refused by the injured person, the department may decline the claim, and the claim shall not be sued upon thereafter. If the information is refused, a request for information evaded, or the search for information by the department be made difficult by the carrier, the department shall endorse the fact on the claim and the endorsement shall support any action as if approved by the department.
(Formerly: Acts 1911, c.184, s.4.) As amended by P.L.384-1987(ss), SEC.10; P.L.18-1990, SEC.31; P.L.8-1993, SEC.134.

IC 8-2-19
Chapter 19. Suspension of Certain Railroad Freight Rates

IC 8-2-19-1
Suspension pending transportation department determination

Sec. 1. (a) Whenever there is filed with the Indiana department of transportation a schedule stating a new individual or joint rate or charge, a new individual or joint classification, or a new individual or joint regulation or practice affecting a rate or charge, the department has the authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleadings by the interested carrier or carriers, upon reasonable notice, to hold a hearing concerning the propriety of the rate, charge, classification, regulation, or practice.

(b) Pending a hearing and the decision, the Indiana department of transportation, upon filing with the schedule and delivering to the carrier or carriers a statement in writing of its reason may suspend the operation of the schedule and defer the use of the rates, charge, classification, regulation, or practice, for a period not longer than one hundred and twenty (120) days beyond the time when the rate, charge, classification, regulation, or practice would otherwise go into effect.

(c) After full hearing, whether completed before or after the rate, charge, classification, regulation, or practice goes into effect, the Indiana department of transportation may make an order as would be proper in a proceeding initiated after it had become effective.

(d) If a hearing cannot be concluded within the period of suspension, the Indiana department of transportation may extend the time of suspension for a period not exceeding thirty (30) days, and if the proceeding has not been concluded and an order made at the expiration of thirty (30) days, the proposed change of rate, charge, classification, regulation, or practice shall go into effect at the end of the period.

(e) At a hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable is upon the common carrier. The Indiana department of transportation shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

(Formerly: Acts 1911, c.186, s.1; Acts 1929, c.143, s.1.) As amended by P.L.59-1984, SEC.116; P.L.89-1985, SEC.10; P.L.18-1990, SEC.32.

IC 8-2-20

Chapter 20. Railroad Freight Rate Compliance

IC 8-2-20-1

Charging rate different from quoted rate

Sec. 1. The various railroad corporations doing business within the state of Indiana shall not, at any time, increase or advance their rates of freight, or charge for the transportation thereof from one (1) point to another a sum greater than the rate of freight or charge for transportation asked or charged by said railroad corporations at the time such freight is offered or tendered to said railroad corporations for transportation, and all statutes in effect on March 16, 1867, conflicting with the provisions of this chapter are hereby repealed. *(Formerly: Acts 1867, c.81, s.1.) As amended by P.L.59-1984, SEC.117.*

IC 8-2-21

Chapter 21. Railroad Freight Rates–Limitation of Actions

IC 8-2-21-1

Limitation of actions

Sec. 1. (a) All actions at law by carriers for recovery of their charges or any part thereof must begin within three (3) years from the time the cause of action accrues and not after.

(b) For recovery of overcharges, actions at law must begin, or complaint must be filed with the Indiana department of transportation, against carriers subject to this chapter within three (3) years from the time the cause of action accrues and not after, subject to subsection (c), except that if claim for the overcharge is presented in writing to the carrier within the three (3) year period of limitation, the period shall be extended to include six (6) months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim or any part or parts thereof specified in the notice.

(c) If on or before the expiration of the three (3) year period of limitation in subsection (a) or (b), a carrier subject to this chapter begins action under subsection (a) for recovery of charges in respect of the same transportation service, or without beginning action, collects charges in respect of that service, the period of limitation shall be extended to include ninety (90) days from the time such action is begun or charges are collected by the carrier.

(d) The cause of action in respect of a shipment of property for the purposes of this section accrues upon delivery or tender of delivery thereof by the carrier and not after.

(e) The term "overcharges", as used in this section, means charges for the transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Indiana department of transportation.

(Formerly: Acts 1941, c.151, s.1; Acts 1961, c.110, s.1.) As amended by P.L.59-1984, SEC.118; P.L.89-1985, SEC.11; P.L.18-1990, SEC.33.

IC 8-2-22
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-23
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-24
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-25
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-26
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-27
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-28
Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-2-29
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-30
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-31
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-2-32
Repealed

(Repealed by P.L.72-1988, SEC.10.)

IC 8-2.1

ARTICLE 2.1. MOTOR CARRIER REGULATION

IC 8-2.1-1

Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-2
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-3
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-4
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-5
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-6
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-7
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-8
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-9
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-10
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-11
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-12
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-13
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-14
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-15
Repealed

(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-16
Repealed
(Repealed by P.L.99-1989, SEC.37.)

IC 8-2.1-17
Chapter 17. Definitions

IC 8-2.1-17-0.1
Repealed
(As added by P.L.220-2011, SEC.189. Repealed by P.L.7-2015, SEC.17.)

IC 8-2.1-17-1
Application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-2
"Broker"
Sec. 2. "Broker" means:
(1) a person who:
(A) is not a common carrier or contract carrier;
(B) is not a bona fide employee or agent of a common or contract carrier; and
(C) as principal or agent, sells or offers to sell transportation service subject to regulation under this article; or
(2) a person who negotiates for, or professes to be, by solicitation, advertisement, or otherwise, a person who sells, provides, furnishes, contracts, or arranges for transportation service subject to regulation under this article.
As added by P.L.99-1989, SEC.8. Amended by P.L.110-1995, SEC.1; P.L.42-2007, SEC.1.

IC 8-2.1-17-3
"Certificate"
Sec. 3. "Certificate" means:
(1) the certificate issued by the department to an intrastate motor carrier; or
(2) the acknowledgment issued by the department to an interstate common carrier or a contract carrier.
As added by P.L.99-1989, SEC.8. Amended by P.L.110-1995, SEC.2.

IC 8-2.1-17-4
"Common carrier"
Sec. 4. "Common carrier" means a person that is regulated as a common carrier under this article.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-5
"Contract carrier"
Sec. 5. "Contract carrier" means a person that is regulated as a

contract carrier under this article.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-6
"Department"
Sec. 6. "Department" refers to the department of state revenue.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-6.5
"Digital network"
Sec. 6.5. "Digital network" means an online enabled application, software, web site, or system offered or used by a TNC to enable the prearrangement of rides with TNC drivers.
As added by P.L.175-2015, SEC.1.

IC 8-2.1-17-7
"Emergency temporary authority"
Sec. 7. "Emergency temporary authority" means limited term motor carrier operating authority issued for periods of thirty (30) days or less to meet an immediate and urgent need for service due to emergencies, in which time or circumstances do not reasonably permit the filing and processing of an application for temporary authority.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-7.5
"Freight forwarder"
Sec. 7.5. "Freight forwarder" means any person that:
(1) holds itself out to the general public (other than as a pipeline, rail, motor, air, or water carrier) as a provider of transportation of property for compensation; and
(2) in the ordinary course of its business:
(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for breakbulk and distribution operations of the shipments;
(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and
(C) uses a carrier subject to this article for any part of the transportation from the place of receipt to the place of destination.
As added by P.L.42-2007, SEC.2.

IC 8-2.1-17-8
"Household mover"
Sec. 8. "Household mover" means any person who undertakes, whether directly or by a lease or other arrangement, to transport household goods by motor vehicle for compensation on any public highway between two (2) or more points in Indiana, whether over

regular or irregular routes, in excess of one thousand (1,000) pounds per shipment for a single shipper regardless of the number of trips or movements made for the same shipper.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-9
"Household goods"

Sec. 9. (a) "Household goods" means:

(1) personal effects and property used or to be used in a dwelling when the effects and property are parts of the equipment or supply of that dwelling;

(2) furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments when these items are parts of the stock, equipment, or supply of those stores, offices, museums, institutions, hospitals, or other establishments; and

(3) articles including objects of art, displays, and exhibits that because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods.

(b) Subsection (a)(1) does not include property moving from a factory or store, except property that the householder has purchased with intent to use in the dwelling and that is transported at the request of, and the transportation charges paid to the carrier by, the householder. Subsection (a)(2) does not include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as an incident to the removal of the establishment, or a portion thereof, from one (1) location to another. Subsection (a)(3) does not include any article, whether crated or uncrated, that does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-9.1
"Leasing company"

Sec. 9.1. "Leasing company" means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.
As added by P.L.42-2007, SEC.3.

IC 8-2.1-17-9.3
"Limousine"

Sec. 9.3. "Limousine" means a motor vehicle that:

(1) is a passenger vehicle; and

(2) is designed and constructed to accommodate and transport not more than fifteen (15) passengers, including the driver.

As added by P.L.70-1990, SEC.1.

IC 8-2.1-17-10
"Motor carrier"

Sec. 10. "Motor carrier" means a common carrier, contract carrier, or carrier certified in accordance with rules adopted by the department under IC 4-22-2.

As added by P.L.99-1989, SEC.8. Amended by P.L.110-1995, SEC.3.

IC 8-2.1-17-11
"Motor vehicle"

Sec. 11. "Motor vehicle" means a truck, a tractor, a trailer, a semitrailer, a motor bus or another self-propelled or motor driven vehicle that is operated upon a public highway for the purpose of transporting persons or property for hire.

As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-11.2
"Motor vehicle insurance"

Sec. 11.2. "Motor vehicle insurance" means any type of insurance described in IC 27-1-5-1, Class 2(f).

As added by P.L.175-2015, SEC.2.

IC 8-2.1-17-12
"Permit"

Sec. 12. "Permit" means:

(1) the permit issued by the department to an intrastate contract carrier; and

(2) the acknowledgment issued by the department to an interstate contract carrier as evidence of the registration of the contract carrier's interstate contract authority.

As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-13
"Person"

Sec. 13. "Person" means an individual, corporation, firm, or partnership.

As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-13.2
"Personal vehicle"

Sec. 13.2. "Personal vehicle" means a vehicle that is:

(1) used by a TNC driver to provide a prearranged ride;

(2) owned, leased, or otherwise authorized for use by the TNC driver; and

(3) not a taxicab, limousine, or other for hire vehicle.

As added by P.L.175-2015, SEC.3.

IC 8-2.1-17-13.5
"Prearranged ride"

Sec. 13.5. (a) "Prearranged ride" means the provision of transportation by a TNC driver to a TNC rider:

(1) beginning when the TNC driver accepts a TNC rider's request for a ride through a digital network controlled by a TNC;

(2) continuing while the TNC driver transports the requesting TNC rider; and

(3) ending when the last requesting TNC rider departs from the personal vehicle.

(b) The term "prearranged ride" does not include transportation provided through any of the following:

(1) A shared expense carpool or vanpool arrangement.

(2) Use of a taxicab, limousine, or other for hire vehicle.

(3) A regional transportation authority established under IC 36-9-3.

As added by P.L.175-2015, SEC.4.

IC 8-2.1-17-14
"Public highway"

Sec. 14. "Public highway" means a street, alley, road, highway, or thoroughfare in Indiana used by the traveling public.

As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-15
Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-17-16
"Taxicab"

Sec. 16. "Taxicab" means a motor vehicle that:

(1) is designed and constructed to accommodate and transport not more than six (6) passengers in addition to the driver;

(2) does not operate over any definite and designated routes within the corporate boundaries of a city or town and the suburban territory of a city or town; and

(3) transports passengers to the destination designated by the passengers at the time of their transportation.

The term does not include a personal vehicle operated by a TNC driver.

As added by P.L.99-1989, SEC.8. Amended by P.L.175-2015, SEC.5.

IC 8-2.1-17-17
"Temporary authority"

Sec. 17. "Temporary authority" means limited term motor carrier operating authority issued for periods up to one hundred eighty (180) days by the department to authorize transportation service for which

there is an immediate and urgent need and that cannot be met by other motor carrier service. The term includes emergency temporary authority.
As added by P.L.99-1989, SEC.8.

IC 8-2.1-17-18
"Transportation network company" or "TNC"
Sec. 18. "Transportation network company" or "TNC" means an entity that:
(1) does business in Indiana; and
(2) uses a digital network to connect TNC riders to TNC drivers to request prearranged rides.
As added by P.L.175-2015, SEC.6.

IC 8-2.1-17-19
"TNC driver"
Sec. 19. "TNC driver" means an individual who:
(1) receives:
(A) connections to potential TNC riders; and
(B) related services;
from a TNC in exchange for payment of a fee to the TNC; and
(2) uses a personal vehicle to offer or provide prearranged rides to TNC riders:
(A) upon connection through a digital network controlled by the TNC; and
(B) in exchange for compensation or payment of a fee.
As added by P.L.175-2015, SEC.7.

IC 8-2.1-17-20
"TNC rider"
Sec. 20. "TNC rider" means an individual who uses a TNC's digital network to connect with a TNC driver who provides to the individual a prearranged ride:
(1) in the TNC driver's personal vehicle; and
(2) between points chosen by the individual.
As added by P.L.175-2015, SEC.8.

IC 8-2.1-18
Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-18.5

Chapter 18.5. Charges by Motor Carriers That No Longer Provide Service in Indiana or Have Filed Bankruptcy Petition

IC 8-2.1-18.5-1

Application of chapter

Sec. 1. This chapter applies to a motor carrier if the motor carrier:

(1) shipped goods intrastate within Indiana under a tariff or permit issued by a governmental body that is or was authorized by a statute to regulate the shipment; and

(2) is no longer providing service within Indiana or has filed a petition for bankruptcy.

As added by P.L.111-1995, SEC.1.

IC 8-2.1-18.5-2

Additional charges for transportation service previously provided

Sec. 2. A motor carrier or a party representing a motor carrier may not add to a charge or attempt to add to a charge for a transportation service previously provided, the difference between:

(1) an applicable rate, fare, or charge that was lawfully in effect under a tariff filed for the motor carrier and applicable to the transportation service on the date the transportation service was provided; and

(2) the rate, fare, or charge paid for the transportation service;

if payment for the transportation service was received by the motor carrier or its representative at least ninety (90) days before the motor carrier's attempt to add to the rate, fare, or charge.

As added by P.L.111-1995, SEC.1.

IC 8-2.1-19

Chapter 19. For-Hire Vehicle Registration

IC 8-2.1-19-1

Instrument required

Sec. 1. The bureau of motor vehicles may not register or license a motor bus, truck, tractor, trailer, or semitrailer used or intended to be used for hire by the owner whenever the law requires the owner to obtain a permit or certificate of convenience and necessity from the department until the department furnishes the bureau of motor vehicles with an instrument.

As added by P.L.99-1989, SEC.10.

IC 8-2.1-19-2

Contents of instrument

Sec. 2. The instrument must certify that the owner of such motor bus, truck, tractor, trailer, or semitrailer has complied with the law and the rules of the department concerning permits and certificates of convenience and necessity and the use of motor vehicles.

As added by P.L.99-1989, SEC.10.

IC 8-2.1-19-3

Application of chapter

Sec. 3. This chapter does not apply to a personal vehicle operated by a TNC driver.

As added by P.L.175-2015, SEC.9.

IC 8-2.1-19.1

Chapter 19.1. Transportation Network Companies

IC 8-2.1-19.1-1

Permit required

Sec. 1. (a) A transportation network company may not operate in Indiana without a permit issued under section 3 of this chapter.

(b) A permit is valid for one (1) year after the date of issuance.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-2

Distinguished from carriers

Sec. 2. A TNC or a TNC driver is not:

(1) a common carrier;

(2) a contract carrier; or

(3) a motor carrier.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-3

Permit requirements

Sec. 3. The department shall issue a permit to a TNC that satisfies the following requirements:

(1) Establishes a zero tolerance policy for drug and alcohol use under section 6 of this chapter.

(2) Requires compliance with applicable vehicle requirements under section 7 of this chapter.

(3) Imposes motor vehicle insurance requirements that meet or exceed the requirements under section 8 of this chapter.

(4) Establishes fare guidelines under section 13 of this chapter.

(5) Establishes a privacy policy under section 14 of this chapter.

(6) Adopts nondiscrimination and accessibility policies under section 15 of this chapter.

(7) Establishes record maintenance guidelines under section 16 of this chapter.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-4

TNC driver is independent contractor; TNC does not control

Sec. 4. Except as otherwise provided in a written contract:

(1) a TNC driver who connects to a TNC's digital network is an independent contractor of the TNC; and

(2) a TNC is not considered to do either of the following:

(A) Control, direct, or manage a TNC driver who connects to the TNC's digital network.

(B) Own, control, operate, or manage a personal vehicle used by a TNC driver to provide prearranged rides.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-5

TNC driver requirements before acting as a TNC driver

Sec. 5. (a) Before a TNC allows an individual to act as a TNC driver on the TNC's digital network, the TNC shall:

(1) require the individual to submit to the TNC an application that includes:

(A) the individual's name, address, and age;

(B) a copy of the individual's driver's license;

(C) a copy of the certificate of registration for the personal vehicle that the individual will use to provide prearranged rides;

(D) proof of financial responsibility for the personal vehicle described in clause (C) of a type and in the amounts required by the TNC; and

(E) any other information required by the TNC;

(2) with respect to the individual, conduct, or contract with a third party to conduct:

(A) a local and national criminal background check; and

(B) a search of the national sex offender registry; and

(3) obtain a copy of the individual's driving record maintained under IC 9-14-12-3.

(b) A TNC may not knowingly allow to act as a TNC driver on the TNC's digital network an individual:

(1) who has received judgments for:

(A) more than three (3) moving traffic violations; or

(B) at least one (1) violation involving reckless driving or driving on a suspended or revoked license;

in the preceding three (3) years;

(2) who has been convicted of a:

(A) felony; or

(B) misdemeanor involving:

(i) resisting law enforcement;

(ii) dishonesty;

(iii) injury to a person;

(iv) operating while intoxicated;

(v) operating a vehicle in a manner that endangers a person;

(vi) operating a vehicle with a suspended or revoked license; or

(vii) damage to the property of another person;

in the preceding seven (7) years;

(3) who is a match in the national sex offender registry;

(4) who is unable to provide information required under subsection (a); or

(5) who is less than nineteen (19) years of age.

As added by P.L.175-2015, SEC.10. Amended by P.L.198-2016, SEC.60.

IC 8-2.1-19.1-6
Drug and alcohol policy

Sec. 6. (a) A TNC shall establish and enforce a zero tolerance policy for drug and alcohol use by TNC drivers during any period when a TNC driver is engaged in, or is logged into the TNC's digital network but is not engaged in, a prearranged ride. The policy must include provisions for:

(1) investigations of alleged policy violations; and
(2) suspensions of TNC drivers under investigation.

(b) A TNC shall publish on the TNC's digital network:

(1) the policy established under subsection (a); and
(2) the procedure by which a TNC rider may report a violation of the policy by a TNC driver.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-7
Vehicle equipment compliance

Sec. 7. A TNC must require that a personal vehicle used to provide prearranged rides must comply with all applicable laws and regulations concerning vehicle equipment.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-8
Motor vehicle insurance requirements; proof of coverage; payment for repairs

Sec. 8. (a) Not later than July 15, 2015, a TNC driver, or a TNC on the TNC driver's behalf, shall maintain primary motor vehicle insurance that meets the following requirements:

(1) The motor vehicle insurance is issued:
  (A) by an insurance company that holds a certificate of authority to do insurance business in Indiana under IC 27-1-3-20; or
  (B) through a surplus lines producer licensed under IC 27-1-15.8.
(2) The language of the motor vehicle insurance policy:
  (A) recognizes that the driver is a TNC driver or otherwise uses the personal vehicle to transport passengers for compensation; and
  (B) covers the driver while the driver is:
    (i) logged on to the TNC's digital network; or
    (ii) engaged in a prearranged ride.
(3) The motor vehicle insurance must meet the following coverage requirements while a TNC driver is logged on to the TNC's digital network, but is not engaged in a prearranged ride:
  (A) Primary motor vehicle liability insurance in an amount equal to at least:
    (i) fifty thousand dollars ($50,000) per person for death and bodily injury;

(ii) one hundred thousand dollars ($100,000) per incident for death and bodily injury; and

(iii) twenty-five thousand dollars ($25,000) per incident for property damage;

(B) The insurance required by clause (A) may be provided by any of the following:

(i) Motor vehicle insurance maintained by the TNC driver.

(ii) Motor vehicle insurance maintained by the TNC.

(iii) Motor vehicle insurance maintained by any combination of items (i) and (ii).

(4) The motor vehicle insurance must meet the following coverage requirements while a TNC driver is engaged in a prearranged ride:

(A) Primary motor vehicle liability insurance in an amount equal to at least one million dollars ($1,000,000) per incident for death, bodily injury, and property damage.

(B) The insurance required by clause (A) may be provided by any of the following:

(i) Motor vehicle insurance maintained by the TNC driver.

(ii) Motor vehicle insurance maintained by the TNC.

(iii) Motor vehicle insurance maintained by any combination of items (i) and (ii).

(b) If motor vehicle insurance maintained by a TNC driver as described in subsection (a) lapses or does not provide the required coverage:

(1) motor vehicle insurance maintained by the TNC must provide the required coverage beginning with the first dollar of a claim; and

(2) the insurance company that issues the motor vehicle insurance described in subdivision (1) has a duty to defend the claim described in subdivision (1).

(c) Coverage under motor vehicle insurance maintained by a TNC may not be dependent on a personal motor vehicle insurance company's first denying a claim for coverage under a personal motor vehicle insurance policy, nor may a personal motor vehicle insurance company be required to first deny a claim.

(d) A motor vehicle insurance policy that meets the coverage requirements of subsection (a) satisfies the financial responsibility requirement of IC 9-25 while the driver of the personal vehicle is:

(A) logged on to the TNC's digital network; or

(B) engaged in a prearranged ride.

(e) A TNC driver shall do the following:

(1) At all times during which the TNC driver uses a personal vehicle in connection with a TNC's digital network, carry proof of the coverage required by subsection (a).

(2) In the event of an accident, upon request, provide to directly interested parties, motor vehicle insurance companies, and investigating law enforcement officers:

(A) the proof described in subdivision (1); and
(B) a disclosure of whether the TNC driver was:
(i) logged on to the TNC's digital network; or
(ii) engaged in a prearranged ride;
at the time of the accident.
Information provided under this subdivision may be provided in electronic form under IC 27-1-43-3, as applicable.

(f) If a TNC's motor vehicle insurance provides comprehensive coverage or collision coverage for a claim for repair to a personal vehicle, the TNC shall direct the insurance company to make the claim payment:
(1) directly to the person that repairs the personal vehicle as payment in full for the completed repairs; or
(2) jointly to:
(A) the owner of; and
(B) any primary lienholder on;
the personal vehicle.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-9
Disclosures concerning motor vehicle insurance coverage

Sec. 9. A TNC shall, before the TNC allows a TNC driver to accept a request for a prearranged ride on the TNC's digital network, disclose in writing to the TNC driver all the following:
(1) The motor vehicle insurance coverage, including the types of coverage and limits of liability for each type of coverage, that the TNC provides while the TNC driver uses a personal vehicle in connection with a TNC's digital network.
(2) That the terms of the TNC driver's own motor vehicle insurance policy may not provide coverage while the TNC driver is:
(A) logged on to the TNC's digital network; or
(B) engaged in a prearranged ride.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-10
Exclusions of coverage permitted

Sec. 10. (a) An insurance company that writes motor vehicle insurance in Indiana may exclude coverage under a motor vehicle insurance policy issued to an owner or operator of a personal vehicle for a loss or injury that occurs while the driver is:
(1) logged on to a TNC's digital network; or
(2) engaged in a prearranged ride.

(b) An exclusion described in subsection (a) includes any coverage included in a motor vehicle insurance policy, including the following:
(1) Liability coverage for death, bodily injury, and property damage.

(2) Uninsured and underinsured motorist coverage.
(3) Medical payments coverage.
(4) Comprehensive physical damage coverage.
(5) Collision physical damage coverage.

(c) An exclusion described in this section applies notwithstanding any requirement of IC 9-25.

(d) This chapter does not do either of the following:

(1) Require a personal motor vehicle insurance policy to provide coverage while the driver is:

(A) logged on to a TNC's digital network;
(B) engaged in a prearranged ride; or
(C) otherwise using a personal vehicle to transport passengers for compensation.

(2) Preclude an insurance company from providing the coverage described in subdivision (1) under a contract or an endorsement.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-11
Coverage exclusion; duty to defend, indemnify; right of contribution

Sec. 11. (a) An insurance company that excludes coverage described in section 10 of this chapter has no duty to defend or indemnify a claim for coverage that is expressly excluded under a motor vehicle insurance policy.

(b) This chapter does not invalidate or limit an exclusion:

(1) of coverage for a personal vehicle that is:

(A) used to carry an individual or property for a charge; or
(B) available for hire by the public; and

(2) contained in a motor vehicle insurance policy;

including a policy filed under IC 27-1-22-4 or in use in Indiana before July 1, 2015.

(c) An insurance company that defends or indemnifies a claim against a TNC driver for which coverage is excluded under the terms of a motor vehicle insurance policy has a right of contribution against any other insurance company that issues motor vehicle insurance coverage to the TNC driver:

(1) in satisfaction of the requirements of section 8 of this chapter; and
(2) in effect at the time the loss occurs.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-12
Claim coverage investigation

Sec. 12. In a claim coverage investigation, a TNC and an insurance company that issues a motor vehicle insurance policy potentially providing the coverage required by section 8 of this chapter shall cooperate to facilitate the exchange of information with directly involved parties and any insurance company that issues a

motor vehicle insurance policy that provides coverage to the TNC driver, including:

(1) the precise time that a TNC driver logs on to and off of the TNC's digital network during the twelve (12) hour period immediately preceding, and the twelve (12) hour period immediately following, the accident; and

(2) disclosure among the parties and insurance companies of a clear description of the insurance coverage, exclusions, and limitations that apply under any applicable motor vehicle insurance policy that:

(A) is issued or maintained by a party; and

(B) provides the coverage required by section 8 of this chapter.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-13

Fare guidelines; payment

Sec. 13. (a) A TNC shall establish guidelines under which a TNC may charge a fare for prearranged rides. The guidelines must require the following:

(1) Disclosure of the fare calculation method on the TNC's digital network.

(2) Publication to TNC riders of applicable rates at the time of service.

(3) Providing a TNC rider the option to receive an estimated fare before the TNC rider enters a personal vehicle operated by a TNC driver.

(4) Payment of a fare only by electronic means using the TNC's digital network.

(b) A TNC driver may not solicit or accept cash payments from TNC riders.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-14

Privacy policy

Sec. 14. (a) A TNC shall establish a privacy policy to protect the personal identifying information of a TNC rider.

(b) A policy established under subsection (a) shall prohibit the disclosure of a TNC rider's personal identifying information unless:

(1) the TNC rider consents in writing to the disclosure;

(2) the disclosure is required under law; or

(3) the disclosure is necessary to:

(A) protect or defend; or

(B) investigate violations of;

the terms of use of prearranged rides.

(c) A policy established under subsection (a) may authorize the disclosure of a TNC rider's name and telephone number by a TNC to a TNC driver to facilitate the provision of prearranged rides by the

TNC driver to the TNC rider.
As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-15
Nondiscrimination and accessibility

Sec. 15. (a) A TNC shall adopt policies concerning nondiscrimination and accessibility that comply with state and federal law.

(b) A TNC may not impose an additional charge on or a different fare schedule for a TNC rider who is an individual with a disability.

(c) At the time a TNC rider requests a prearranged ride through a TNC's digital network, the TNC shall provide the TNC rider an opportunity to indicate whether the TNC rider requires a vehicle that is wheelchair accessible. If the TNC is unable to make available a vehicle that is wheelchair accessible, the TNC shall inform the TNC rider of an alternative service that is wheelchair accessible.
As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-16
Record maintenance requirements

Sec. 16. A TNC shall establish record maintenance guidelines that require the following:

(1) Records related to the enforcement of a zero tolerance policy established under section 6(a) of this chapter must be maintained for at least two (2) years following the date on which a TNC rider reports a violation of the policy.

(2) Individual trip records must be maintained for at least one (1) year from the date of each trip.

(3) Records related to a TNC driver must be maintained for at least one (1) year following the date on which a TNC driver is no longer permitted to act as a TNC driver on the TNC's digital network.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-17
Display of TNC driver's photograph and license plate number

Sec. 17. At the time a TNC rider arranges with a TNC for a prearranged ride, the TNC shall display on the TNC's digital network:

(1) a digital photograph of the TNC driver; and

(2) the license plate number of the personal vehicle;

that will be used to provide a prearranged ride to the TNC rider.
As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-18
Electronic receipt

Sec. 18. Within a reasonable time after a TNC driver provides a prearranged ride to a TNC rider, the TNC shall transmit to the TNC

rider an electronic receipt that includes the following information:

(1) The origin and destination of the trip.

(2) The total duration and distance of the trip.

(3) An itemization of the total fare.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-19

Street hail prohibition

Sec. 19. A TNC or a TNC driver may not solicit or accept street hails.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-19.1-20

Violation

Sec. 20. A person that violates this chapter commits a Class A infraction.

As added by P.L.175-2015, SEC.10.

IC 8-2.1-20

Chapter 20. Interstate Motor Carriers

IC 8-2.1-20-0.1

Application of certain amendments to chapter; delay of repeal of single state registration system by Congress; termination of application of amendments in Indiana

Sec. 0.1. (a) The amendments made to sections 4, 5, 7, and 9 of this chapter by P.L.42-2007 apply to registrations and fees due after December 31, 2006.

(b) If the effective date for the repeal of the single state registration system established under 49 U.S.C. 11506 is delayed by the Congress of the United States, the provisions listed in subsection (a), as they existed on December 31, 2006, shall be applied in Indiana until the earlier of the following:

(1) The date a state is required to conform to the unified carrier registration system established under 49 U.S.C. 13908 as required by an act of the Congress of the United States or by a regulation of the United States Department of Transportation.

(2) January 1, 2008.

As added by P.L.220-2011, SEC.190.

IC 8-2.1-20-1

Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-20-2

Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-20-3

Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-20-4

Applicability of chapter

Sec. 4. This chapter applies to:

(1) persons engaged in the interstate transportation of passengers, property, or household goods over public highways in Indiana;

(2) brokers;

(3) freight forwarders; and

(4) leasing companies.

As added by P.L.110-1995, SEC.4. Amended by P.L.42-2007, SEC.4.

IC 8-2.1-20-5

Registration of certificate or permit; issuance of acknowledgment

Sec. 5. (a) Except as provided in subsection (b), a motor carrier

may not operate motor vehicles upon any public highway in interstate commerce under a certificate of public convenience and necessity or permit issued to the carrier by the United States Department of Transportation until the carrier has:

(1) registered the certificate or permit with the department annually in the form and manner required by the department; and

(2) been issued an acknowledgment by the department.

An acknowledgment issued under this subsection remains in effect until the acknowledgment is amended, suspended, canceled, revoked, or expires.

(b) A certificate of authority or permit issued before July 1, 1963, to an interstate common or contract carrier continues in effect as granted or amended. A certificate of authority or permit to which this subsection applies must be registered with the department in the form and manner required by the department. Upon registration by a motor carrier under subsection (a), the department shall issue an acknowledgment.

(c) An interstate certificate of registration or permit, or an acknowledgment of a certificate or permit, may be issued by the department without a public hearing.

(d) A motor carrier subject to this chapter may not operate motor vehicles within exempt commercial zones unless the carrier has registered with the department under this section.

As added by P.L.110-1995, SEC.5. Amended by P.L.42-2007, SEC.5.

IC 8-2.1-20-7

Unified carrier registration system

Sec. 7. Before operating a motor vehicle on the public highways of this state in the interstate transportation of property or passengers, the person who operates the motor vehicle must register under the unified carrier registration system established under 49 U.S.C. 13908.

As added by P.L.110-1995, SEC.6. Amended by P.L.42-2007, SEC.6.

IC 8-2.1-20-8

Fees

Sec. 8. Fees collected under this chapter shall be deposited in the motor carrier regulation fund established under IC 8-2.1-23.

As added by P.L.110-1995, SEC.7.

IC 8-2.1-20-9

Effect on reciprocity; conflict with federal law and regulations

Sec. 9. (a) Except as provided in subsection (b), this chapter does not affect the reciprocity laws between states concerning license plates on commercial motor vehicles.

(b) If there is a conflict between this chapter and the unified carrier registration system established under 49 U.S.C. 13908 et seq.

and the regulations adopted by the United States Secretary of Transportation under 49 U.S.C. 13908 et seq., the federal statute and regulations control.
As added by P.L.110-1995, SEC.8. Amended by P.L.42-2007, SEC.7.

IC 8-2.1-20-10
Violation

Sec. 10. A person who violates this chapter commits a Class C infraction.
As added by P.L.110-1995, SEC.9.

IC 8-2.1-21
Repealed

(Repealed by P.L.42-2007, SEC.20.)

IC 8-2.1-22

Chapter 22. Transportation of Passengers and Household Goods

IC 8-2.1-22-0.1

Application of certain amendments to chapter; delay of repeal of single state registration system by Congress; termination of application of amendments in Indiana

Sec. 0.1. (a) The amendments made to sections 1, 7, and 33 of this chapter by P.L.42-2007 apply to registrations and fees due after December 31, 2006.

(b) If the effective date for the repeal of the single state registration system established under 49 U.S.C. 11506 is delayed by the Congress of the United States, the provisions listed in subsection (a), as they existed on December 31, 2006, shall be applied in Indiana until the earlier of the following:

(1) The date a state is required to conform to the unified carrier registration system established under 49 U.S.C. 13908 as required by an act of the Congress of the United States or by a regulation of the United States Department of Transportation.

(2) January 1, 2008.

As added by P.L.220-2011, SEC.191.

IC 8-2.1-22-1

Application

Sec. 1. Except as provided in section 2.1 of this chapter, this chapter applies to the regulation of the following persons:

(1) A common carrier that professes to the general public to engage in the transportation by motor vehicle of passengers or household goods for compensation.

(2) A contract carrier that engages in transportation by motor vehicle of passengers or household goods, for compensation (other than transportation provided by a common carrier described in subdivision (1)) under continuing contracts with one (1) person or a limited number of persons for:

(A) the furnishing of transportation services through the dedication of motor vehicles for a continuing period of time to the exclusive use of each person served; or

(B) the furnishing of transportation services designed to meet the distinct need of each individual customer.

(3) A broker of transportation services provided by a motor carrier described in subdivision (1) or (2).

(4) A common carrier that professes to the general public to engage in the transportation of household goods.

(5) A contract carrier that engages in transportation of household goods for compensation under continuing contracts with at least one (1) person for:

(A) the furnishing of transportation services through the

dedication of motor vehicles for a continuing period for the exclusive use of each person served; or

(B) the furnishing of transportation services designed to meet the needs of each customer.

As added by P.L.99-1989, SEC.13. Amended by P.L.1-1991, SEC.76; P.L.110-1995, SEC.10; P.L.42-2007, SEC.8.

IC 8-2.1-22-2
Repealed

(Repealed by P.L.1-1991, SEC.77.)

IC 8-2.1-22-2.1
Exemptions

Sec. 2.1. (a) This chapter does not apply to the following:

(1) Motor vehicles used as school buses while engaged in the transportation of students, under the supervision, control, and direction of school authorities.

(2) Motor vehicles used exclusively as taxicabs.

(3) Motor vehicles while being used or operated under the control, direction, and supervision of:

(A) the United States government, the state, or a political subdivision; or

(B) the board of trustees of any state institution.

(4) Motor vehicles that are used to provide limited transportation services in conjunction with the operation of a hotel, campground, or food service facility but are not used as a common carrier. For the purpose of this subdivision, compensation for housing, camping, or food combined with transportation is not transportation by motor vehicle for compensation. However, transportation may not be performed for any person if, at the point of origin or within twenty-five (25) miles of that point, there is an equipment point as shown by a proper tariff of a carrier of passengers in Indiana that operates special or charter bus service under the jurisdiction of the department. Exemption from this chapter is not available under this subdivision unless the motor vehicles in question are provided with proof of financial responsibility of the type and in amounts as required of common carriers under IC 8-2.1-22-46.

(5) Motor vehicles that are used to provide regular route intercity passenger service.

(6) Motor vehicles that are used primarily for van pooling or other ride-sharing programs on a nonprofit basis.

(7) Motor vehicles that are used to provide transportation of passengers by a nonprofit corporation if that corporation receives revenue for the transportation service from federal, state, or local governments.

(8) A motor vehicle that:

(A) has a capacity of not less than seven (7) or more than forty (40) persons;

(B) is used to transport employees, including the driver, exclusively between their homes and their employer's place of business, or termini near those places, in a single daily round trip; and

(C) is owned or leased by an employer providing commuter van service, which means any person who provides or operates at least one (1) of those vehicles on a nonprofit basis, and whose service does not infringe upon or compete with any service that is provided by any common carrier regulated by the department.

(9) Motor vehicles certified as ambulances by the Indiana emergency medical services commission under IC 16-31.

(10) The casual, occasional, or reciprocal transportation of household effects or furniture for compensation, not including the transportation for hire of new household effects or furniture to or from a factory, warehouse, or store, by a person who:

(A) does not otherwise engage in the described transportation for compensation;

(B) is not required under this chapter to hold a certificate or permit to engage in transportation or operation for hire; or

(C) does not profess to engage in the business of transporting household effects or furniture for hire.

(b) This chapter does not apply to a limousine while the limousine is being used to transport at least one (1) person:

(1) from a place of departure; and

(2) to a destination;

within the corporate boundaries of a city or town if the legislative body of the city or town has adopted an ordinance under IC 36-9-2-4 that takes effect after July 1, 1991, and that regulates limousines within the corporate boundaries of the city or town.

As added by P.L.1-1991, SEC.78. Amended by P.L.2-1993, SEC.63; P.L.2-1995, SEC.40; P.L.110-1995, SEC.11.

IC 8-2.1-22-3

Powers and duties of department

Sec. 3. (a) The department shall:

(1) supervise and regulate the administration of this chapter;

(2) fix just and reasonable rates, fares, and charges;

(3) adopt just and reasonable classifications and rules; and

(4) regulate and supervise the schedules, service, safety, methods, and hours of operation;

of every motor carrier subject to this chapter.

(b) The department may require the filing of annual and other reports and the submission of all records and information as is reasonably necessary.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-4
Inspection of books, equipment, and premises; examination of officers, agents, or employees; rules for vehicle inspection; complaints

Sec. 4. (a) The department, any member of the department or any authorized representative of the department, may:

(1) upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any common carrier or contract carrier;

(2) examine, under oath, any officer, agent, or employee of the common carrier or contract carrier in relation to its business affairs; and

(3) adopt rules for inspection of motor vehicles used by common carriers or contract carriers or brokers.

(b) Upon complaint in writing filed with the department or upon the department's own initiative without complaint, the department may investigate whether or not any person subject to this chapter has failed to comply with this chapter or with any requirement established under this chapter. If the department, after notice and hearing, finds, upon the investigation, that the person has failed to comply with any provision or requirement, the department shall issue an appropriate order to compel compliance.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-5
Witnesses; hearings; orders

Sec. 5. (a) The department, any member of the department or any authorized representative of the department, may compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record of the testimony, and after the record is made under the direction of a department, administrative law judge, or authorized representative of the department or the department may upon the record make an appropriate order.

(b) The department may hear all petitions, applications, or motions filed with the department. Hearings may be conducted by the department, by any member of the department, or by any administrative law judge authorized by the department. In case the hearing is conducted by an administrative law judge, the administrative law judge must promptly, but not later than thirty (30) days after the conclusion of the hearing, unless the time is extended by order of the department:

(1) report to the department the facts established by the evidence; and

(2) submit a suggested order, showing the findings and a decision in the order, to the department.

(c) Orders recommended by an administrative law judge must be held for not less than ten (10) days during which time interested parties may file written exceptions to the orders. In case no

exceptions are filed, the finding of facts and decision in form of order suggested by the administrative law judge constitute the order of the department, unless the department directs otherwise.
As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-6
Reconsideration or rehearing

Sec. 6. After a decision, order, or requirement has been made by the department in any proceeding under this chapter, any party to the proceeding may apply to the department for reconsideration or rehearing of the decision, order, or requirement, or of any matter determined in the decision, order, or requirement. The department may grant reconsideration or rehearing if there is sufficient reason in the decision, order, or requirement. Applications for reconsideration or rehearing are governed by rules prescribed by the department. If after reconsideration or rehearing, it appears that the original decision, order, or requirement is in any respect unjust and unwarranted, the department may change or modify the decision, order, or requirement accordingly. Any decision, order, or requirement made after reconsideration or rehearing is subject to the same provisions as the original decision, order, or requirement.
As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-7
Agreements with agencies of federal government or of another state; adoption of rules or orders of other agencies

Sec. 7. (a) The department may, subject to the approval of the governor, enter into an agreement or understanding with the United States Department of Transportation, any other appropriate agency of federal government, or any other department or agency of another state, for the purpose of more effective regulation of motor carriers.

(b) In the furtherance of uniformity in the regulation of motor carriers, the department may by order or rule adopt orders, standards, or rules and regulations of the United States Department of Transportation, any other appropriate agency of the federal government, or another state or states as they affect motor carriers, whether or not specifically referred to under this chapter.
As added by P.L.99-1989, SEC.13. Amended by P.L.42-2007, SEC.9.

IC 8-2.1-22-8
Cooperation with other state agencies

Sec. 8. The department may cooperate with other state agencies in adopting combined uniform procedures and forms when in the judgment of the affected agencies the action would be in the interest of the state, its citizens, and any other person subject to this chapter and to other related laws of state.
As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-9
Additional powers of department; employment and compensation of staff

Sec. 9. The department may do and perform all reasonably necessary things to carry out the purposes of this chapter, whether specifically mentioned in this chapter or not, including the power, subject to the approval of the governor, to employ and fix the compensation of administrative law judges, investigators, clerks, and other employees as are necessary for the effective administration of this chapter.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-10
Establishment of competing transportation system by county, city, or town

Sec. 10. If a county, city, or town wants to establish a transportation system that would compete with a motor carrier that is:

(1) operating under the jurisdiction of the department; and
(2) providing transportation service in the territorial jurisdiction of the county, city, or town;

the county, city, or town must first apply for and obtain a certificate under sections 11 and 13 of this chapter.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-11
Certificate required; public hearing

Sec. 11. A person may not, except as provided in this chapter, transport passengers for compensation:

(1) on regular routes within the territorial jurisdiction of a political subdivision; or
(2) as a special and charter carrier;

until after obtaining from the department a certificate. A certificate may not be issued until after a public hearing and a consideration of the service, if any, rendered in the territory of the proposed motor vehicle operations by other common carriers, whether by motor vehicle, railroad, or otherwise.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-12
Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-22-12.5
Issuance of certificate for transportation of household goods for compensation

Sec. 12.5. (a) Except as provided in this chapter, a person may not operate a motor vehicle upon an Indiana public highway to transport

household goods for compensation until the person has obtained a certificate from the department.

(b) The department may issue a certificate under this section only after conducting a public hearing and considering transportation services provided by other carriers of household goods by motor vehicle, railroad, or other means, that operate in the proposed territory of the person that is applying for a certificate.

As added by P.L.110-1995, SEC.12.

IC 8-2.1-22-13

Public hearing; time and place; notice; burden of proof; considerations

Sec. 13. (a) Upon the filing of an application for a certificate, the department shall, within a reasonable time, fix a time and place for public hearing in the city of Indianapolis, unless otherwise ordered by the department. A copy of the notice of hearing shall be mailed to the applicant at the address set out in the application at least ten (10) days before the hearing. Any person interested in the proceedings may appear in person or by attorney and offer evidence in support of or in opposition to the application and with or without the filing of formal pleadings.

(b) The applicant has, at all times, the burden of proving, by a preponderance of the evidence, that public convenience and necessity requires the proposed operation, and that the proposed operation will not unreasonably impair the public service of any authorized common carrier, or common carriers by motor vehicle or by railroad, then adequately serving the same territory.

(c) If the department finds from the evidence and from any additional investigation that the department causes to be made that public convenience and necessity exist for the service proposed, or any part of the service, the application shall be granted, subject to terms, restrictions, and limitations as the department may determine, otherwise, the application shall be denied.

(d) In determining whether a certificate shall be granted, the department may, among other things, consider the following:

(1) The financial ability of the applicant to furnish adequate service.

(2) Whether other transportation service then in existence is adequate.

(3) The effect upon other transportation service, and, particularly, whether the granting of the application will or may seriously impair that service.

(4) The volume of other traffic over the route proposed by the applicant.

(5) The effect and burden upon the highways and the bridges on the highways, and the use of the highways and bridges by the public.

(6) Whether the operations will threaten the safety of the public

or be detrimental to the public welfare.
As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-14
Route deviation

Sec. 14. (a) A common carrier by motor vehicle operating under any certificate may not deviate from the route over which or the fixed termini between which it is authorized to operate under the certificate, except under such general or special rules as prescribed by the department.

(b) A person who violates this section commits a Class C infraction.
As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-15
Ownership of certificate or permit; sale or transfer

Sec. 15. Any certificate or permit or part owned, held, or obtained by the carrier may be sold, assigned, leased, bequeathed, or transferred as other property upon approval by the department. The department may inquire into the responsibility of the person obtaining or seeking to obtain ownership or control of any certificate or permit or part, the person's readiness, ability, and willingness to perform the service proposed, and whether the proposed service, to the extent authorized by the certificate or permit, is or will be consistent with the public interest and the state transportation policy declared in this title. If the department finds the person to be irresponsible or unable to render satisfactory and adequate service under the certificate or permit or part, or if it finds that the transfer will not be consistent with the public interest, the department may enter an order denying the transfer, in whole or in part. However, a certificate or permit, or part, may not be sold, assigned, leased, bequeathed, or transferred except after a public hearing before the department and after notice as required for other hearings before the department.
As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-16
Contract carriers; permit required

Sec. 16. A person may not operate motor vehicles as a contract carrier over the public highways for the transportation of persons or household goods for compensation without first having obtained from the department a contract carrier permit.
As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.13.

IC 8-2.1-22-17
Contract carrier permit; public hearing; considerations; contents

Sec. 17. (a) Upon the filing of an application under this chapter

for contract carrier authority to operate motor vehicles in intrastate commerce, the department shall, within a reasonable time, fix a time and place for a public hearing in the city of Indianapolis, unless otherwise ordered by the department. A copy of the notice of hearing shall be mailed to the applicant, at the address set out in the application, at least ten (10) days before the date set for hearing. Any person interested in the proceedings may appear in person, or by counsel, and offer any evidence either in support of, or in opposition to, the granting of the authority requested in the application.

(b) In determining whether requested contract authority should be granted, the department shall, among other things, consider the following factors:

(1) The financial ability of the applicant to furnish adequate contract carrier service.

(2) The effect of granting the requested authority on other transportation service then in existence, and particularly whether the granting of authority will seriously impair that other service and will unreasonably impair the efficient public service of any certificated common carrier by motor vehicle, or by railroad, then adequately serving the same territory.

(3) Whether or not any certificated common carrier by motor vehicle, or by railroad, then serving the same territory, will furnish transportation services designed to meet the distinct need of the supporting contract shipper or shippers.

(c) If the department, after hearing, determines that the proposed operation, as requested in the application, meets all of the requirements of contract carriage, as defined in this chapter, and that the applicant is qualified in all respects to perform the proposed operation, the department shall approve the application and issue the requested authority, subject to terms, restrictions, and limitations as determined by the department.

(d) The department shall specify and name in the permit the name of the contracting person. The scope of the permit shall be attached at the time of issuance, along with any reasonable terms, conditions, and limitations consistent with the character of the holder as a contract carrier.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-18

Agreements with other common carriers; routes and rates; discrimination

Sec. 18. (a) Notwithstanding IC 24-1-2-1 and in accordance with 49 U.S.C. 14303, common carriers may:

(1) establish by agreement through routes and joint rates, charges, and classifications with other common carriers and with common carriers by railroads, or by water, and every common carrier shall provide safe and adequate service, equipment, and facilities for the transportation of passengers or

household goods in intrastate and interstate commerce; and

(2) establish, observe, and enforce just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices relating to rates, fares, charges, and classifications, and to the issuance, form, and substance of tickets, receipts, bills of lading, the carrying of baggage, and all other matters relating to or connected with the transportation of passengers or household goods in both intrastate and interstate commerce, and in case of joint rates and charges, to establish just, reasonable, and equitable division of joint rates and charges between the carriers participating in the joint rates and charges.

(b) It is unjust discrimination and unlawful for any common carrier by motor vehicle to make, give, or cause any undue or unreasonable preference or advantage to any particular person or locality in connection with the transportation of any persons or household goods, or to subject any particular person or locality to any undue or unreasonable prejudice, delay, or disadvantage in any respect.

(c) Every common carrier by motor vehicle that fails or refuses to receive and transport without unreasonable delay or discrimination the passengers or household goods tendered for transportation and deliver without unreasonable delay or discrimination those passengers or household goods at destination or to the transfer point of the route of any connecting common carrier by motor vehicle or railroad is guilty of unjust discrimination.

(d) It is unjust discrimination for any common carrier to charge or receive any greater compensation in the aggregate for the transportation of passengers or household goods for a shorter than for a longer distance over the same line in the same direction, the shorter distance being included in the longer.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.14; P.L.7-2015, SEC.18.

IC 8-2.1-22-19

Complaints; fixing of routes or rates

Sec. 19. (a) Any person or governmental entity may complain in writing to the department that any rate, fare, charge, tariff, classification, rule or practice in effect, or proposed to be put in effect by any carrier or carriers is, or will be, in violation of this chapter. When such a complaint is made, the department shall, after due notice to the carrier or carriers complained of, hear the complaining parties.

(b) If the department is of the opinion that any individual or joint rate, fare, tariff, charge, or classification being made or demanded by any common carrier or carriers subject to this chapter or by any common carriers operating in conjunction with common carriers by railroads or by water is, or will be, unjust and unlawful and

unreasonable or unjustly discriminatory, or unduly preferential or unduly prejudicial, it shall determine and prescribe lawful maximum or minimum, and maximum and minimum rates, fares, charges, tariffs, rules, and classifications thereafter to be observed or thereafter to be made effective. The department may, on its own initiative, without complaint, whenever deemed by the department to be necessary and desirable in the public interest, establish through routes, joint classifications, joint rates, fares, charges, tariffs, regulations, or practices for the transportation of passengers or household goods by common carriers by motor vehicle or the carrier by railroad or by water, and may fix the maximum or minimum or the maximum and minimum rates to be charged and the terms and conditions under which the fares and charges shall be applied and the routes to be operated.

(c) The department may, after hearing or on its own initiative, prescribe what the just, reasonable, and equitable division of rates, fares, and charges are to be received and collected by the several carriers and require adjustment to be made between those carriers in accordance therewith. In those cases the department may require adjustment or division between the carriers from the date of filing the complaint or the entry of the order or any other date subsequent thereto as the department finds is just and reasonable, and in case joint rates are fixed by the department, the order as to those divisions may be made effective as of the date on which the investigation was ordered.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.15.

IC 8-2.1-22-20

Filing of schedule stating new rate or charge; hearing; burden of proof; suspension

Sec. 20. (a) This section applies whenever there is filed with the department any schedule stating a new individual or joint rate, fare, charge, or classification for the transportation of passengers or household goods by a common carrier or carriers by motor vehicle, or by a carrier or carriers in conjunction with a common carrier or carriers by railroad or water in intrastate commerce, or any rule or practice affecting the rate, fare, or charge, or the value of the service.

(b) Upon complaint of any interested party or upon its own initiative at once and if it so orders, without answer or other formal pleading by the interested carrier or carriers but upon reasonable notice, the department may enter upon a hearing concerning the lawfulness of a rate, fare, or charge, or a rule or practice. Pending the hearing and the decision on the hearing, the department, by filing with the schedule and delivering to the carrier or carriers affected by the hearing a statement in writing of its reasons for the suspension, may from time to time suspend the operation of the schedule and defer the use of the rate, fare, charge, or classification, or the rule,

regulation, or practice, but not for a longer period than one hundred eighty (180) days beyond the time when it would otherwise go into effect. After hearing, whether completed before or after the rate, fare, charge, classification, rule or practice goes into effect, the department may make the order with reference thereto as would be proper in a proceeding instituted after it has become effective.

(c) If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, or charge, or classification, rule or practice, goes into effect at the end of the period.

(d) At any hearing involving a change in a rate, fare, charge, or classification or in a rule or practice, the burden of proof is on the carrier to show that the proposed rate, fare, charge, classification, rule or practice is just and reasonable.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.16.

IC 8-2.1-22-21

Reasonableness of rates and charges; considerations

Sec. 21. (a) In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or household goods by common carriers by motor vehicle, and related classifications, regulations, and practices, the department shall give due consideration, among other factors, to:

(1) the inherent advantages of transportation by those carriers;

(2) the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed;

(3) the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of service; and

(4) the need of revenues sufficient to enable such carriers under honest, economical, and efficient management to provide service.

(b) In determining the reasonableness of fares, rates, and charges of motor carriers of passengers or household goods, the department shall determine that the revenue is sufficient to cover the cost (including all operating expenses, depreciation accruals, rents, and taxes of every kind) of providing adequate transportation service and reasonable profit to the carrier. The relation of carrier expenses to carrier revenues may be considered the proper test of a reasonable profit.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.17.

IC 8-2.1-22-22

Actions for recovery of charges or overcharges; limitations

Sec. 22. (a) All civil actions by carriers for recovery of their charges or any part must be brought within two (2) years after the

time the cause of action accrues.

(b) For recovery of overcharges, civil actions must be brought or complaints filed with the department against carriers subject to this chapter within two (2) years after the time the cause of action accrues, subject to subsection (c). However, if claim for the overcharge has been presented in writing to the carrier within the two (2) year period of limitation, the period shall be extended to include six (6) months after the time notice in writing is given by the carrier to the claimant of disallowance of the claim or any part specified in the notice.

(c) If on or before the expiration of the two (2) year period of limitation in subsection (a) or (b), a carrier subject to this chapter begins an action under subsection (a) for recovery of charges in respect of the same transportation service or without beginning action collects charges in respect of that service, the period of limitation shall be extended to include ninety (90) days after the time the action is begun or charges are collected by the carrier.

(d) As used in this section, "overcharges" means charges for the transportation services in excess of those applicable to the services under the tariffs lawfully on file with the department.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-23

Tariffs showing rates and services; filing and publication; compliance; change in fare or practice

Sec. 23. (a) Every common carrier by motor vehicle shall file with the department, and print and keep open to public inspection, tariffs showing all rates, fares, charges for transportation, and all service in connection therewith, of passengers or household goods in intrastate commerce between points:

(1) on its own route;

(2) on the route of any other common carrier; or

(3) on the route of any common carrier by railroad;

when and as through routes and joint rates are established.

(b) The department may prescribe the form and manner in which the tariffs shall be published and may reject any tariff filed with it that is not in compliance with this section. When so rejected, the tariff is void, and its use shall be unlawful.

(c) A common carrier by motor vehicle shall not charge, demand, collect, or receive a greater or less or different compensation for transportation or for any service in connection therewith between points enumerated in the tariff than the rates, fares, and charges specified in the tariffs in effect at the time. A carrier shall not refund or remit in any manner or by any device, directly or indirectly, personally or by agent, any portion of rates, fares, or charges so specified, and shall not extend to any person any facilities for transportation except as are specified in its tariffs.

(d) A change may not be made in any fare, charge, rule or practice

for or in connection with the transportation of passengers or household goods except after thirty (30) days notice of the proposed change. The notice must plainly state the change proposed to be made and the effective date of the change. The department, upon complaint or upon the department's own motion, may suspend any tariff making any changes provided in this chapter within twenty (20) days after the filing of the tariff and not thereafter.

(e) The department may, for good cause shown, allow changes upon notice in less time than specified and permit tariffs to be filed and become effective in particular instances on shorter notice than stated in subsection (d).

(f) Whenever the carrier operating a local transportation system wholly within one (1) county files a tariff or schedule of increased rates or fares affecting its patrons in any municipality in which the carrier renders service, the carrier shall give notice by registered mail, on the date the tariff is filed with the department, to the executive and legislative body of the municipality and shall enclose a copy of the tariff filed with the department.

(g) A common carrier by motor vehicle shall not engage in the transportation of passengers or household goods unless the tariffs have been filed and published in accordance with this chapter.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.18.

IC 8-2.1-22-24

Contract carriers; reasonable minimum rates, fares, and charges; filing and publication; change; complaints

Sec. 24. (a) Every contract carrier by motor vehicle shall:

(1) establish and observe reasonable minimum rates, fares, and charges for any service rendered or to be rendered in the transportation of passengers or household goods or in connection with the transportation of passengers or household goods;

(2) establish and observe reasonable regulations and practices to be applied in connection with those reasonable minimum rates, fares, and charges; and

(3) file with the department, publish, and keep open for public inspection, in the form and manner prescribed by the department, schedules, or, by consent of contracting parties in lieu of schedules, copies of contracts, containing the minimum rates, fares, or charges of the carrier for the transportation of passengers or household goods in intrastate commerce, and any rule or practice affecting the rates, fares, or charges and the value of the service under the rates, fares, or charges.

(b) A contract carrier may not, unless otherwise provided by this chapter, engage in the transportation of passengers or household goods in intrastate commerce unless the minimum charges for the transportation by the carrier have been published, filed, and posted

in accordance with this chapter. A reduction may not be made in the charge either directly or by means of any change in any rule or practice affecting the charge or the value of service under the charge, except after thirty (30) days notice of the proposed change filed in the required form and manner the department may, for good cause shown, allow a change upon less notice. However, the notice must plainly state the change proposed to be made and the time when the change will take effect.

(c) A carrier shall not demand, charge, or collect less compensation for the transportation than the charges filed in accordance with this section, as affected by any rule or practice so filed, or as may be prescribed by the department. It is unlawful for the carrier, by the furnishing of special service, facilities, or privileges, or by any other device, to charge, accept, or receive less than the minimum charges so filed or prescribed. The carrier, or any class or group, of the carrier may apply to the department for relief from this subsection, and the department may, after hearing, grant relief to the extent, for the time, and in the manner as in its judgment is consistent with the public interest.

(d) Whenever, after hearing, upon complaint or upon its own initiative, the department finds that any minimum rate, fare, or charge of any contract carrier by motor vehicle, or any rule, regulation, or practice of the carrier affecting the minimum rate, fare, or charge, or the value of the service, for the transportation of passengers or household goods or in connection under the rate, fare or charge, is in violation of any provision of this chapter, the department may prescribe that transportation, just and reasonable minimum rates, fare, or charge, or a rule, regulation, or practice as judgment is necessary in the public interest and will not be in violation of any provision of this chapter. The minimum rate, fare, or charge, or rule or practice, prescribed by the department, may not give an advantage or preference to the carrier in competition with any common carrier by motor vehicle subject to this chapter, which the department may find to be undue or inconsistent with the public interest, and the department shall give due consideration to the cost of the services rendered by those carriers, and to the effect of the minimum rate, fare, or charge, or rule, regulation, or practice, upon the movement of traffic by such carriers. All complaints must state fully the facts complained of and the reasons for the complaint and shall be made under oath.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.19.

IC 8-2.1-22-25

Contract carriers; new service or reduced charge; hearing; suspension

Sec. 25. (a) This section applies whenever there is filed with the department by the contract carrier any schedule or contract stating a

charge for a new service or a reduced charge directly, or by means of any rule or practice, for the transportation of passengers or household goods in intrastate commerce.

(b) Upon complaint of interested parties or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, the department may enter upon a hearing concerning the lawfulness of the charge, rule, or practice. Pending the hearing and the decision on the complaint, the department, by filing with the schedule and delivering to the carrier affected thereby a statement in writing of its reasons for the suspension, may from time to time suspend the operation of the schedule and defer the use of the charge, rule, regulation, or practice, but not for a longer period than one hundred eighty (180) days beyond the time when it would otherwise go into effect. After hearing, whether completed before or after the charge, or rule or practice goes into effect, the department may make the order with reference thereto as would be proper in a proceeding instituted after it had become effective.

(c) If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice goes into effect at the end of the period.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.20.

IC 8-2.1-22-26

Contract carriers; filing of contract copies; examination for conformity to published schedule

Sec. 26. (a) The department may require any contract motor carrier to file with it a true copy of any contract, agreement, or arrangement between the carrier and any person in relation to any traffic affected by this chapter. The department shall not, however, make public the contract, agreement, or arrangement between a contract carrier by motor vehicle and a shipper, or any of the terms or conditions of the contract except as a part of the record in a formal proceeding where it considers that action consistent with the public interest.

(b) If it appears from an examination of the contract that it fails to conform to the published schedule of the contract carrier by motor vehicle as required by this chapter, the department may make public such of the provisions of the contract as the department considers necessary to disclose the failure and the extent of the failure.

(c) This section does not apply to contracts filed instead of schedules.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-27

Brokerage license requirements

Sec. 27. (a) A person shall not for compensation sell or offer for sale transportation subject to this chapter, make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for the transportation of passengers, or profess by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for the transportation of passengers, unless the person holds a broker's license issued by the department to engage in the transactions. A person may not engage in transportation subject to this chapter unless the person holds a certificate or a permit as provided in this chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for the transportation of passengers, a person may not employ any common or contract carrier who is not the lawful holder of an effective certificate or permit issued as provided in this chapter.

(b) This section does not apply to any carrier holding a certificate or a permit under this chapter or to any employee or agent of the motor carrier, so far as concerns transportation to be furnished wholly by the carrier or jointly with other motor carriers holding like certificates or permits, or with a common carrier by railroad, express, or water.

(c) A brokerage license shall be issued to any qualified applicant for a brokerage license, authorizing any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able to properly perform the service proposed and to conform to this chapter and the requirements, and rules of the department thereunder, and that the proposed service, to the extent to be authorized by the license, is or will be consistent with the public interest, otherwise the application shall be denied.

(d) The department shall prescribe reasonable rules for the protection of travelers by motor vehicle to be observed by any person holding a brokerage license, and no such license may be issued or remain in effect unless the person furnishes a bond or other security approved by the department, in a form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements, or arrangements for the transportation.

(e) The department and its special agents and examiners have the same authority as to accounts, reports, and records, including inspection and preservation of the accounts, reports, and records, of any person holding a brokerage license issued under this section that the department and the department's special agents and examiners have under this chapter with respect to motor carriers subject to this chapter.

(f) A person who violates this section commits a Class C infraction.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.21.

IC 8-2.1-22-28
Certificate requirement exemptions

Sec. 28. A person may not transport passengers for compensation as a special and charter carrier until after obtaining a certificate from the department, unless on December 31, 1982, the person:

(1) held a certificate for a special and charter carrier; or

(2) was exempt from the requirement for a certificate for a special and charter carrier under IC 8-2-7-29.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-29
Operation and impoundment of motor vehicle for hire; operating authority required

Sec. 29. (a) A person may not operate any motor vehicle over the public highways for hire, unless the operations are specifically exempt under this chapter, without first having obtained appropriate operating authority from the department to do so, and having otherwise complied with all other applicable provisions of this chapter.

(b) The department or the state police department may apply to an administrative law judge of the department or a court with jurisdiction for an order to impound a motor vehicle that is offered by a motor carrier to the general public for the transportation of passengers for hire if:

(1) the motor carrier has not obtained the required authority from the department to operate the motor vehicle for hire; and

(2) there is probable cause to believe that the motor vehicle has been operated on an Indiana highway to transport passengers for hire.

A hearing on an application to impound a motor vehicle under this subsection may not be held sooner than three (3) days after the date on which a notice of hearing on the application is served on the motor carrier. The motor carrier may contest the application to impound the motor vehicle at the hearing.

(c) A motor carrier that operated a motor vehicle impounded under this section may not obtain possession of the impounded motor vehicle unless the motor carrier obtains the required authority to operate the motor vehicle for hire.

As added by P.L.99-1989, SEC.13. Amended by P.L.176-2006, SEC.8.

IC 8-2.1-22-30
Amendment, change, suspension, or revocation of certificate or permit

Sec. 30. (a) Any certificate or permit, upon application of the holder of the certificate or permit, in the discretion of the department, may be amended or revoked in whole or in part, or may, upon complaint or on the department's own initiative, after notice and

hearing, be suspended, changed or revoked in whole or in part for willful failure to comply with any provision of this chapter, or with any lawful order or rule prescribed by the department, or with any term, condition, or limitation of the certificate or permit.

(b) In any cause instituted by the department on its own initiative, the burden is on the carrier to show cause why the certificate or permit should not be suspended, changed, or revoked in whole or in part and the department, by its authorized representative, may introduce evidence in the hearing.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-31

Broker's license; duration; fee; suspension or revocation

Sec. 31. The department may suspend or revoke the license of any broker for any violation of this chapter or any rule issued thereunder by the department. The fee for a broker's license is one hundred dollars ($100), which shall be paid at the time the application is made and shall be disposed of in the manner as other fees which are collected by the department. Any license so issued to any broker remains valid until surrendered or revoked.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-32

Application of chapter

Sec. 32. This chapter applies to persons engaged in the transportation of passengers or household goods over the public highways regardless of whether that transportation is interstate or intrastate, except to the extent this chapter contravenes the Constitution or the laws of the United States.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.22.

IC 8-2.1-22-33

Registration of vehicles

Sec. 33. A person who is engaged in the intrastate transportation of passengers or household goods must register under the unified carrier registration system in accordance with rules adopted by the department under IC 4-22-2 before operating a motor vehicle upon a public highway located in Indiana.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.23; P.L.42-2007, SEC.10.

IC 8-2.1-22-34

Nonresident carriers; service of process

Sec. 34. (a) Every nonresident common carrier and contract carrier regulated under this chapter shall file, and keep on file, with the department a designation in writing of the name and postoffice address of a citizen and resident of Indiana upon whom service of

notices or orders may be made, and upon whom process issued by or under the authority of any court having jurisdiction of the subject matter may be served in any proceeding at law or equity brought against such the carrier.

(b) Service of notices or orders in proceedings under this chapter may be made upon the carrier by personal service upon it, or upon the citizen so designated by it, or by registered mail addressed to it at the last address shown by the records of the department.

(c) In default of that designation, in case of vacancy, or if for any other reason personal service cannot be had upon the carrier, service of the notice or order may be made by serving two (2) copies upon the department. When service is had upon the department as provided in this subsection, the department shall promptly mail one (1) copy of the notice or order served upon him to the carrier by registered mail at the last address shown by the records of the department, and the date of mailing shall be considered as the time when notice is served.

(d) When notice is given by mail as provided in this section, the date of mailing shall be considered the time when notice is served.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-35

Highway designation to prevent congestion; enforcement and notice of orders

Sec. 35. In addition to the other powers conferred in this chapter upon the department, it may designate from time to time the public highways, as routes, over which carriers subject to this chapter may or may not operate, and may designate the time that the vehicles may or may not be operated public highways, so as to prevent congestion that may affect the safety of persons or property upon the public highways. The department may also provide for the enforcement of its orders and the notice of the orders, if any, that shall be given to such carriers.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-36

Temporary authority or emergency temporary authority for one trip or occasional trips

Sec. 36. (a) As used in this section, "eligible event" has the meaning set forth in IC 6-8-12-2.

(b) In addition to all other powers granted to the department under this chapter, the department may issue, in accordance with its rules, temporary authority or emergency temporary authority to the following:

(1) Persons to whom permanent permits or certificates have been issued.

(2) Persons who have filed new applications for permanent permits or certificates.

(3) Persons when there appears a necessity to make one (1) trip or occasional trips, including during an eligible event.

The department may grant temporary authority or emergency temporary authority under subdivision (3) during an eligible event for a period not greater than fifteen (15) consecutive days.

(c) An application for temporary authority or emergency temporary authority during an eligible event is not subject to section 11 or 13 of this chapter.

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.24; P.L.45-2011, SEC.4.

IC 8-2.1-22-37

War or national emergency; suspension of certificate or permit

Sec. 37. In addition to all other powers granted to the department under this chapter, the department may suspend, in whole or in part, any certificate or permit, upon the application of the holder thereof, without notice, for the duration of a declared war or a declared national emergency and for a period of six (6) months thereafter, or for any lesser period of time.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-38

Rebates, consideration, or discrimination in violation of chapter; assisting or permitting transportation at less than approved rate; fraudulent activity; operator of vehicle for hire not to operate until owner or lessor secures required authority

Sec. 38. (a) A person, whether carrier, shipper, or officer, employee, agent, or representative thereof, shall not knowingly offer, grant, give, solicit, accept, or receive any rebate, consideration, or discrimination in violation of this chapter. A person shall not, by means of any false or fictitious bill, bill of lading, receipt, voucher, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly assist or permit any person to obtain transportation of passengers or household goods subject to this chapter for less than the rate, fare, or charge approved by the department. A person shall not knowingly, by any such means or otherwise, fraudulently seek to evade or defeat regulations as in this chapter provided for motor carriers.

(b) An operator of a motor vehicle for hire, which vehicle belongs to or is leased by an intrastate or interstate common or contract carrier for hire, who transports persons or household goods over the highways without required authority issued by the department, shall not operate the motor vehicle until the owner or lessor has secured the required authority from the department, but the offender shall be given an opportunity to secure the services of a certificated carrier, having the required authority, to transport the lading on the offender's motor vehicle to its intended destination.

(c) A person who violates this section commits a Class C

infraction.
As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.25.

IC 8-2.1-22-39
Expiration of vehicle registrations

Sec. 39. All registrations of motor vehicles required in this chapter expire on December 31 of each year, and each motor vehicle continued in service shall be registered for each such year.
As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.26.

IC 8-2.1-22-40
Application forms for certificates and permits to operate motor vehicles; filing and publication fees

Sec. 40. (a) All applications under this chapter for a common carrier certificate or a contract carrier permit to operate motor vehicles, intrastate or interstate, shall be made on forms prescribed by the department.

(b) All applications for a common carrier certificate of public convenience and necessity, or a contract carrier permit, to operate motor vehicles intrastate on the public highways, which applications require a public hearing thereon, shall be accompanied by a filing fee of one hundred dollars ($100). Each petition for reinstatement of a common carrier certificate of public convenience and necessity, or a contract carrier permit, to operate motor vehicles intrastate, on the highways of this state, shall be accompanied by a filing fee of fifty dollars ($50).

(c) All applications for a temporary certificate of public convenience and necessity, or for a contract carrier permit to operate motor vehicles on the highways of this state in intrastate commerce, shall be accompanied by a filing fee of one hundred dollars ($100).

(d) All applications for a change in the name of the holder of a common carrier certificate of public convenience and necessity, of a common carrier certificate of authority or certificate of registration, or of a contract carrier permit, which change of name does not involve a change in the ownership of the operating rights of the certificate or permit holder, shall be made by verified petition to the department, and the applications shall be accompanied by a filing fee of twenty-five dollars ($25).

(e) In addition to the filing fees prescribed in subsection (b), all applications for a common carrier certificate of public convenience and necessity, or for a contract carrier permit, to operate motor vehicles intrastate, on the public highways, which applications require a public hearing thereon, shall be accompanied by a publication fee of eighty dollars ($80). Whenever any republication is required through no fault of the department, the party responsible therefor shall be required to pay an additional publication fee of

eighty dollars ($80) for each republication.

(f) Each petition for rehearing of an application for a common carrier certificate of public convenience and necessity, or for a contract carrier permit, to operate motor vehicles intrastate, on the public highways, shall be accompanied by a filing fee of twenty-five dollars ($25).

(g) Each application or petition for alteration or change of a common carrier certificate of public convenience and necessity, or a contract carrier permit, to operate motor vehicles intrastate, on the public highways, shall be accompanied by a filing fee of fifty dollars ($50).

(h) Each application requesting permission to deviate from the department's tariff publishing regulations shall be accompanied by a filing fee of fifteen dollars ($15).

As added by P.L.99-1989, SEC.13. Amended by P.L.110-1995, SEC.27; P.L.176-2006, SEC.9.

IC 8-2.1-22-41
Repealed

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-22-42
Intrastate carriers; identification to be displayed on each vehicle

Sec. 42. (a) An intrastate motor carrier regulated under this chapter shall display identification, in the method prescribed by rules of the department, on each motor vehicle it operates.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-43

(Repealed by P.L.110-1995, SEC.35.)

IC 8-2.1-22-44
Deposit of fees into motor carrier regulation fund

Sec. 44. All fees prescribed in this chapter shall be paid to the treasurer of state through the department and deposited in the motor carrier regulation fund.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-45
Augmenting, interchanging, or leasing equipment

Sec. 45. (a) A motor carrier regulated under this chapter that augments equipment, interchanges equipment, or leases equipment, with or without drivers, shall comply with the rules of the department governing lease and interchange of vehicles.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.99-1989, SEC.13.

IC 8-2.1-22-46
Proof of financial responsibility; surety bond or insurance; violations and penalties

Sec. 46. (a) Notwithstanding any other provision of this chapter, common and contract carriers and other carriers engaged in the transportation of passengers or household goods for hire, over regular or irregular routes, whether operating pursuant to a certificate or permit or as an exempt carrier under section 2.1(5) of this chapter, shall file with the department proof of financial responsibility in the form of surety bonds or policies of insurance or shall qualify as a self-insured. The minimum level of financial responsibility required shall be the minimum level established under 49 U.S.C. 13906(a)(1).

(b) A person who violates this section commits a Class C infraction. However, the offense is a Class A misdemeanor if the person has a prior unrelated judgment for violating this section.

(c) In addition to any other penalty imposed upon a person for a conviction of a Class A misdemeanor under subsection (b), the law enforcement agency may impound the vehicles owned by the person. Unless the vehicle is impounded or forfeited under a law other than this section, the vehicle shall be released to the carrier when the carrier complies with this section.

As added by P.L.99-1989, SEC.13. Amended by P.L.1-1991, SEC.79; P.L.79-1991, SEC.2; P.L.110-1995, SEC.28; P.L.1-2006, SEC.152.

IC 8-2.1-23

Chapter 23. Motor Carrier Regulation Fund

IC 8-2.1-23-1

Establishment; purpose

Sec. 1. The motor carrier regulation fund is established for the purpose of funding:

(1) the administration and enforcement of this article; and

(2) the administration and enforcement of IC 6-6-4.1 and IC 6-8.1-4-4.

As added by P.L.99-1989, SEC.14. Amended by P.L.73-1990, SEC.1; P.L.277-1993(ss), SEC.54; P.L.119-1998, SEC.26.

IC 8-2.1-23-2

Deposit of fees

Sec. 2. The treasurer of state shall deposit fees collected under this article, IC 6-6-4.1-13, IC 9-20-5-7(b), IC 9-20-5-7(c), and IC 9-20-18-14.5 in the motor carrier regulation fund.

As added by P.L.99-1989, SEC.14. Amended by P.L.129-2001, SEC.28; P.L.198-2016, SEC.61.

IC 8-2.1-23-3

Investments

Sec. 3. The treasurer of state shall invest the money in the motor carrier regulation fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.99-1989, SEC.14.

IC 8-2.1-23-4

Money not to revert to state general fund; transfer of excess to motor vehicle highway account

Sec. 4. Money in the motor carrier regulation fund does not revert to the state general fund. However, if the amount of money in the fund at the end of a fiscal year exceeds five hundred thousand dollars ($500,000), the treasurer of state shall transfer the excess from the fund to the motor vehicle highway account established in IC 8-14-1.

As added by P.L.99-1989, SEC.14.

IC 8-2.1-24

Chapter 24. Intrastate Motor Carrier Safety and Insurance Certification

IC 8-2.1-24-0.1

Application of certain amendments to chapter; delay of repeal of single state registration system by Congress; termination of application of amendments in Indiana

Sec. 0.1. Notwithstanding the amendments made to section 18 of this chapter by P.L.219-2003, the requirement that 49 CFR 383 and 384 be incorporated into Indiana law by reference, as provided by section 18 of this chapter, as amended by P.L.219-2003, does not apply before July 1, 2005.

As added by P.L.220-2011, SEC.192. Amended by P.L.7-2015, SEC.19.

IC 8-2.1-24-1

Applicability of chapter

Sec. 1. (a) This chapter applies to the certification of a motor carrier providing intrastate transportation by motor vehicle of property or passengers for compensation.

(b) Section 18 of this chapter applies to the regulation of the following persons:

(1) A motor carrier described in subsection (a).

(2) Except as provided in section 18(j) of this chapter, a private carrier of persons or property, or both.

As added by P.L.110-1995, SEC.29. Amended by P.L.42-2007, SEC.11; P.L.9-2010, SEC.1.

IC 8-2.1-24-2

Repealed

(As added by P.L.110-1995, SEC.29. Repealed by P.L.9-2010, SEC.16.)

IC 8-2.1-24-3

Exemptions

Sec. 3. Except as provided in section 18 of this chapter, this chapter does not apply to the following:

(1) Motor vehicles used exclusively for carrying United States mail.

(2) Motor vehicles while being used or operated under the control, direction, and supervision of:

(A) the United States government, the state, or a political subdivision; or

(B) the board of trustees of a state institution.

(3) Motor vehicles while transporting supplies, livestock feed ingredients, fertilizer, or fertilizing materials that are in transit to or from farms.

(4) Motor vehicles:

(A) controlled and operated by a farmer when used in the transportation of the farmer's agricultural commodities and products of those commodities or in the transportation of supplies to the farm;

(B) controlled and operated by a nonprofit agricultural cooperative association (or by a federation of agricultural cooperative associations if the federation does not possess greater powers or purposes than the cooperative associations);

(C) used in carrying property consisting of livestock or agricultural commodities (not including manufactured products) if the motor vehicles are not used in carrying:

(i) other property;

(ii) agricultural commodities; or

(iii) passengers;

for compensation; or

(D) used in carrying livestock feed or feed ingredients, if those products are transported to a site of agricultural productions or to a business enterprise engaged in the sale of agricultural goods to a person engaged in agricultural production.

This chapter shall not be construed to apply to motor vehicles owned, leased, controlled, or operated by a nonprofit cooperative association, either incorporated or unincorporated, that was in existence on July 6, 1961.

(5) Motor vehicles, commonly known as armored cars, used exclusively to transport, under written bilateral contract, coin, currency, bullion, securities, precious metals, jewelry, precious stones, money, legal tender, stocks and bonds, negotiable and nonnegotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects.

(6) Motor vehicles operating exclusively in intrastate commerce that have a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating equal to or less than twenty-six thousand (26,000) pounds. However, the motor vehicle may not be:

(A) used to provide for-hire transport;

(B) designed or used to transport sixteen (16) or more passengers, including the driver; or

(C) used to transport hazardous material in amounts requiring a placard.

As added by P.L.110-1995, SEC.29. Amended by P.L.42-2007, SEC.12; P.L.9-2010, SEC.2.

IC 8-2.1-24-4

Powers of department

Sec. 4. The department may:

(1) certify a motor carrier providing transportation of property or passengers for compensation; and

(2) regulate and supervise safety, insurance, methods, and hours of operation of a motor carrier providing transportation of property or passengers.

As added by P.L.110-1995, SEC.29. Amended by P.L.42-2007, SEC.13.

IC 8-2.1-24-5

Inspection of records; examination of officers, agents, and employees; adoption of motor vehicle inspection rules

Sec. 5. The department may require the filing of annual and other reports and the submission of all records and information necessary to aid the department in the exercise of the powers granted by this chapter. The department, a member of the department, or an authorized representative of the department, may:

(1) upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of a motor carrier;

(2) examine, under oath, any officer, agent, or employee of a motor carrier in relation to the motor carrier's business affairs; and

(3) prescribe rules for inspection of motor vehicles used by the motor carrier.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-6

Investigation

Sec. 6. Upon complaint in writing filed with the department or upon the department's own initiative without complaint, the department may investigate whether a person subject to this chapter has failed to comply with this chapter.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-7

Duty of department to compel compliance

Sec. 7. If the department, after notice and hearing, finds, in an investigation, that a person has failed to comply with this chapter, the department shall issue an appropriate order to compel compliance.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-8

Compulsory process; swearing of witnesses; record of testimony; administrative order

Sec. 8. The department, a member of the department, or an authorized representative of the department, may:

(1) compel the attendance of witnesses;

(2) swear witnesses;

(3) take testimony under oath; and

(4) make a record of testimony.

After a record is made under the direction of the department, an administrative law judge, or an authorized representative of the department, the department may make an appropriate order upon the record.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-9

Hearing; report of findings of fact and decision; exceptions

Sec. 9. (a) The department may hear all petitions or motions filed with the department. The hearings may be conducted by the department, a member of the department, or an administrative law judge. The hearings shall be conducted in accordance with rules adopted by the department under IC 4-22-2.

(b) An administrative law judge shall promptly report to the department the facts established by evidence and submit a suggested order, showing the findings and a decision to the department.

(c) An order recommended by an administrative law judge may not be held for less than ten (10) days during which an interested party may file a written exception. If an exception is not filed, the finding of facts and decision in form of the order suggested by the administrative law judge shall be the order of the department, unless the department directs otherwise.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-10

Reconsideration or rehearing

Sec. 10. (a) After a decision, an order, or a requirement has been made by the department in a proceeding under this chapter, a party may apply to the department for reconsideration or rehearing of a matter determined in the proceeding. The department may grant the reconsideration or rehearing if sufficient reason is found.

(b) Applications for reconsideration or rehearing shall be governed by rules adopted by the department under IC 4-22-2. If after reconsideration or rehearing it appears that the original decision, order, or requirement is unjust or unwarranted, the department may change or modify the decision, order, or requirement.

(c) A decision, an order, or a requirement made after reconsideration or rehearing is subject to the same provisions as the original decision, order, or requirement.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-11

Agreements with federal or state agencies for supervision of transportation of property and passengers

Sec. 11. The department may, subject to the approval of the governor, enter into an agreement or understanding with the United

States Department of Transportation or any other appropriate agency of the federal government, another Indiana department or agency, or an agency of another state for the purpose of more effective supervision of safety and responsible transportation of property and passengers, intrastate.
As added by P.L.110-1995, SEC.29. Amended by P.L.42-2007, SEC.14.

IC 8-2.1-24-12
Rules affecting motor carriers
Sec. 12. The department may by rules adopted under IC 4-22-2 adopt orders, standards, or regulations of the Federal Motor Carrier Safety Administration, any other appropriate agency of the federal government, or another state as the orders, standards, or regulations affect motor carriers, whether or not specifically referred to under this chapter.
As added by P.L.110-1995, SEC.29. Amended by P.L.42-2007, SEC.15.

IC 8-2.1-24-13
Uniform procedures and forms
Sec. 13. The department may cooperate with other state agencies in adopting combined uniform procedures and forms.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-14
Powers of department; employment of administrative law judges and other necessary employees
Sec. 14. The department may perform all reasonably necessary actions to carry out this chapter, including the power, subject to:
(1) the approval of the state personnel department and the budget agency; and
(2) IC 4-21.5;
to employ and fix the compensation of administrative law judges, investigators, clerks, and other employees as necessary or advisable for the effective administration of this chapter.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-15
Acknowledgment by department required for operation; term of acknowledgment
Sec. 15. A motor carrier may not operate a motor vehicle in the transportation of property, upon a public highway in intrastate commerce until the motor carrier has:
(1) submitted forms approved by the department to be a properly certified motor carrier; and
(2) been issued an acknowledgment by the department.
An acknowledgment issued under subdivision (2) remains in effect

until December 31 of the year in which the acknowledgment is issued.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-16
Renewal procedure; term of renewal certification

Sec. 16. The annual renewal by motor carriers under this chapter is performed in the following manner:

(1) An application for renewal must be submitted on a form prescribed by the department.

(2) An application for renewal may be received by the department at any time after September 30 of the year preceding the year of certification and must be received before November 30 of the year preceding the certification year.

(3) A certification expires December 31 of each year. The department may extend the term of a certification for cause.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-17
Surety bond, insurance, or other security required

Sec. 17. (a) A person may not operate a motor vehicle for the transportation of property upon a public highway, and a motor carrier may not be certified, unless the motor carrier complies with the rules adopted by the department governing the filing and approval of surety bonds, policies of insurance, qualifications of a self-insurer, or other securities or agreements.

(b) A surety bond, policy of insurance, self-insurance, or security or other agreement approved under this section must be of a reasonable amount and conditioned to pay, within the amount of the surety bond, policy of insurance, self-insurance, or security or other agreement, a final judgment recovered against the motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of the motor carrier's registered motor vehicle, or for loss or damage to property of others.
As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-18
Compliance with federal motor carrier safety regulations

Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through 387, 390 through 393, and 395 through 398 are incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), (g), and (j), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but are not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the

hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18 (before its expiration) or IC 9-18.1-7 or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i) and (j):

(1) intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN"; and

(2) all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, are incorporated into Indiana law by reference, and every:

(1) private carrier;

(2) common carrier;

(3) contract carrier;

(4) motor carrier of property, intrastate;

(5) hazardous material shipper; and

(6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

(1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.

(2) The shipment of goods is limited to intrastate commerce.

(3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

Maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed to operate a motor vehicle for hire is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is not otherwise physically disqualified under Subpart 391.41 to operate a motor vehicle, whether or not any additional disqualifying condition results from the diabetic condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor

vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-11. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(k)(2), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(k), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate motor carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) This section does not apply to private carriers that operate using only the type of motor vehicles specified in IC 8-2.1-24-3(6).

(k) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

As added by P.L.110-1995, SEC.29. Amended by P.L.61-1996, SEC.10; P.L.84-1997, SEC.1; P.L.85-1997, SEC.1; P.L.98-1999, SEC.1; P.L.92-2000, SEC.1; P.L.75-2003, SEC.1; P.L.219-2003, SEC.1; P.L.208-2003, SEC.2; P.L.210-2005, SEC.4; P.L.21-2007, SEC.1; P.L.1-2010, SEC.44; P.L.9-2010, SEC.3; P.L.215-2013, SEC.1; P.L.198-2016, SEC.62.

IC 8-2.1-24-19

Service of process on nonresident motor carrier

Sec. 19. (a) A nonresident motor carrier must file and keep on file with the department a designation in writing of the name and post office address of a citizen and resident of Indiana upon whom service of notices or orders may be made, and upon whom process issued by or under the authority of a court having jurisdiction of the subject matter may be served. Service of process in a proceeding under this chapter may be made upon the motor carrier by personal service, upon the citizen designated by the motor carrier, or by registered mail addressed to the motor carrier or designee at the last address shown by the records of the department.

(b) In default of a designation under this section, in case of vacancy, or if for any other reason the motor carrier may not be served with process, service of the notice or order may be made by serving two (2) copies of the notice or order upon the department. When service is made upon the department under this subsection, the department shall promptly mail one (1) copy of the notice or order served to the motor carrier by registered mail at the last address shown by the records of the department.

(c) When notice is given by mail under this section, the date of mailing shall be considered as the time when notice is served.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-20

Unified carrier registration system

Sec. 20. Before a motor carrier engaged in the transportation of property or passengers for compensation may operate a motor vehicle upon a public highway providing intrastate transportation, the motor carrier must be properly registered as required under the unified carrier registration system in accordance with rules adopted by the department under IC 4-22-2. This section does not apply to a person exclusively engaged in the private transportation of nonhazardous property.

As added by P.L.110-1995, SEC.29. Amended by P.L.176-2006, SEC.10; P.L.42-2007, SEC.16.

IC 8-2.1-24-21

Display of identification on or in vehicle

Sec. 21. A motor carrier shall display a United States Department of Transportation number or any other identification in the method required by the department on or in each motor vehicle the motor carrier operates.

As added by P.L.110-1995, SEC.29. Amended by P.L.42-2007, SEC.17.

IC 8-2.1-24-22

Augmenting, interchanging, or leasing equipment; lease of equipment and driver to shipper by noncarrier lessor

Sec. 22. (a) A motor carrier augmenting equipment, interchanging equipment, or leasing equipment, with or without drivers, shall comply with the rules of the department governing lease and interchange of vehicles.

(b) If a lessor who is not a motor carrier leases both equipment and driver to a shipper, the arrangement is presumed to result in private carriage by the shipper, subject to the conditions of this subsection. A lease agreement under this subsection must:

(1) be reduced to writing;

(2) be for a term of at least thirty (30) days;

(3) provide that the leased equipment is exclusively committed to the lessee's use for the term of the lease;

(4) provide that during the term of the lease, the lessee accepts, possesses, and exercises exclusive dominion and control over the leased equipment and assumes complete responsibility for the operation of the equipment;

(5) require that the lessee maintain public liability insurance and accept responsibility to the public for any injury caused in the course of performing the transportation service conducted by the lessee with the equipment during the term of the lease; and

(6) require that the lessee display appropriate identification on all equipment leased by it, showing operation by the lessee during the performance of the transportation.

(c) A presumption under subsection (b) may be rebutted if actual operations under the lease agreement weaken the control and responsibility required of a shipper when conducting transportation operations with equipment and drivers leased from a single source.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-23

"Bill of lading" defined; documentation to be presented upon request

Sec. 23. (a) As used in this section, "bill of lading" means a document evidencing the receipt of goods for shipment that is issued by a person who is engaged in the business of transporting or forwarding goods.

(b) A motor carrier or a person who operates a motor vehicle for a motor carrier shall present, at the request of the state police department or an authorized representative of the department, the following:

(1) Documentation that identifies the shipper or the motor carrier.

(2) A bill of lading or similar document that:

(A) identifies the origin and destination of the shipment;

(B) describes the goods being transported;

(C) states the name and address of the consignor and the consignee; and

(D) states the date when the goods were shipped.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-24
Violation

Sec. 24. A person who violates this chapter commits a Class B infraction.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-25
Impoundment of vehicles and cargo; release

Sec. 25. (a) The department or the state police department may impound a motor vehicle operated for hire if:

(1) the motor carrier of property has not obtained the required certification from the department; and

(2) the vehicle is being operated on an Indiana highway.

(b) To obtain possession of a motor vehicle impounded under subsection (a), the motor carrier that operates the motor vehicle must either:

(1) obtain the required certification from the department; or

(2) remove from the vehicle all cargo for which the required certification has not been obtained.

(c) If the motor carrier that operates a motor vehicle impounded under subsection (a) is not the owner of the vehicle, the department or the state police department shall release the motor vehicle to the owner unless the owner was aware that the motor vehicle was being operated without the required certification.

(d) Cargo held in a motor vehicle impounded under subsection (a) must be released if the cargo is loaded into a motor vehicle operated in compliance with this chapter.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-26
Civil penalty

Sec. 26. (a) A person who violates this chapter is subject to a civil penalty of one hundred dollars ($100) for the first violation and one thousand dollars ($1,000) for each subsequent violation.

(b) Civil penalties described in subsection (a) may be assessed only after an administrative hearing under IC 6-8.1-5-1 has been conducted at which the person has an opportunity to present information as to why a civil penalty should not be assessed.

(c) Money collected by the department under subsection (b) shall be deposited in the motor carrier regulation fund established under IC 8-2.1-23.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-27

Inspections

Sec. 27. Inspections to determine and enforce violations under this chapter may be conducted by the state police department, agents of the department, Indiana state police motor carrier inspectors, and any other eligible law enforcement officer through the procedures established by the department. Agents of the department have the same power and authority under this section as is provided to authorized personnel under IC 16-44-2-11 and IC 16-44-2-12.

As added by P.L.110-1995, SEC.29.

IC 8-2.1-24-28

Denial of registration or titling; revocation and confiscation of registrations, license plates, or cab cards

Sec. 28. (a) Pursuant to an operations out of service order issued by the United States Department of Transportation or the Federal Highway Administration affecting a motor carrier operating in Indiana, the department of state revenue or the state police department may revoke and confiscate any registrations, license plates, or cab cards issued under IC 9-18.

(b) The department of state revenue may not register or title a motor carrier:

(1) if the motor carrier fails to comply with federal regulations under 49 CFR 386;

(2) under an operations out of service order issued by a federal agency; or

(3) if the motor carrier's ability to operate has been terminated or denied by a federal agency.

As added by P.L.98-1999, SEC.2. Amended by P.L.176-2006, SEC.11.

IC 8-2.1-25

Chapter 25. Inspection of Commercial Buses Used in Organizational Activities

IC 8-2.1-25-1

"Motor bus" defined

Sec. 1. As used in this chapter, "motor bus" means any motor vehicle:

(1) weighing more than eleven thousand (11,000) pounds; and

(2) being operated in furtherance of a commercial enterprise.

As added by P.L.86-1997, SEC.1.

IC 8-2.1-25-2

"Motor carrier" defined

Sec. 2. As used in this chapter, "motor carrier" has the meaning set forth in IC 8-2.1-17-10.

As added by P.L.86-1997, SEC.1.

IC 8-2.1-25-3

"Organization" defined

Sec. 3. As used in this chapter, "organization" means an entity that is not an individual. The term includes a public or private school, a business firm or corporation, a labor organization, a religious organization, a political club, or any other type of association or group of individuals.

As added by P.L.86-1997, SEC.1.

IC 8-2.1-25-4

"Organizational activity" defined

Sec. 4. As used in this chapter, "organizational activity" means any activity:

(1) that is sponsored, controlled, or supervised by an Indiana public or private organization; and

(2) to, for, or from which a motor carrier will provide transportation to the organization but not to the general public.

As added by P.L.86-1997, SEC.1.

IC 8-2.1-25-5

Operation of motor bus; prohibitions

Sec. 5. A motor carrier may not operate or permit the operation of a motor bus to transport a person to or from an organizational activity for compensation unless the motor bus has been inspected and meets the safety standards of this chapter within the twelve (12) months preceding the date of the organizational activity.

As added by P.L.86-1997, SEC.1.

IC 8-2.1-25-6

Inspections and safety standards; impoundment of motor bus;

notice to contractor

Sec. 6. (a) A motor bus has not been inspected and does not meet the safety standards of this chapter unless the motor carrier certifies to the state police department that the motor bus has:

(1) been inspected by:

(A) an employee of the motor carrier;

(B) an employee of the department;

(C) an employee of a certified third party inspector; or

(D) another individual;

who meets the requirements of 49 CFR 396.19, is certified by the Commercial Vehicle Safety Alliance, or is certified as a commercial motor vehicle technician by Automotive Service Excellence; and

(2) met the inspection requirements of the federal motor carrier safety regulations and this chapter.

(b) If the department determines that a motor carrier is not capable of carrying out an inspection under subsection (a), the state police department may:

(1) inspect a motor bus of the motor carrier; or

(2) request a compliance review of the safety management of the motor carrier by the Federal Highway Administration, if the carrier is an interstate carrier, or the motor carrier division of the state police department, if the carrier is an intrastate carrier.

(c) Before a motor bus that has been out of service due to safety violations may return to service, the state police department may require a motor carrier to present the bus for inspection if the safety violations were so severe as to call into question the maintenance capability of the carrier. Upon notification by the carrier to the state police department that the motor bus is ready to return to service, the state police department may inspect the bus not more than two (2) business days following the notification by the carrier. If the state police department does not inspect the bus within two (2) business days following the notification by the carrier, the carrier must have the bus inspected by:

(1) an employee of the motor carrier;

(2) an employee of the department;

(3) an employee of a certified third party inspector; or

(4) another individual;

who meets the requirements of 49 CFR 396.19, is certified by the Commercial Vehicle Safety Alliance, or is certified as a commercial motor vehicle technician by Automotive Service Excellence.

(d) If a motor bus is found in operation without correction of the safety violations that caused it to be placed out of service, the state police department shall immediately impound the bus and the state police department may request a compliance review of the safety management of the motor carrier by the Federal Highway Administration, if the carrier is an interstate carrier, or the motor carrier division of the state police department, if the carrier is an

intrastate carrier.

(e) A motor carrier must notify a contractor for the use of a motor bus for an organizational activity of the following:

(1) That the carrier will provide a motor bus that has been inspected and meets federal safety inspection standards.

(2) The method by which the motor bus was inspected, whether the method was self-inspection, state police department inspection, or third-party inspection.

(3) That the contractor may call a toll free number to notify the Indiana state police if the contractor has concerns about operational safety problems during the trip or has reason to believe that the motor bus is being operated in need of repair in violation of federal motor safety regulations.

(f) The department must establish or maintain a toll free number that a contractor described under subsection (e) may call to notify the state police department about concerns regarding motor bus safety.
As added by P.L.86-1997, SEC.1. Amended by P.L.94-1998, SEC.1.

IC 8-2.1-25-7
Violations

Sec. 7. A motor carrier or bus driver who knowingly or intentionally operates or permits to be operated a motor bus in violation of this chapter commits a Class B misdemeanor.
As added by P.L.86-1997, SEC.1.

IC 8-2.1-25-8
Adoption of rules

Sec. 8. The state police department may adopt rules under IC 4-22-2 to establish a certification program for third party inspection of motor buses.
As added by P.L.94-1998, SEC.2.

IC 8-2.1-26

Chapter 26. Invalidity of Indemnity Agreements in Motor Carrier Transportation Contracts

IC 8-2.1-26-1

Application of chapter

Sec. 1. This chapter applies to an indemnity provision entered into or renewed after June 30, 2006.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-2

"Indemnity provision"

Sec. 2. As used in this chapter, "indemnity provision" means a provision, a clause, a covenant, or an agreement that:

(1) is contained in, collateral to, or affecting a motor carrier transportation contract; and

(2) purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, a promisee against liability for loss or damage resulting from:

(A) negligence;

(B) intentional acts; or

(C) omissions;

of the promisee or an agent, employee, servant, or independent contractor that is directly responsible to the promisee.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-3

"Motor carrier transportation contract"

Sec. 3. As used in this chapter, "motor carrier transportation contract" means a contract, an agreement, or an understanding covering:

(1) the transportation of property for compensation or hire by a motor carrier as defined under this article or by 49 U.S.C. 13102(14);

(2) the entrance on real property by a motor carrier to:

(A) load;

(B) unload; or

(C) transport property for compensation or hire; or

(3) a service incidental to an activity described in subdivision (1) or (2), including storage of property.

As added by P.L.31-2006, SEC.1. Amended by P.L.7-2015, SEC.20.

IC 8-2.1-26-4

"Promisee"

Sec. 4. As used in this chapter, "promisee" means a person that an indemnity provision:

(1) purports to indemnify, defend, or hold harmless; or

(2) has the effect of indemnifying, defending, or holding

harmless.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-5

Indemnity provisions; exceptions; enforcement

Sec. 5. (a) This section does not apply to any of the following:

(1) An indemnity provision in which a motor carrier indemnifies a promisee for and only to the extent of loss or damage that results directly from the negligence, omission, or intentional act of the motor carrier or an agent, employee, servant, or independent contractor that is directly responsible to the motor carrier.

(2) An indemnity provision contained in, collateral to, or affecting a motor carrier transportation contract with a regulated public utility, including an energy utility (as defined in IC 8-1-2.5-2) or an affiliate of an energy utility, if the contract relates to a utility product, service, or business operation. For purposes of this subdivision, a contract relates to a utility product, service, or business operation if it involves an activity necessary for or ancillary to the production or delivery of heat, power and light, or a product or service under the jurisdiction of the Indiana utility regulatory commission (as described by IC 8-1-1).

(3) The Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America.

(b) Notwithstanding any other law, an indemnity provision under this chapter is:

(1) against public policy; and

(2) void and unenforceable.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-27

Chapter 27. Transportation of Food

IC 8-2.1-27-1

"Acceptable temperature"

Sec. 1. As used in this chapter, "acceptable temperature" means a temperature established in a rule or regulation adopted by the state department of health with respect to the storage and transportation of a particular food and enforced by the state department of health or a local health department.

As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-2

"Health inspector"

Sec. 2. As used in this chapter, "health inspector" refers to an agent or employee of the state department of health or a local health department.

As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-3

"Law enforcement officer"

Sec. 3. As used in this chapter, "law enforcement officer" means:

(1) a state police officer; or

(2) a state police motor carrier inspector;

with authority to enforce this article.

As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-4

"Local health department"

Sec. 4. As used in this chapter, "local health department" refers to a local health department established under IC 16-20 or the health and hospital corporation created under IC 16-22-8.

As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-5

"Motor vehicle for the transportation of food"

Sec. 5. As used in this chapter, "motor vehicle for the transportation of food" means a motor vehicle that is:

(1) subject to inspection under IC 8-2.1-24, including under rules prescribed under IC 8-2.1-24; and

(2) engaged in the transportation of food.

As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-6

Compliance with applicable rules concerning transportation of food

Sec. 6. A person may not operate a motor vehicle for the transportation of food upon a public highway unless the motor

vehicle is in compliance with applicable rules adopted by the state department of health concerning the transportation of food.
As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-7
Inspection to determine compliance; noncompliance; Class A infraction; inspection by law enforcement officer or health inspector; transporting food ordered disposed; Class A misdemeanor; impoundment

Sec. 7. (a) A law enforcement officer may inspect a motor vehicle used to transport food to determine compliance with section 6 of this chapter.

(b) This subsection applies if, during the course of an inspection under subsection (a), a law enforcement officer determines that:

(1) the temperature of the food is more than two (2) degrees above the acceptable temperature;

(2) the food exhibits outward signs of contamination, spoilage, deterioration, putrefaction, or infestation; or

(3) the food is improperly loaded in a manner that increases the risk of cross-contamination.

A person who operates a motor vehicle described in this subsection commits a Class A infraction.

(c) If, during the course of an inspection under subsection (a), a law enforcement officer determines that the motor vehicle is not in compliance with applicable rules and regulations adopted by the state department of health concerning the transportation of food, the law enforcement officer:

(1) may contact a health inspector to inspect the motor vehicle; and

(2) may detain the motor vehicle and its operator for purposes of the inspection.

(d) If a health inspector is present to inspect a motor vehicle and finds a violation of section 6 of this chapter, the health inspector may order either or both of the following:

(1) Disposal of part or all of the food.

(2) Impoundment of the vehicle.

(e) The penalty under this subsection is in addition to any penalties provided in IC 9, IC 16, or rules or regulations adopted by the state department of health. This subsection applies if a health inspector, after inspection of a motor vehicle under subsection (d), finds a violation of section 6 of this chapter. A person who operates a motor vehicle described in this subsection commits a Class A infraction.

(f) A person who recklessly, knowingly, or intentionally transports food that a health inspector ordered to be disposed under subsection (d)(1), other than for the purpose of disposal, commits a Class A misdemeanor.

(g) A person who operated a motor vehicle impounded under

subsection (d)(2) may not obtain possession of the motor vehicle until the person complies with the requirements of this chapter, including paying any costs associated with the disposal of food under subsection (d)(1).
As added by P.L.108-2012, SEC.1.

IC 8-2.1-27-8
Immunity from civil liability

Sec. 8. The following are not liable in a civil action for an official act done or omitted in connection with the performance of duties under this chapter:

(1) An agent or employee of the department.
(2) An agent or employee of the state police department.
(3) An agent or employee of the state department of health.
(4) An agent or employee of a local health department.
(5) Any other individual charged with enforcing:
  (A) this article; or
  (B) rules or regulations adopted by the state department of health concerning the transportation of food.

As added by P.L.108-2012, SEC.1.

IC 8-3

ARTICLE 3. RAILROADS GENERALLY

IC 8-3-1

Chapter 1. Railroad Regulation–Department of Transportation

IC 8-3-1-1

Financial and business operations report

Sec. 1. (a) As used in this chapter, "department" refers to the Indiana department of transportation.

(b) Every such carrier shall annually, before April 1, file with the department, under the signature and oath of the department's principal accounting officer, a detailed report, in the form prescribed by the department, of all the carrier's financial and business operations in Indiana for the year ending on the preceding December 31. The report shall embrace the other information and facts as shall be prescribed by the Surface Transportation Board for reports of interstate carriers thereto, and the reports shall be in the form prescribed, insofar as the same is applicable. Any carrier failing to make the report for thirty (30) days after the same is due, unless the time therefor is extended by the department, shall forfeit and pay to the state the sum of one hundred dollars ($100) for each day of the default, to be collected as provided in this chapter.

(Formerly: Acts 1905, c.53, s.3; Acts 1907, c.241, s.3; Acts 1913, c.268, s.1; Acts 1917, c.48, s.1.) As amended by P.L.62-1984, SEC.1; P.L.384-1987(ss), SEC.11; P.L.8-1989, SEC.48; P.L.18-1990, SEC.34; P.L.8-1993, SEC.136; P.L.50-2011, SEC.1.

IC 8-3-1-2

"Railroad" defined

Sec. 2. The term "railroad" as used in this chapter shall mean and include any railroad whether its locomotives are powered by steam, combustion-type fuel or electricity other than a hobby, tourist, amusement, and non-freight-carrying railroad.

(Formerly: Acts 1905, c.53, s.3a; Acts 1963, c.182, s.1.) As amended by Acts 1976, P.L.26, SEC.1.

IC 8-3-1-3

Repealed

(Formerly: Acts 1905, c.53, s.4; Acts 1907, c.241, s.4. As amended by P.L.62-1984, SEC.2; P.L.384-1987(ss), SEC.12. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-4

Repealed

(Formerly: Acts 1905, c.53, s.5; Acts 1907, c.241, s.5. As amended by P.L.62-1984, SEC.3; P.L.384-1987(ss), SEC.13;

P.L.90-2002, SEC.314. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-5
Repealed

(Formerly: Acts 1905, c.53, s.7; Acts 1907, c.241, s.7; Acts 1911, c.185, s.1. As amended by P.L.62-1984, SEC.4; P.L.384-1987(ss), SEC.14; P.L.8-1993, SEC.137. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-6
Repealed

(Formerly: Acts 1905, c.53, s.8; Acts 1907, c.241, s.8. As amended by P.L.62-1984, SEC.5; P.L.384-1987(ss), SEC.15. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-7
Repealed

(Formerly: Acts 1905, c.53, s.9. As amended by Acts 1978, P.L.2, SEC.819; P.L.384-1987(ss), SEC.16. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-8
Repealed

(Formerly: Acts 1905, c.53, s.10; Acts 1907, c.241, s.9; Acts 1911, c.225, s.1; Acts 1949, c.151, s.1; Acts 1971, P.L.86, SEC.1. As amended by P.L.384-1987(ss), SEC.17. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-9
Repealed

(Formerly: Acts 1905, c.53, s.11; Acts 1907, c.241, s.10; Acts 1911, c.225, s.2. As amended by Acts 1978, P.L.6, SEC.12; P.L.384-1987(ss), SEC.18. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-10
Repealed

(Formerly: Acts 1905, c.53, s.12; Acts 1907, c.241, s.11; Acts 1911, c.225, s.3. As amended by P.L.62-1984, SEC.6; P.L.384-1987(ss), SEC.19. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-11
Repealed

(Formerly: Acts 1905, c.53, s.13; Acts 1907, c.241, s.12. As amended by Acts 1977, P.L.2, SEC.40; Acts 1978, P.L.2, SEC.820; P.L.384-1987(ss), SEC.20. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-12
Repealed

(Formerly: Acts 1905, c.53, s.14; Acts 1907, c.241, s.13; Acts

1935, c.272, s.1; Acts 1973, P.L.63, SEC.2; Acts 1975, P.L.76, SEC.2. As amended by P.L.384-1987(ss), SEC.21; P.L.8-1993, SEC.138. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-13
Repealed

(Formerly: Acts 1905, c.53, s.15; Acts 1907, c.241, s.14. As amended by Acts 1977, P.L.2, SEC.41; Acts 1978, P.L.2, SEC.821; P.L.384-1987(ss), SEC.22. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-14
Repealed

(Formerly: Acts 1905, c.53, s.16. As amended by P.L.62-1984, SEC.7; P.L.384-1987(ss), SEC.23; P.L.8-1993, SEC.139. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-15
Repealed

(Formerly: Acts 1905, c.53, s.17. As amended by P.L.62-1984, SEC.8. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-16
Repealed

(Formerly: Acts 1905, c.53, s.18; Acts 1907, c.241, s.15. As amended by P.L.62-1984, SEC.9; P.L.192-1986, SEC.6; P.L.384-1987(ss), SEC.24. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-17
Repealed

(Formerly: Acts 1905, c.53, s.19; Acts 1907, c.241, s.16. As amended by P.L.62-1984, SEC.10; P.L.384-1987(ss), SEC.25. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-18
Information to department; enforcement powers of department

Sec. 18. The department may inquire into the management of the business of all common carriers subject to this chapter, and shall keep itself informed as to the manner and method in which the same is conducted, and may obtain from such carriers full and complete information necessary to enable the department to perform the duties and carry out the objects for which the department was created. The department shall enforce this chapter and all the other statutes of this state the enforcement of which is devolved upon the department, and such other statutes of this state as shall prescribe the duties and obligations and regulate the conduct of the carriers subject to this chapter in their dealings with the public and each other as common carriers of passengers and property in this state, and, to enable the department so to do, the department may institute and prosecute, in

its name, any appropriate action at law or suit in equity, in any circuit or superior court of this state, against any such carrier to compel it to observe the requirements of this chapter and all other statutes of this state, and the orders of the department made under this chapter or any other law of this state, and all orders and judgments of any court in this state made under this chapter; or to restrain any such carrier from the further continuance of any act or practice suffered or authorized by it in violation of this chapter, the other statutes of this state, the orders of the department or a court made under this chapter, and the costs and expenses of such proceedings shall be audited and approved by the auditor of state and paid as provided in this chapter.
(Formerly: Acts 1905, c.53, s.20; Acts 1907, c.241, s.17.) As amended by P.L.62-1984, SEC.11; P.L.384-1987(ss), SEC.26.

IC 8-3-1-19
Repealed
(Formerly: Acts 1905, c.53, s.21; Acts 1907, c.241, s.18. As amended by Acts 1976, P.L.26, SEC.2; P.L.384-1987(ss), SEC.27. Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-20
Right of action for penalty or forfeiture, release, or waiver
Sec. 20. This chapter does not release or waive any right of action by the state or any person for any right, penalty, or forfeiture which may arise under any law of this state. All penalties accruing under this chapter shall be cumulative of each other, and a suit for or recovery of one (1) shall not be a bar to the recovery of any other penalty.
(Formerly: Acts 1905, c.53, s.22.) As amended by P.L.62-1984, SEC.12; P.L.384-1987(ss), SEC.28.

IC 8-3-1-21
Accident reports; facilities maintenance
Sec. 21. (a) Every railroad company subject to this chapter shall report to the department as soon as possible after it has occurred, every accident and the general cause thereof, involving loss of life or serious injury to passenger or employee.
(b) Whenever the department shall secure reliable information, or complaint shall have been made, or, because of reports made by its inspectors, shall have reason to believe, that any carrier in this state does not provide and adequately maintain sanitary drinking water and sanitary dispensers therefor on all locomotives and cabooses in use, or that any such carrier does not provide a room or rooms at all terminals, for the use of the department's employees, containing adequate wash basins, shower baths, inside toilets, sanitary drinking water dispensed in a sanitary manner, and sufficient lockers for checking employees' clothing, it shall be the duty of the department to cause such investigation to be made as it may deem necessary, and

when such investigation shall have been made, the department shall make a report to the manager or superintendent of the railroad company. In said report and recommendations, the department shall make an accurate statement of the time such examination was made, of the exact location, character, and extent of such defects or omissions, if any such shall have been found, and shall also recommend such reasonable changes and improvements, additions, buildings, and accommodations, as are, in the opinion of the department, necessary to remedy such faults, neglects, requirements, or defects. Such recommendations shall set out specifically a reasonable time within which such improvements or changes or additions shall be made by the railroad company, and if they are not so made within said time so specified, then the department, if it considers it best so to do, may commence proceedings by mandamus or other remedy, in some circuit or superior court having jurisdiction of the carriers, to enforce compliance with its order. All courts, circuit, superior, appellate, or supreme, as shall obtain jurisdiction in these cases, shall give preference to such cases, and shall hear and determine the same speedily to the end that the employees' interests and the public interests may not suffer.

(Formerly: Acts 1905, c.53, s.23; Acts 1907, c.241, s.19; Acts 1911, c.76, s.1; Acts 1933, c.58, s.1; Acts 1949, c.9, s.1.) As amended by P.L.12-1984, SEC.2; P.L.384-1987(ss), SEC.29; P.L.50-2011, SEC.2.

IC 8-3-1-21.1

Abandonment of railroad right-of-way; notices; removal of crossing control devices; failure to comply; cost; recreational use

Sec. 21.1. (a) Upon receiving notice of intent to abandon railroad rights-of-way from any railroad company, the department shall, upon receipt, notify:

(1) the county executives, county surveyors, and cities and towns of the counties affected;

(2) the Indiana economic development corporation;

(3) the office of tourism development; and

(4) the department of natural resources;

of the notice.

(b) Within one (1) year of a final decision of the Interstate Commerce Commission permitting an abandonment of a railroad right-of-way, the railroad shall remove any crossing control device, railroad insignia, and rails on that part of the right-of-way that serves as a public highway and reconstruct that part of the highway so that it conforms to the standards of the contiguous roadway. The Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the highway may restore the crossing if the unit:

(1) adopts construction specifications for the project; and

(2) enters into an agreement with the railroad concerning the

project.

The cost of removing any crossing control device, railroad insignia, rails, or ties under this subsection must be paid by the railroad. The cost of reconstructing the highway surface on the right-of-way must be paid by the Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the crossing.

(c) If a railroad fails to comply with subsection (b), the Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the crossing may proceed with the removal and reconstruction work. The cost of the removal and reconstruction shall be documented by the agency performing the work and charged to the railroad. Work by the agency may not proceed until at least sixty (60) days after the railroad is notified in writing of the agency's intention to undertake the work.

(d) This section does not apply to an abandoned railroad right-of-way on which service is to be reinstated or continued.

(e) As used in this section, "crossing control device" means any traffic control device installed by the railroad and described in the National Railroad Association's manual, Train Operations, Control and Signals Committee, Railroad-Highway Grade-Crossing Protection, Bulletin No. 7, as an appropriate traffic control device.

(f) Costs not paid by a railroad under subsection (b) may be added to the railroad's property tax statement of current and delinquent taxes and special assessments under IC 6-1.1-22-8.1.

(g) Whenever the Indiana department of transportation notifies the department of natural resources that a railroad intends to abandon a railroad right-of-way under this section, the department of natural resources shall make a study of the feasibility of converting the right-of-way for recreational purposes. The study must be completed within ninety (90) days after receiving the notice from the Indiana department of transportation. If the department of natural resources finds that recreational use is feasible, the department of natural resources shall urge the appropriate state and local authorities to acquire the right-of-way for recreational purposes.

(Formerly: Acts 1973, P.L.65, SEC.1.) As amended by Acts 1980, P.L.74, SEC.39; Acts 1982, P.L.62, SEC.3; Acts 1982, P.L.75, SEC.1; P.L.63-1984, SEC.1; P.L.84-1986, SEC.1; P.L.384-1987(ss), SEC.30; P.L.8-1989, SEC.49; P.L.18-1990, SEC.35; P.L.4-2005, SEC.114; P.L.229-2005, SEC.6; P.L.3-2008, SEC.73.

IC 8-3-1-21.2

Restoration; apportionment of costs

Sec. 21.2. (a) The department may order the apportionment of costs that result from the restoration, under section 21.1(b) of this chapter, of grade crossings with abandoned railroads among the railroads and the public agencies. After receiving a petition from a railroad or an affected public agency, the department shall:

(1) give notice of the pending action;
(2) provide an opportunity for the affected parties to be heard by the commission;
(3) apportion the costs among the railroad and the public agency according to section 21.1 of this chapter; and
(4) adopt rules under IC 4-22-2 to establish the respective responsibilities of railroads and public agencies performing restoration work on grade crossings with abandoned railroads.

(b) The department shall determine the reasonableness of the cost of the restoration charged to the railroad under section 21.1(c) of this chapter if the railroad petitions for that determination.

As added by Acts 1977, P.L.106, SEC.1. Amended by P.L.63-1984, SEC.2; P.L.17-1985, SEC.5; P.L.384-1987(ss), SEC.31.

IC 8-3-1-21.3

Improvement of street or highway intersecting railroad right-of-way; notice and assessment of cost to owner

Sec. 21.3. (a) When a public street or highway intersects with a railroad right-of-way that is not owned by a railroad, the public agency with jurisdiction over the street or highway may:
(1) remove any crossing control devices;
(2) remove railroad insignia, rails, or ties; or
(3) reconstruct the highway so that it conforms with the standards of the intersecting street or highway.

(b) The public agency may not proceed under subsection (a) until the owner of the railroad right-of-way is given written notice of the agency's intention to undertake the work.

(c) The cost of the work shall be documented and charged to the owner, and if not paid by the owner, the cost may be added to the owner's property tax statement of current and delinquent taxes and special assessments under IC 6-1.1-22-8.1.

As added by P.L.95-1985, SEC.1. Amended by P.L.3-2008, SEC.74.

IC 8-3-1-22

Abandoned railroad rights-of-way intersecting or crossing public highways; resurfacing

Sec. 22. If the department determines that the right-of-way of a railroad which intersects or crosses a public highway or street is abandoned, any unit of government may resurface that intersection or crossing.

As added by Acts 1982, P.L.75, SEC.2. Amended by P.L.384-1987(ss), SEC.32.

IC 8-3-1-23

Expenses; charges and payment

Sec. 23. Any expense incurred by the department, either upon a complaint against a railroad or upon a petition of any railroad, shall be charged and paid in the manner provided for public utilities under

IC 8-1-6.
As added by P.L.384-1987(ss), SEC.33.

IC 8-3-1-24
Repealed
(Repealed by P.L.82-1991, SEC.1.)

IC 8-3-1.5

Chapter 1.5. State Rail Preservation Law

IC 8-3-1.5-1

Definitions

Sec. 1. As used in this chapter:

(a) "Agent for the State" means the department as agent for the state as that term is used in the Regional Rail Reorganization Act of 1973.

(b) "Department" refers to the Indiana department of transportation established under IC 8-23-2-1.

(c) "Includes" and variants of it, should be read as if the phrase "but is not limited to" was also set forth.

(d) "Person" means individuals, corporations, partnerships, or foreign and domestic associations, including railroads.

(e) "Rail properties" means assets or rights, owned, leased, or otherwise controlled by a railroad or other persons which are used, or useful, in rail transportation service; however, the term rail properties does not include any properties owned, leased or otherwise controlled by a railroad not in reorganization unless it consents to such property's inclusion in the particular transaction.

(f) "Rail service" means both freight and passenger service.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.40; P.L.18-1990, SEC.36.

IC 8-3-1.5-2

Authority of Indiana department of transportation

Sec. 2. The department is hereby authorized to exercise those powers necessary for the state to qualify for rail service continuation subsidies pursuant to the provisions of the federal Regional Rail Reorganization Act of 1973, including authority:

(a) to establish a state plan for rail transportation and local rail services;

(b) to administer and coordinate the state plan;

(c) to provide in the plan for the equitable distribution of federal rail service continuation subsidies among state, local, and regional transportation authorities;

(d) to promote, supervise, and support safe, adequate, and efficient rail services;

(e) to employ sufficient trained and qualified personnel for these purposes;

(f) to maintain adequate programs of investigation, research, promotion, and development in connection with such purposes and to provide for public participation therein;

(g) to provide satisfactory assurances on behalf of the State that such fiscal control and fund accounting procedures will be adopted by the State as may be necessary to assure proper disbursement of and account for federal funds paid to the State as rail service

continuation subsidies;

(h) to comply with the regulations of the Secretary of Transportation of the United States Department of Transportation affecting federal rail service continuation programs; and

(i) to do all things otherwise necessary to maximize federal assistance to the State under Title IV of the Federal Regional Rail Reorganization Act of 1973.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.41; P.L.1-1994, SEC.34; P.L.100-2012, SEC.22.

IC 8-3-1.5-3

Financial assistance for continuance of rail service

Sec. 3. The department is hereby authorized to provide financial assistance, within the limits of the funds appropriated for this purpose, for the continuation of operations and maintenance of any railroad within the State as provided for in the federal Regional Rail Reorganization Act of 1973, or other relevant federal legislation. The department may also act as the agent in cooperation with any local or regional transportation authority, local government units, any group of rail users, or any person, and the federal government in any rail service continuation program.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.42.

IC 8-3-1.5-4

Information to be provided to department

Sec. 4. The department in performing its planning function is authorized to request any railroad to provide such data and information as are necessary for the planning process. Railroads operating within the State shall provide such information within sixty (60) days of the date of the request. Should the railroad fail to provide such information, the department is hereby granted subpoena power for securing this data. The department shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.43.

IC 8-3-1.5-5

Acquisition of rail or nonrail property

Sec. 5. (a) The department, as sole agent for the State, may acquire by purchase or condemnation or otherwise any portion or portions of any rail properties. In addition, the department may acquire any other non-rail property found by the department to be necessary for the operation of a railroad.

(b) The authority to acquire rail properties extends to rail properties both within and not within the jurisdiction of the Interstate Commerce Commission. It also includes rail properties within the

purview of the Regional Rail Reorganization Act of 1973 and any other relevant federal legislation.

(c) The acquisition of the rail properties, by the department is for the purpose of the continued and future operation of a railroad deemed to be in the public interest. The acquisition of the rail properties, and other non-rail property, is declared to be a public purpose and to be reasonably necessary. This action may be taken in concert with another State or States as necessary to insure continued rail service in this State.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.44.

IC 8-3-1.5-6
Disposition of property

Sec. 6. The department may sell, transfer, or lease all, or any part of the rail properties acquired under the provisions of this chapter to any responsible person, firm, or corporation for continued operation of a railroad, or other public purpose, provided that approval for the continued operation, or other public purposes, is granted by the Interstate Commerce Commission of the United States, whenever approval is required. The sale, transfer, or lease shall be for a price, and subject to any further terms and conditions which the department feels are necessary and appropriate to effectuate the purposes of this chapter.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.45.

IC 8-3-1.5-7
Interstate commerce commission certificate

Sec. 7. After acquiring any railroad lines within the State, the department shall assist any responsible person, firm, or corporation to secure, as promptly as possible, any order or certificate required by the Interstate Commerce Commission for the performance of railroad service. The department shall also give any assurances or guarantees which are necessary or desirable to carry out the purposes of this chapter.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.46.

IC 8-3-1.5-8
Condemnation power

Sec. 8. If the department is unable to acquire necessary rail properties by purchase or otherwise, it may proceed to condemn all or any portion of such rail properties. In all condemnation proceedings, the legislative determination set forth in this chapter that the acquisition is for a public purpose and is reasonably necessary is prima facie evidence of the purpose and necessity.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980,

P.L.74, SEC.47.

IC 8-3-1.5-9
Condemnation procedure

Sec. 9. The procedure for any necessary condemnation proceedings is set forth in IC 32-24-1.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.48; P.L.2-2002, SEC.40.

IC 8-3-1.5-10
Assuring good title

Sec. 10. The department may take whatever steps are necessary in order to determine the absolute fee simple title ownership of all rail properties of any railroad within the State. The determination may include the status of the rail properties with respect to easements, rights-of-way, leases, reversionary rights, fee simple title ownership, and any and all related title matters. The department may retain attorneys, experts, or other assistants as is necessary to make the title determination.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.49.

IC 8-3-1.5-11
Sale of rail properties

Sec. 11. All rail properties within the State offered for sale by the railroad corporation after June 30, 1975 shall be offered for sale to the department in the first instance.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.50.

IC 8-3-1.5-12
Cooperation with other states

Sec. 12. The department may cooperate with other states in connection with the purchase of any rail properties within this State. The department may also acquire trackage rights in other States and rail properties lying in other States in order to carry out the intentions and purposes of this chapter. In carrying out the authority conferred by this section, the department may enter into general contractual arrangements, including joint purchasing and leasing of rail properties, with other States.

(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.51.

IC 8-3-1.5-13
Acquisition of property by political subdivisions

Sec. 13. In weighing the varied interests of the residents of this state, the department shall give consideration, as best as the situation allows, to the individual interest of any county, city, or town

expressing a desire to acquire a portion, or all, of the abandoned real estate located within the jurisdiction. The department may exercise its powers under this chapter to acquire the abandoned property for subsequent conveyance to the county, city, or town.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.52.

IC 8-3-1.5-14
Funding
Sec. 14. The department may utilize federal funds, grants, gifts, or donations which are available, and any sums that are appropriated, in carrying out the purposes of this chapter. The department may also apply for discretionary or other funds available under the provisions of the Regional Rail Reorganization Act of 1973, or other federal programs described in IC 8-23-3-1.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.53; P.L.1-2009, SEC.66.

IC 8-3-1.5-15
Acquisition or modernization loans
Sec. 15. The department may apply for an acquisition and modernization loan, or a guarantee of a loan, pursuant to section 403 of the Regional Rail Reorganization Act of 1973, or any other federal programs, within the limit of funds appropriated for those purposes subject to IC 8-23-3-1 through IC 8-23-3-6.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.54; P.L.1-2009, SEC.67.

IC 8-3-1.5-16
Delinquent state railroad taxes; offset against purchase cost
Sec. 16. In addition to any other funds available to carry out the purposes of this chapter, there are appropriated, and the department may utilize, any delinquent state taxes from any railroad entity, and the interest due on taxes to the date of acquisition, as an offset against the purchase cost of any rail properties purchased from that railroad entity.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.55.

IC 8-3-1.5-17
Railroad equipment; acquisition
Sec. 17. The department is authorized to purchase any railroad rolling stock, equipment, and machinery necessary for the operation and maintenance of any rail properties purchased by it on behalf of the State with any funds made available for this purpose. The department may also acquire, and have available, a pool of equipment and machinery which may be utilized by the operators of the rail properties for the purpose of track maintenance, and other

related railroad activities, upon terms and conditions determined by the department.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.56.

IC 8-3-1.5-18
Contracts for rebuilding and maintaining rail properties

Sec. 18. The department may contract for the rebuilding of any rail properties acquired pursuant to this chapter, within the provisions of the Regional Rail Reorganization Act of 1973, or any other appropriate legislation. The department may also spend any sums appropriated, as well as any other available funds, for the modernization and rebuilding of any rail properties owned by the state or by a private carrier. The department may do any maintenance on any rail properties owned by the State as is necessary in the public interest.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.57.

IC 8-3-1.5-19
Contracts to maintain or improve rail transportation service

Sec. 19. The department may contract with any person, firm, corporation, agency, or governmental unit to provide, maintain, or improve rail transportation service on the rail properties acquired by the State under this chapter.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.58.

IC 8-3-1.5-20
Transfer of rail properties to other state departments or agencies or political subdivisions; sale of properties

Sec. 20. Whenever the department determines that any rail properties acquired by the state are no longer needed for railroad purposes, it may permanently or temporarily transfer the rail properties to any other state department or agency, or political subdivision of the state, which shall utilize the properties for a public purpose. Whenever more than one (1) department or agency, or political subdivision, wishes to utilize the property, the department shall resolve such a conflict and make a prompt determination of the reasonable and proper order of priority, taking into consideration any applicable state plans, policies, or objectives. If no state department or agency, or political subdivision, wants the properties, the department may sell them, with the proceeds deposited in the industrial rail service fund established by IC 8-3-1.7-2. A public hearing is required prior to the transfer or sale of any rail properties by the department.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.59; P.L.95-1987, SEC.2.

IC 8-3-1.5-20.5
Commuter rail service fund

Sec. 20.5. (a) A special fund to be known as the "commuter rail service fund" is established. Any amount earned on money deposited in the fund is part of the fund, and the money in the fund at the end of any fiscal year does not revert to any other fund. However, if the money in the fund at the end of any fiscal year exceeds the total amount deposited in the fund during that fiscal year and the immediately preceding fiscal year, the amount of the excess shall be transferred to the state general fund.

(b) The money in the commuter rail service fund is appropriated for distribution to commuter transportation districts. However, before money is distributed to a district under this section, the governor must approve the distribution.

(c) A district that receives money under this section may use the money only for the maintenance, improvement, and operation of commuter rail service. Money that is deposited in the fund under IC 6-1.1-8-35(c) must be used:

(1) to satisfy any annual debt service and required debt service reserves; and

(2) if funds remain after all payments under subdivision (1) are made, and subject to the terms of any debt service agreement entered into by the district, to provide state matching funds for federal transportation capital grants.

As added by Acts 1979, P.L.50, SEC.2. Amended by P.L.85-2011, SEC.2.

IC 8-3-1.5-20.6
Electric rail service fund

Sec. 20.6. (a) A special fund to be known as the electric rail service fund is established. The department shall administer the fund.

(b) Any amount earned on money in the fund is a part of the fund and any money remaining in the fund at the end of a fiscal year does not revert to any other fund.

(c) On or before January 31 and July 31 of every calendar year all amounts that are held in the electric rail service fund are to be distributed to those commuter transportation districts that qualify for a distribution under subsection (d).

(d) The only commuter transportation districts that may receive distributions under this section are those that have substantially all of their commuter rail transportation performed by electrically powered railroads.

(e) Commuter transportation districts that qualify for distributions under this section shall receive equal shares of each distribution made from the electric rail service fund.

(f) To make distributions to those commuter transportation districts that qualify for the distributions under subsection (d), the auditor of state shall issue warrants drawn on the electric rail service

fund. The treasurer of state shall pay those warrants.
As added by Acts 1981, P.L.67, SEC.4.

IC 8-3-1.5-21
Chicago, South Shore, and South Bend Railway capital improvements fund

Sec. 21. There is created a Chicago, South Shore, and South Bend Railway capital improvements fund. There is hereby appropriated the sum of three million six hundred thousand dollars ($3,600,000) to said fund. The fund shall be disbursed by the governor of the state of Indiana to any regional transportation authority, or commuter transportation district which has among its purposes the maintenance, operation and improvement of passenger service over the Chicago, South Shore, and South Bend Railway railroad and any extension thereof. As to capital improvements, the fund hereby appropriated shall only be expended at such time as the governor of the state of Indiana finds that the state of Illinois or any instrumentality thereof has appropriated and is ready to expend for Chicago, South Shore, and South Bend Railway passenger service improvement and development the sum of not less than one million dollars ($1,000,000), and the Indiana counties, through which the line runs, or instrumentalities thereof, have appropriated and are ready to expend for Chicago, South Shore, and South Bend Railway passenger service maintenance and improvement such sums as he may judge to be said counties' fair share of passenger service maintenance and improvement costs. Said costs to said counties may not exceed three million six hundred thousand dollars ($3,600,000) in the aggregate. Up to one million dollars ($1,000,000) of said fund may be expended at the discretion of the governor for the operation of said railroad.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1977, P.L.107, SEC.1; Acts 1978, P.L.57, SEC.3; Acts 1980, P.L.74, SEC.60; P.L.95-1987, SEC.3; P.L.2-1995, SEC.41.

IC 8-3-1.5-22
Repealed

(Repealed by P.L.95-1987, SEC.6.)

IC 8-3-1.5-23
Rules and regulations

Sec. 23. The department shall, subject to IC 8-9.5-2-6(7) (repealed), promulgate rules and regulations consistent with and for the purpose of adequately implementing the foregoing sections of this chapter.
(Formerly: Acts 1975, P.L.79, SEC.1.) As amended by Acts 1980, P.L.74, SEC.62; P.L.1-2009, SEC.68.

IC 8-3-1.7

Chapter 1.7. Industrial Rail Service Fund

IC 8-3-1.7-1

"Railroad" defined

Sec. 1. Except as provided in section 2(a)(6) of this chapter, for purposes of this chapter, the term "railroad" does not include a Class I or a Class II railroad as established by the Interstate Commerce Commission, or wholly owned subsidiaries of those railroads. A railroad or railroad company includes a port authority that exercises its right to operate as a railroad under IC 8-10-5-8.1.

As added by Acts 1982, P.L.51, SEC.2. Amended by P.L.87-1997, SEC.1.

IC 8-3-1.7-2

Creation of fund; use

Sec. 2. (a) There is created a fund known as the industrial rail service fund. The fund shall consist of money distributed to the fund by IC 6-2.5-10-1 and IC 8-3-1.5-20. Amounts held in the fund may only be used to do the following:

(1) Provide loans to railroads that will be used to purchase or rehabilitate real or personal property that will be used by the railroad in providing railroad transportation services.

(2) Pay operating expenses of the Indiana department of transportation, subject to appropriation by the general assembly.

(3) Provide fifty thousand dollars ($50,000) annually to the Indiana department of transportation for rail planning activities. Money distributed under this subdivision does not revert back to the state general fund at the end of a state fiscal year.

(4) Provide money for the high speed rail development fund under IC 8-23-25.

(5) Provide grants to a railroad owned or operated by a port authority established under IC 8-10-5.

(6) Make grants to a Class II or a Class III railroad for the rehabilitation of railroad infrastructure or railroad construction.

(b) A grant made under subsection (a)(5) may not exceed twenty percent (20%) of the gross sales and use tax receipts deposited in the fund under IC 6-2.5-10-1 during the fiscal year preceding the fiscal year in which the grant is made.

(c) A grant program under subsection (a)(6) must:

(1) provide a grant to a recipient of not more than seventy-five percent (75%) of the cost of the project; and

(2) require a grant recipient to pay for not more than twenty-five percent (25%) of the cost of a project.

As added by Acts 1982, P.L.51, SEC.2. Amended by P.L.96-1985, SEC.1; P.L.95-1987, SEC.4; P.L.84-1988, SEC.2; P.L.18-1990, SEC.37; P.L.83-1991, SEC.1; P.L.100-1993, SEC.1; P.L.87-1997, SEC.2; P.L.121-2001, SEC.1.

IC 8-3-1.7-3
Control of fund; responsibility for administration

Sec. 3. The administrative control of the industrial rail service fund and the responsibility for the administration of this chapter are vested in the Indiana department of transportation.

As added by Acts 1982, P.L.51, SEC.2. Amended by P.L.84-1988, SEC.3; P.L.18-1990, SEC.38.

IC 8-3-1.7-4
Application; approval; criteria; service of loan

Sec. 4. Any railroad may apply for a loan from the industrial rail service fund for the purpose of providing railroad transportation service in Indiana. The application shall be submitted to the Indiana department of transportation. The department shall make the final decision as to whether or not to approve an application. In determining if a loan should be made to a railroad, the department shall consider the following criteria:

(1) The importance of the railroad transportation services that the loan would affect, in the broad perspective of Indiana's overall transportation network.

(2) The impact of a decision to not provide a loan on economic activity and employment in Indiana.

(3) The long term viability of the proposed project as demonstrated by the following:

(A) The long term prospect for the affected industries.

(B) The soundness of the proposed business plan including an analysis of the economic impact of the proposed fee structure on affected rail users.

(C) The management of the proposed rail line.

(D) The active involvement of affected rail users in the development of the proposed business plan.

Once an application is approved, the auditor of state shall service the loan.

As added by Acts 1982, P.L.51, SEC.2. Amended by P.L.84-1988, SEC.4; P.L.18-1990, SEC.39.

IC 8-3-1.7-5
Terms and interest rates for loans

Sec. 5. The Indiana department of transportation shall set the terms and interest rates for loans made from the industrial rail service fund.

As added by Acts 1982, P.L.51, SEC.2. Amended by P.L.84-1988, SEC.5; P.L.18-1990, SEC.40.

IC 8-3-1.7-6
Redeposit of repayments; investments by department of transportation

Sec. 6. (a) Money held in the industrial rail service fund does not

revert to the general fund at the end of a state fiscal year. Money loaned from the fund shall, when repaid, be redeposited in the industrial rail service fund.

(b) The Indiana department of transportation may invest money in the industrial rail service fund in the manner provided by law for investing money in the state general fund.

As added by Acts 1982, P.L.51, SEC.2. Amended by P.L.84-1988, SEC.6; P.L.18-1990, SEC.41.

IC 8-3-2

Chapter 2. Operation of Freight Railroads

IC 8-3-2-1

Freight carriers; law governing

Sec. 1. The provisions of the chapter shall apply to all such corporations, foreign or domestic, and to the receivers and lessees thereof as shall be engaged in the business of a common carrier of freight in carload lots or less, for hire, on railroads between points within this state. The provisions of this chapter shall also apply to all carriers engaged in the performance of transfer or switching service on and over any terminal, transfer, belt, or switching railroad in this state; provided, that the provisions of this chapter shall not be so applied as to regulate or control interstate commerce, or to in any manner affect or regulate the charges imposed therefor. It is further provided that the provisions of this chapter shall not apply to any carrier or carriers within this state whose income from freight business does not equal thirty-three and one-third percent (33 1/3%) of their gross revenue.

(Formerly: Acts 1907, c.231, s.1.) As amended by P.L.62-1984, SEC.13.

IC 8-3-2-2

Freight cars or locomotives; duty to provide and maintain

Sec. 2. All carriers subject to the provisions of this chapter are required to provide and to maintain in serviceable condition the number of suitable and substantial freight cars necessary to promptly supply the demands on their respective lines in this state for the prompt and expeditious shipment of all freight in carload lots. All such carriers are also required to provide and maintain in serviceable condition the number of suitable and substantial locomotives and other appliances and facilities necessary to promptly and expeditiously transport from point of origin to destination in this state all freight in carload lots which shall originate on their respective lines in this state and be tendered for transportation.

(Formerly: Acts 1907, c.231, s.2.) As amended by P.L.62-1984, SEC.14.

IC 8-3-2-3

Freight movements; time limit

Sec. 3. All carriers subject to the provisions of this chapter are required, when any carload freight has been properly loaded and proper shipping instructions have been delivered, to move the same forward to destination, if on its line, or to the point of junction with the connecting carrier named in the shipping directions, not less than average of fifty (50) miles every twenty-four (24) hours, Sundays and legal holidays excepted; provided, that twenty-four (24) hours shall be allowed for movements through the terminals at point of origin

and for passing through any transfer or terminal en route. Every such carrier shall receive from its connecting lines, at junction points, or at point of interchange agreed upon between them, all carload freight tendered there for forwarding on its lines and shall move the same forward to destination, or to the connecting carrier named in the shipping directions an average of not less than fifty (50) miles every twenty-four (24) hours, Sundays and legal holidays excepted; provided, that twenty-four (24) hours shall be allowed for the movement through the terminal at point of origin and for passing through any transfer or terminal en route. In case any such carrier shall fail, unless prevented by wrecks or strikes or accident to tracks, to forward carload shipments as provided in this section, then every such carrier shall forfeit and pay to the consignee of such freight the sum of five dollars ($5) per car for each twenty-four (24) hours or major part thereof that the same has not been moved forward as required by this section, and the sum due on account of any such forfeiture may be deducted from the freight charges following any such shipment. All shipments of freight in less than carload lots shall be moved by the carrier at the same rate of speed as required by this section for freight in carload lots, except that forty-eight (48) hours shall be allowed for getting out of terminal at point of origin, and for passing through any terminal or transfer en route. The penalty for failure to so move shipments of freight in less than carload lots shall be an amount equal to twenty-five percent (25%) of the freight charged on such shipment for every day's delay or fraction of a day. *(Formerly: Acts 1907, c.231, s.3.) As amended by P.L.62-1984, SEC.15.*

IC 8-3-2-4
Consignee; time for freight delivery; forfeitures

Sec. 4. All carriers subject to the provisions of this chapter shall deliver to a consignee on a private track, a track used by the consignee for loading or unloading, or on their public delivery track, and receive from a connecting carrier, at any terminal point in this state, for the purpose of delivery to points located on its line at the terminal or points reached over or through its line at the terminal, all carload freight tendered it by a connecting line, and shall deliver the same to the consignee on a private track, or on its tracks, or to the connecting line on its tracks at the terminal, within twenty-four (24) hours after the freight is tendered. If a carrier fails to deliver a car, it shall pay to the consignee the sum of five dollars ($5) for each twenty-four (24) hours or major part thereof that it fails to make delivery as required by this section. Wrecks, strikes, or accidents to tracks are a sufficient excuse for failure to make delivery. The sum due because of a forfeiture may be deducted from the freight charges following a shipment. The Indiana department of transportation, after a full hearing of all parties interested, may relieve a carrier from switching carload freight at terminal points which is to be delivered

upon its public delivery tracks at a terminal when it appears that the facilities of the carrier at the point are only sufficient to care for the business originating and terminating on its line at the point. Each carrier may impose and collect a reasonable transportation charge for the performance of the service required by this section.
(Formerly: Acts 1907, c.231, s.4.) As amended by P.L.62-1984, SEC.16; P.L.384-1987(ss), SEC.34; P.L.18-1990, SEC.42.

IC 8-3-2-5
Freight and coal cars; duty to provide; shipment of livestock and perishable property; preference

Sec. 5. Every carrier subject to this chapter shall furnish to all parties who apply therefor, as provided in this chapter, suitable cars for the transportation of all kinds of freight in carload lots. If the car equipment of the carrier is not adequate to supply the whole number of cars demanded by applicants for immediate use, then the carrier shall distribute its available equipment between the applicants in proportion to their respective requirements for immediate use, and the distribution shall be made without discrimination between shippers or between competitive and noncompetitive points, subject to the rules of the Indiana department of transportation. Preference shall be given to the shipment of livestock and perishable property, and in all cases where any coal mine or mines are under contract to furnish all or any part of their product to the state for the use of all or any of the buildings or public institutions of the state, the department may, by order, require any carrier serving the mine or mines to supply empty coal cars to the mine or mines for delivery only of coal within Indiana up to one hundred percent (100%) of the cars necessary to fill the daily order contracted by the mine with the state for the use of state buildings or institutions. A carrier serving a coal mine or mines shall comply with the order. Reconsignment of shipments of coal are unlawful unless authorized by the Indiana department of transportation.
(Formerly: Acts 1907, c.231, s.5; Acts 1920(2ss), c.15, s.1.) As amended by P.L.62-1984, SEC.17; P.L.384-1987(ss), SEC.35; P.L.18-1990, SEC.43.

IC 8-3-2-6
Carload freight shipments; billings; records; freight cars requested and furnished

Sec. 6. Each carrier subject to this chapter shall provide and permanently keep at each billing station on its line in Indiana where it handles carload shipments a substantially bound book, which shall be in the form prescribed by the Indiana department of transportation, suitable for permanently recording and preserving the information required by this section and other information as the department may prescribe concerning the subject matter of this chapter. Any applicant for cars for use at a station shall record in the

book the date of application showing the number and kind of cars required, when required, for what kind of loading, the point of destination, and other information as the department prescribes. If it is not practical or possible for the applicant to apply in person, then application may be made in writing or by wire, and if made in writing or by wire, then one (1) authentic copy shall be furnished the local agent for filing in the local agent's office, which copy shall constitute a part of the lawful record. Each carrier shall furnish to the applicant, in not less than forty-eight (48) hours after 6 p.m. of the day of filing such application, the cars so required, unless the cars are not so soon required, in which case they shall be furnished when required. The carrier's agent at every station shall record in the book the date the cars were furnished and billed out, and other information as the department may prescribe in the form for the record, and every record, or a properly authenticated copy, shall be competent evidence in all the courts of this state and before the department concerning the matters required to be recorded therein. A carrier shall not be required to furnish cars for shipment unless applied for under this section. The distribution and delivery of coal cars to coal mines on carriers' lines in this state are not controlled by this section.
(Formerly: Acts 1907, c.231, s.6.) As amended by P.L.62-1984, SEC.18; P.L.384-1987(ss), SEC.36; P.L.18-1990, SEC.44.

IC 8-3-2-7
Records; freight cars requested and furnished; violations

Sec. 7. It is a Class C infraction for a person to make any false entry in the record provided for in section 6 of this chapter, or to alter, change, or mutilate any entry therein made, without notice to and with the consent of the other party interested therein. It is a Class C infraction for a person to record in such a record a demand for cars not required, or for more cars than are required, or to duplicate any demand for cars previously ordered and not then furnished.
(Formerly: Acts 1907, c.231, s.7.) As amended by Acts 1978, P.L.2, SEC.822.

IC 8-3-2-8
Freight cars; delay in furnishing; forfeiture

Sec. 8. Every carrier subject to the provisions of this chapter which shall fail and neglect to furnish cars to applicants in accordance with the application therefor, and as provided in section 6 of this chapter, shall forfeit and pay to the applicant the sum of one dollar ($1) for each car for each twenty-four (24) hours, or the major part thereof, that the delivery of the same shall be delayed beyond the date when the cars were required to be furnished; provided, that such forfeiture shall not accrue if the carrier shall show to the satisfaction of the court or jury trying the cause that it did not have the cars in its control at the time they were required for delivery, and that, for a reasonable time prior to the failure and at the time of the failure, it

had made and then made a bona fide and reasonable effort to supply its line with the necessary car equipment to care for the traffic then on its line and such future traffic as it could reasonably anticipate would be offered for shipment.
(Formerly: Acts 1907, c.231, s.8.) As amended by P.L.62-1984, SEC.19.

IC 8-3-2-9
Coal cars; duty to furnish

Sec. 9. At the request of a carrier, coal mine operator, or other interested party, the Indiana department of transportation, after five (5) days notice to the interested carrier and the coal mine operators on the carrier's line and a full hearing, shall adopt rules for the distribution by the carrier of empty coal cars to the coal mines on the line of the carrier. The rules adopted by the department may not conflict with the provisions of section 5 of this chapter. The department shall prescribe the manner in which the cars shall be applied for, the manner in which the capacity and output of the mines shall be ascertained, and the manner in which empty cars shall be distributed and delivered. The department shall adopt other rules concerning the subject as are necessary to secure a fair and equitable distribution of cars without discrimination, so that each mine, in case of car shortage, shall be secured the maximum amount of working time to which it is entitled, after taking into consideration the capacity and output and the shipping orders of all the mines and the available equipment on the line for use in their operation. If conditions are the same, the department may adopt the same rules for all carriers having coal mines on their lines, or different rules for different lines, as the differing conditions may require. The rules shall go into effect upon the date fixed by the department and shall be observed by the carriers and all other persons until set aside or modified by the department. The department may, at any time, upon application by an interested party, modify or set aside the rules and adopt other rules as required. Any party interested in such rules may file a civil suit against the department in any court of competent jurisdiction to set aside or annul a rule adopted by the department.
(Formerly: Acts 1907, c.231, s.9.) As amended by P.L.62-1984, SEC.20; P.L.384-1987(ss), SEC.37; P.L.18-1990, SEC.45.

IC 8-3-2-10
Coal cars; failure to furnish; forfeiture

Sec. 10. A carrier that fails, neglects, or refuses to deliver to a coal mine operator on its line empty coal cars for use at the mine in accordance with this chapter and the rules of the Indiana department of transportation adopted under this chapter shall forfeit to the coal mine operator the sum of two dollars ($2) per day for each car for each day, or major part thereof, that the car remains undelivered.
(Formerly: Acts 1907, c.231, s.10.) As amended by P.L.62-1984,

SEC.21; P.L.384-1987(ss), SEC.38; P.L.18-1990, SEC.46.

IC 8-3-2-11
Coal in transit; confiscation by carrier

Sec. 11. When for any reason coal in transit is confiscated by the carrier, immediate notice shall be given both consignor and consignee of such confiscation, and any carrier failing or refusing to give such immediate notice shall, on settlement, pay fifty cents (50 cents) per ton over and above contract-price to consignee for such coal confiscated.

(Formerly: Acts 1907, c.231, s.11.)

IC 8-3-2-12
Forfeiture and damages; delay in transportation or failure to furnish freight cars

Sec. 12. The forfeiture accruing under this chapter may be collected in any court of competent jurisdiction in any county in this state into which the carrier operates, and in case the plaintiff recovers, the court or jury trying the cause shall allow the plaintiff a reasonable sum for his attorney's fees. The accruing and collection of any such forfeiture shall not preclude any such party from collecting actual damages in excess thereof which he shall have sustained on account of any such delay in transportation or failure to furnish cars as required by this chapter.

(Formerly: Acts 1907, c.231, s.12.) As amended by P.L.62-1984, SEC.22.

IC 8-3-2-13
Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-3-2-14
Actions and proceedings to enforce railroad law

Sec. 14. The Indiana department of transportation may inquire into the management and business of carriers as regulated by this chapter and shall keep informed as to the manner and method in which the management is conducted. The department may obtain from the carriers, and their agents, officers, and employees full and complete information to enable it to perform its duties under this chapter. The department shall execute and enforce this chapter and for that purpose may, with the approval of the governor, employ and pay special counsel and other persons to assist it. The department may sue in its name in all the courts of Indiana and prosecute all necessary and appropriate actions at law or suits in equity for the purpose of securing the observance and enforcement of this chapter. If the department, in an action, is entitled to a temporary restraining order or injunction, pending final hearing, the court shall grant the order or injunction with all reasonable dispatch and without requiring

bond or surety from the department. All state statutes, concerning examinations by the department of books and papers, and the production thereof, and the attendance of examination of witnesses in any investigation held by the department, regulate the proceedings of the department in any investigations held by it under this chapter.
(Formerly: Acts 1907, c.231, s.14.) As amended by P.L.62-1984, SEC.24; P.L.384-1987(ss), SEC.39; P.L.18-1990, SEC.47.

IC 8-3-2-15
Temporary and emergency rates, routes, and regulations; receivership

Sec. 15. If a carrier fails to provide the equipment, motive power, and other facilities necessary to properly receive and care for the business on their lines, as required by this chapter, or fails to perform the duties enjoined upon it by this chapter, and because of the failure considerable traffic on its line is refused or not promptly moved as required by this chapter, resulting in material injury to the citizens of a community in Indiana, or the industries or commerce of Indiana, then the Indiana department of transportation, after five (5) days notice to the carrier interested and a hearing, shall adopt temporary emergency rates, establish temporary emergency routes of shipment, and adopt temporary emergency rules concerning the movement of traffic as are necessary to correct the existing conditions and may issue orders suspending certain traffic in favor of other traffics for the purpose of preventing existing or threatened public calamity or distress. The carrier shall promptly comply with all orders of the department, and, upon its failure so to do, the department shall apply to a court of competent jurisdiction for the appointment of an operating receiver to enforce the orders and rules adopted by the department and may also apply to a court for the appointment of a receiver for a carrier to enforce a provision or requirement of this chapter which the offending carrier has failed to observe. In the proceeding, the court may operate a carrier through its receiver, enforce orders made by the department concerning the carrier as approved by the court, and continue so to do so long as is necessary. The court may order its receiver to purchase the equipment and motive power, and supply other appliances and facilities as may be necessary to properly transact the carrier's present and prospective business in Indiana as required by this chapter. The court may authorize its receiver to issue and sell receiver's certificates for the purpose of obtaining funds for the uses specified in this chapter or to issue certificates of indebtedness to pay for expenditures authorized by this chapter. The court may declare certificates authorized under this chapter to be the first and prior lien upon the property and income of the carrier in the manner and upon the terms as the court shall decree.
(Formerly: Acts 1907, c.231, s.15.) As amended by P.L.62-1984, SEC.25; P.L.384-1987(ss), SEC.40; P.L.18-1990, SEC.48.

IC 8-3-2-16
Partial invalidity of law

Sec. 16. In case any of the provisions of this chapter shall be held invalid, such fact shall not operate to make invalid any other portion of the chapter, and the portions of this chapter not adjudged to be invalid shall be observed and enforced the same as though the invalid portion had not been enacted.

(Formerly: Acts 1907, c.231, s.16.) As amended by P.L.62-1984, SEC.26.

IC 8-3-3

Chapter 3. Railroad Operation of Motor Carriers

IC 8-3-3-1

Freight and passenger service

Sec. 1. The corporate power of street and interurban railroad corporations and steam railroad corporations, organized under the laws of this state, is hereby extended and shall be construed to include the power to acquire, own and operate motor vehicles along and over the streets and highways of the state for the transportation for hire of passengers and freight, either directly or through a subsidiary company or companies, subject to all provisions of law concerning permits, licenses and regulation of such form of transportation for motor vehicles.

(Formerly: Acts 1925, c.122, s.1.)

IC 8-3-4
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-3-5

Chapter 5. Railroad–Application of Eminent Domain

IC 8-3-5-1

Purposes authorized by charter

Sec. 1. Any railroad company organized under Indiana statutes but not under IC 8-4-1, may adopt the provisions of that chapter for condemning real estate; provided, that nothing in this section contained shall be deemed or held to authorize such corporations to condemn for any purpose or to any extent not authorized by its charter, but such company adopting the provisions of that chapter shall not condemn more, or for any purpose than as authorized by its charter; neither shall such corporation be deemed to have surrendered or abandoned its charter by condemning real estate as authorized in this section.

(Formerly: Acts 1889, c.194, s.1.) As amended by P.L.62-1984, SEC.27.

IC 8-3-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-3-7

Chapter 7. Railroad Rights-of-Way–Weed Control

IC 8-3-7-1

Time for cutting

Sec. 1. All railroad corporations doing business in this state shall, between July 1 and August 20 in each year, destroy detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation growing on lands occupied by them.

(Formerly: Acts 1889, c.82, s.1.) As amended by P.L.191-1987, SEC.9; P.L.2-2008, SEC.25.

IC 8-3-7-2

Violation; penalty; action to recover

Sec. 2. In case any railroad company shall refuse or neglect to comply with the requirements specified in section 1 of this chapter, such company shall be liable in a penalty of twenty-five dollars ($25), to be prosecuted for in an action of debt by any person feeling himself aggrieved. Said suit may be brought before any court in the county, who shall require of the complainant surety to pay costs in case he fails to maintain his action. Summons may be served on any agent or officer of the company.

(Formerly: Acts 1889, c.82, s.2.) As amended by P.L.62-1984, SEC.28.

IC 8-3-8

Chapter 8. Railroad Rights-of-Way–Recording Deeds

IC 8-3-8-1

Time for recordation

Sec. 1. Any railroad corporations, lessee or assignee or receiver, or other person or corporation, running, controlling or operating, or that may hereafter construct, build, run, control or operate, any railroad into or through this state, shall, within forty-five (45) days from the date of execution of any conveyance, lease, release or other contract affecting the right of way of any railroad hereafter constructed, record, or cause to be recorded, in the proper records in the recorder's office of the county wherein the lands are situate so conveyed, leased, released or constructed.

(Formerly: Acts 1893, c.152, s.1.)

IC 8-3-8-2

Necessity for recordation

Sec. 2. Every such conveyance, lease, release, or other contract affecting any right of way of any railroad not so recorded in forty-five (45) days, as provided for in section 1 of this chapter, shall be void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration.

(Formerly: Acts 1893, c.152, s.2.) As amended by P.L.62-1984, SEC.29.

IC 8-3-9
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-3-10
Repealed

(Repealed by P.L.1-1993, SEC.49.)

IC 8-3-11
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-3-12
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-3-13

Chapter 13. Rail Branch Lines

IC 8-3-13-1

Authority to build and operate

Sec. 1. Any railroad company organized under the laws of this state is hereby authorized to build and operate, in addition to the main line authorized by its charter or articles of association, branch railroads from any point or points on its main line, to or through any adjacent mineral lands, containing coal, iron or building stone, not, however, exceeding in distance fifty (50) miles from the nearest point on said main line: Provided, however, That no railroad company shall build any such branch railroad if the owners of one-third its stock object thereto.

(Formerly: Acts 1865(ss), c.22, s.1; Acts 1869(ss), c.47, s.1; Acts 1889, c.63, s.1.)

IC 8-3-13-2

Construction and maintenance; charter powers

Sec. 2. The powers of the charter of any railroad company constructing such branch in relation to the entering upon and taking possession of and acquiring title to any ground and materials necessary in the construction and maintenance of such road, shall be, and the same are hereby, extended to the construction and maintenance of any such branch road.

(Formerly: Acts 1865(ss), c.22, s.2.)

IC 8-3-14
Chapter 14. Altering Routes of Railroads

IC 8-3-14-1
Abandonment or relocation; damages

Sec. 1. If, at any time after the location of the line of any railroad chartered by this state, and the filing of the map thereof, it shall appear to the directors of such company that the line thereof is necessarily dangerous, inconvenient, or expensive to operate, by reason of unavoidable causes, grades, or serious errors in location, such directors may make local alteration of the line, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take possession of the lands embraced in such new location which may be necessary for the construction and maintenance of such road on such altered line, either by agreement of the owner or by such proceedings as are authorized by the charter of such company, and may use such new line in place of the one for which it is substituted; but nothing in this chapter shall be so construed as to confer upon such railroad company any power to locate its road on any route which would not have been authorized by its charter; and nothing in this chapter contained shall authorize such company to make a location of its track within any city without the consent of the common council of such city, nor to change its road so as to avoid any point named in its charter. And any change so made by any railroad company shall subject said railroad company to the payment of all damages that may be sustained by any person, persons, or corporation on account of such change; provided, that if any railroad company change or relocate any part of its track for a distance of one (1) mile or more, thereby abandoning any part of its track or road as previously located, constructed, and operated, for a distance of one (1) mile or more, such railroad company shall, previous to such change, relocation, or abandoning, pay to the owner or owners of any real estate lying upon, along or near the route or line of said road from which such track is proposed to be taken all damages which may accrue to such owner or owners on account of such removal; such damages shall be assessed in the same manner as lands taken for railroad purposes in pursuance of the statute in force on April 23, 1903, in this state; and said damages, when so assessed, shall be paid to the owner or owners of said lands, or paid into the office of the clerk of the county in which said lands are located, for the use of said owner or owners, previous to the relocation or abandonment of said track; provided, further, that in all cases where any railroad company has made, before or after April 23, 1903, any such alterations as are provided for in this chapter, the board of county commissioners of the county in which such alterations are made may locate a public highway on the old line or route of such railroad for which such new line is substituted by the same proceedings and on the same terms as public highways are on or after

April 23, 1903, located.
(Formerly: Acts 1865(ss), c.23, s.1; Acts 1903, c.121, s.1; Acts 1907, c.211, s.1.) As amended by P.L.62-1984, SEC.30.

IC 8-3-15

Chapter 15. Public Use of Railroad Land

IC 8-3-15-1

Railroad right retained

Sec. 1. The use by the public (of the) right of way or depot grounds of any railroad in this state by riding, driving or walking thereon, shall not ripen into a right to continue to do so even though it has been so used for a period of twenty (20) years or more; nor shall such use be evidence of a grant to do so except where such use is made across such ground to connect a street or highway on each side thereof, and except where a court of competent jurisdiction has adjudged the existence of a street or highway.

(Formerly: Acts 1899, c.209, s.1.)

IC 8-3-15-2

Repealed

(Repealed by Acts 1972, P.L.8, SEC.3.)

IC 8-3-15-3

Riding, driving, or walking on right-of-way or yard a misdemeanor; definitions; exceptions

Sec. 3. (a) A person who rides, drives, or walks on or along the right-of-way or yard of a railroad company at a place other than a public crossing commits a Class B misdemeanor.

(b) "Right-of-way" means the track or roadbed owned or leased by a railroad which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(c) "Yard" means a system of parallel tracks, cross-overs, and switches where cars are switched and made up into trains, and where cars, locomotives, and other rolling stock are kept when not in use or awaiting repairs.

(d) This section does not apply to:

(1) passengers on trains or employees of a railroad company while engaged in the performance of their duties;

(2) picketing by railroad employees in the vicinity of entrances to railroad company property;

(3) an authorized representative of the railroad employees;

(4) a person going upon the right-of-way or into the yard to save human life or to protect property;

(5) a person being on the station grounds or in the depot of the railroad company as a passenger or for the purpose of transacting business;

(6) a person, or the person's family or employees going upon the right-of-way for the purpose of crossing from one (1) part to another part of a farm the person owns or leases, where the farm

lies on both sides of the right-of-way;

(7) a person having written permission from the railroad company to go upon the right-of-way;

(8) representatives of the Indiana department of transportation;

(9) representatives of the federal Surface Transportation Board; or

(10) a professional surveyor or a professional surveyor's employees who are on the right-of-way or in the yard for the purpose of making land surveys.

As added by Acts 1977, P.L.26, SEC.2. Amended by Acts 1982, P.L.62, SEC.4; P.L.384-1987(ss), SEC.41; P.L.18-1990, SEC.49; P.L.259-1999, SEC.1; P.L.57-2013, SEC.9.

IC 8-3-16
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-3-17

Chapter 17. Railroad Police

IC 8-3-17-1

Appointment, qualifications, and terms

Sec. 1. Upon the application in writing of a company owning, leasing, using, or operating a railroad in Indiana accompanied by the statements of three (3) reputable Indiana citizens testifying to the moral character of the applicant, the Indiana department of transportation shall appoint and commission persons the company designates and the department finds to be suitable and qualified persons, to act as policemen for the company, upon the premises of the company, or elsewhere within Indiana, when engaged in the discharge of their duties as policemen for that company. Every policeman appointed shall be known as a railroad policeman and shall be a person of good moral character. The policeman shall be commissioned so long as the policeman is employed by the company on whose application the policeman was appointed, unless the policeman's commission is sooner revoked by the Indiana department of transportation for good cause shown, or by the company on whose application the railroad policeman was appointed, as provided in section 8 of this chapter.

(Formerly: Acts 1927, c.18, s.1; Acts 1975, P.L.80, SEC.1.) As amended by P.L.384-1987(ss), SEC.42; P.L.18-1990, SEC.50.

IC 8-3-17-2

Commission; recordation; powers and duties

Sec. 2. (a) Every policeman appointed under this chapter shall, before entering upon the duties of office, take and subscribe an oath of office, which shall be endorsed upon the officer's commission, and the commission, with the oath, shall be recorded in the office of the clerk of the circuit court of the county in which the policeman resides. Every policeman who is appointed and commissioned as provided in this chapter shall have, exercise, and possess, throughout Indiana, while engaged in the discharge of the officer's duties as a policeman, the powers of sheriffs, marshals, constables, and municipal police officers, except in the service of civil process.

(b) A policeman who is appointed and commissioned under this chapter must wear a distinctive uniform and a badge of authority or must operate a motor vehicle that is clearly marked as a police vehicle when exercising the officer's authority to arrest or issue a traffic information and summons to a person for the violation of a law or ordinance regulating the use and operation of a motor vehicle on a public highway.

(Formerly: Acts 1927, c.18, s.2.) As amended by P.L.62-1984, SEC.31; P.L.72-1989, SEC.4.

IC 8-3-17-3

Powers and duties

Sec. 3. Such policemen shall enforce and compel obedience to the laws of this state and to the ordinances of the cities and towns thereof, when engaged in the discharge of their duties as policemen for such company, and the keepers of jails, lock-ups and station-houses, in any county, city or town shall receive all persons arrested by such policemen for the commission of any offense against the laws of this state, or the ordinances of any such city or town, to be dealt with according to law, and persons so arrested shall be received by such keepers of jails, lock-ups or station-houses, on the same basis, and such persons shall have the same status as prisoners arrested by any other peace officer of the state of Indiana.
(Formerly: Acts 1927, c.18, s.3.)

IC 8-3-17-3.5
Educational and training requirements

Sec. 3.5. (a) All railroad police commissioned under this chapter shall, within one (1) year of their commissioning, successfully complete all educational and training requirements established by rule of the Indiana department of transportation.

(b) Any newly commissioned railroad policeman who has had previous law enforcement experience and schooling which exceeds the training requirements established by the Indiana department of transportation may, upon proof of the policeman's previous experience and training, obtain a waiver of the training requirements imposed by this section.
(Formerly: Acts 1975, P.L.80, SEC.2.) As amended by P.L.384-1987(ss), SEC.43; P.L.18-1990, SEC.51.

IC 8-3-17-4
Badge; exhibition upon demand and before making arrest

Sec. 4. Every policeman so appointed and commissioned shall, when on duty, as herein provided, wear a metallic badge, with the word "Police" and the name of the railroad company for which he is appointed, inscribed thereon, and he shall exhibit such badge, on demand, and before making an arrest.
(Formerly: Acts 1927, c.18, s.4.)

IC 8-3-17-5
Compensation

Sec. 5. The compensation for such policemen shall be paid by the company for which they are respectively appointed.
(Formerly: Acts 1927, c.18, s.5.)

IC 8-3-17-6
Surety bond

Sec. 6. Every policeman appointed and commissioned shall, before entering upon the discharge of the policeman's duties, give a

surety bond of five thousand dollars ($5,000), conditioned upon the faithful performance of the policeman's duties. All the bonds shall be filed with and approved by the Indiana department of transportation, and, upon filing the bond, the policeman shall pay to the department ten dollars ($10).
(Formerly: Acts 1927, c.18, s.6; Acts 1975, P.L.80, SEC.3.) As amended by P.L.384-1987(ss), SEC.44; P.L.18-1990, SEC.52.

IC 8-3-17-7
Certificate; issuance of commission

Sec. 7. Upon the issuance of a commission to any policeman, as provided for in this chapter, the Indiana department of transportation shall also issue to that policeman a certificate certifying that the commission has been issued, giving the name of the policeman commissioned, the name of the railroad company that policeman represents, and designating the date on which the commission was issued. The certificates shall be of the form, size, and description as the department may determine.
(Formerly: Acts 1927, c.18, s.7; Acts 1975, P.L.80, SEC.4.) As amended by P.L.384-1987(ss), SEC.45; P.L.18-1990, SEC.53.

IC 8-3-17-8
Termination of powers

Sec. 8. When a company no longer requires the services of a policeman, it shall file a notice to that effect, under its corporate seal, with the clerk of the circuit court of the county where the commission of that policeman is recorded, which shall be noted by the clerk of the circuit court upon the margin of the record where the commission is recorded. The company shall also file notice with the Indiana department of transportation. Thereupon, the powers of that policeman terminate.
(Formerly: Acts 1927, c.18, s.8; Acts 1975, P.L.80, SEC.5.) As amended by P.L.384-1987(ss), SEC.46; P.L.18-1990, SEC.54.

IC 8-3-17-9
Definitions

Sec. 9. The term "railroad or railroads" or "railroad company" or any combination of such terms as used in this chapter shall be construed to include both steam and interurban railroads but shall not be construed to include hobby, tourist, amusement, and non-freight-carrying railroads.
(Formerly: Acts 1927, c.18, s.9.) As amended by Acts 1976, P.L.26, SEC.3.

IC 8-3-17-10
Repealed

(Repealed by Acts 1975, P.L.80, SEC.7.)

IC 8-3-17-11
Effect of Acts 1975, P.L.80 on commissions

Sec. 11. Acts 1975, P.L.80 does not affect the validity of a railroad policeman's commission in existence on January 1, 1976.
As added by P.L.1-1989, SEC.16.

IC 8-3-18

Chapter 18. Conductor's Police Power

IC 8-3-18-1

Authority

Sec. 1. The conductors of all trains carrying passengers within this state shall be invested with police powers while on duty on their respective trains.

(Formerly: Acts 1875, c.84, s.1.)

IC 8-3-18-2

Ejection of passengers; refund of fare

Sec. 2. When any passenger shall be guilty of disorderly conduct, or use any obscene language, or play any games of cards or chance for money upon any passenger trains, the conductor of such train is hereby authorized to stop his train at any place where such offense has been committed, and eject such passenger from the train, using only such force as may be necessary to accomplish such removal, and may command the assistance of the employees of the railroad company to assist in such removal; but, before doing so, he shall tender to such passenger such proportion of the fare he has paid as the distance he then is from the place to which he has paid his fare bears to the whole distance for which he has paid his fare.

(Formerly: Acts 1875, c.84, s.2.)

IC 8-3-18-3

Arrest of passenger; delivery before court; affidavit

Sec. 3. When any passenger commits a crime upon any passenger train, the conductor of the train may arrest the passenger and take him before a court in the county in which the crime is committed, and file an affidavit charging him with the crime.

(Formerly: Acts 1875, c.84, s.3.) As amended by Acts 1978, P.L.2, SEC.823.

IC 8-3-19

Chapter 19. Interstate High Speed Rail Compact

IC 8-3-19-1

Ratification; text of compact

Sec. 1. The "Interstate High Speed Intercity Rail Passenger Network Compact" is hereby ratified, enacted into law and entered into by the state of Indiana with all other states legally joining therein in the form substantially as follows:

INTERSTATE HIGH SPEED INTERCITY
RAIL PASSENGER NETWORK COMPACT
ARTICLE I POLICY AND PURPOSE

Because the beneficial service of and profitability of a high speed intercity rail passenger system would be enhanced by establishing such a system which would operate across state lines, it is the policy of the states party to this compact to cooperate and share jointly the administrative and financial responsibilities of preparing a feasibility study concerning the operation of such a system connecting major cities in Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky.

ARTICLE II COOPERATION

The states of Ohio, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and Kentucky, hereinafter referred to as participating states, agree to, upon adoption of this compact by the respective states, jointly conduct and participate in a high speed intercity rail passenger feasibility study by providing such information and data as is available and may be requested by a participating state or any consulting firms representing a participating state or the compact. It is mutually understood by the participating states that such information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing such information agrees to waive the confidentiality.

The participating states further agree to:

(a) Make available to each other and to any consulting firm representing the member states or the compact such assistance as may be legal, proper and available, including but not limited to personnel, equipment, office space, machinery, computers, engineering and technical advice and services; and

(b) Provide such financial assistance for the implementation of the feasibility study as may be legal, proper and available.

ARTICLE III INTERSTATE RAIL PASSENGER
ADVISORY COUNCIL

There is hereby created an interstate rail passenger advisory council, the membership of which shall consist of two (2) representatives from each participating state, one (1) representative from each state shall hold a bachelor of science degree in either engineering or transportation science, and shall be appointed by the governor of the participating state and the other shall be the chairman

of the state's railroad authority, but in the event said state does not have a railroad authority, the second member shall be the director of the participating state's transportation agency. The members shall select designees who shall serve in the absence of the members. The advisory council shall meet within thirty (30) days after ratification of this agreement by at least two (2) participating states and establish rules for the conduct of the advisory council's business.

The advisory council shall coordinate all aspects of the high speed intercity rail passenger feasibility study relative to interstate connections and shall do all other things necessary and proper for the completion of the feasibility study.

ARTICLE IV EFFECTIVE DATE

This compact shall become effective upon the adoption of the compact into law by two (2) or more of the participating states. Thereafter, it shall enter into force and effect as to any other participating state upon the enactment thereof by such state.

This compact shall continue in force with respect to a participating state and remain binding upon such state until six (6) months after such state has given notice to each other participating state of the repeal thereof. Such withdrawal shall not be construed to relieve any participating state from any obligation incurred prior to the end of the state's participation in the compact as provided herein.

ARTICLE V CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

As added by Acts 1981, P.L.107, SEC.1.

IC 8-3-19-2

Disbursements; appropriations; per diem; reimbursement for expenses

Sec. 2. (a) Should the disbursement of any funds be necessary to enable the Interstate Rail Passenger Advisory Council to perform its designated functions as described in section 1 of this chapter, said funds shall be appropriated from the high speed rail development fund.

(b) Each member of the Interstate Rail Passenger Advisory Council who is a representative from Indiana is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a

member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

As added by Acts 1981, P.L.107, SEC.1. Amended by P.L.74-1990, SEC.1; P.L.83-1991, SEC.2.

IC 8-3-20
Repealed

(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-21

Chapter 21. Interstate Rail Passenger Network Compact

IC 8-3-21-1

Ratification

Sec. 1. The interstate rail passenger network compact is ratified, enacted, and entered into by the state of Indiana with all other states joining the compact in the form substantially as this chapter.

As added by P.L.58-1992, SEC.1.

IC 8-3-21-2

Policy and purpose

Sec. 2. It is the policy of the states party to this compact to cooperate and share the administrative and financial responsibilities concerning the operation of an interstate rail passenger network system connecting major cities in Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida. The participating states agree that a rail passenger system would provide a beneficial service and would be enhanced if operated across state lines.

As added by P.L.58-1992, SEC.1.

IC 8-3-21-3

Rail passenger network financial and economic impact study

Sec. 3. (a) The states of Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida (referred to in this chapter as "participating states") agree, upon adoption of this compact by the respective states, to jointly conduct and participate in a rail passenger network financial and economic impact study. The study must do the following:

(1) Carry forward research previously performed by the national railroad passenger corporation (Amtrak) (report issued December 1990) and the Evansville Amtrak task force (report issued November 1990) that evaluated the "western route" (Chicago-Evansville-Nashville-Chattanooga-Macon-Waycross-Jacksonville) for purposes of evaluating a representative service schedule, train running times, and associated costs.

(2) Include consideration of the following:

(A) The purchase of railroad equipment by a participating state and the lease of the railroad equipment to Amtrak.

(B) The recommendation that a member of the council serve on the Amtrak board of directors.

(C) The periodic review of projected passenger traffic estimates on the western route.

(D) Any other matter related to the financial and economic impact of a rail passenger network along the western route.

(b) Information and data collected during the study under subsection (a) that is requested by a participating state or a consulting firm representing a participating state or the compact may

be made available to the state or firm. However, the information may not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing the information agrees to waive the confidentiality.
As added by P.L.58-1992, SEC.1.

IC 8-3-21-4
Mutual assistance

Sec. 4. The participating states agree to do the following:

(1) Make available to each other and to a consulting firm representing a participating state or the compact assistance that is available, including personnel, equipment, office space, machinery, computers, engineering, and technical advice and services.

(2) Provide financial assistance for the implementation of the feasibility study that is available.

As added by P.L.58-1992, SEC.1.

IC 8-3-21-5
Interstate rail passenger advisory council

Sec. 5. The interstate rail passenger advisory council (referred to in this compact as the "council") is created. The membership of the council consists of three (3) individuals from each participating state. The governor, president pro tempore of the senate, and speaker of the house of representatives shall each appoint one (1) member of the council.
As added by P.L.58-1992, SEC.1.

IC 8-3-21-6
Duties of council

Sec. 6. The council shall do the following:

(1) Meet within thirty (30) days after ratification of this agreement by at least two (2) participating states.

(2) Establish rules for the conduct of the council's business, including the payment of the reasonable and necessary travel expenses of council members.

(3) Coordinate all aspects of the rail passenger financial and economic impact study under section 3 of this chapter.

(4) Contract with persons, including postsecondary educational institutions, for performance of any part of the study under section 3 of this chapter.

(5) Upon approval of the study, determine the proportionate share that each state will contribute toward the implementation and management of the proposed restoration of the interstate rail passenger system along the western route.

(6) Make recommendations to each participating state legislature concerning the results of the study required by this chapter.

As added by P.L.58-1992, SEC.1. Amended by P.L.2-2007, SEC.134.

IC 8-3-21-7
Effective date

Sec. 7. This compact becomes effective upon the adoption of the compact into law by at least two (2) of the participating states. Thereafter, the compact becomes effective for another participating state upon the enactment of the compact by the state.
As added by P.L.58-1992, SEC.1.

IC 8-3-21-8
Withdrawal from compact

Sec. 8. This compact continues in force with respect to a participating state and remains binding upon the state until six (6) months after the state has given notice to each other participating state of the repeal of this chapter. The withdrawal may not be construed to relieve a participating state from an obligation incurred before the end of the state's participation in the compact.
As added by P.L.58-1992, SEC.1.

IC 8-3-21-9
Construction and severability

Sec. 9. (a) This compact shall be liberally construed to effectuate the compact's purposes.

(b) The provisions of this compact are severable. If:

(1) a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating state or of the United States; or

(2) the applicability of this compact to a government, an agency, a person, or a circumstance is held invalid;

the validity of the remainder of this compact and the compact's applicability to any government, agency, person, or circumstance is not affected.

(c) If this compact is held contrary to the constitution of a participating state, the compact remains in effect for the remaining participating states and in effect for the state affected for all severable matters.
As added by P.L.58-1992, SEC.1.

IC 8-3-22

Chapter 22. Midwest Interstate Passenger Rail Compact

IC 8-3-22-1

Purposes

Sec. 1. The purposes of this compact are, through joint or cooperative action, to:

(1) promote development and implementation of improvements to intercity passenger rail service in the Midwest;

(2) coordinate interaction among Midwestern state elected officials and their designees on passenger rail issues;

(3) promote development and implementation of long range plans for high speed rail passenger service in the Midwest and among other regions of the United States;

(4) work with the public and private sectors at the federal, state, and local levels to ensure coordination among the various entities having an interest in passenger rail service and to promote Midwestern interests regarding passenger rail service; and

(5) support efforts of transportation agencies involved in developing and implementing passenger rail service in the Midwest.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" means the Midwest interstate passenger rail compact commission established in section 3 of this chapter.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-3

Creation and members of commission

Sec. 3. (a) The Midwest interstate passenger rail compact commission is created to carry out the duties specified in this compact.

(b) The manner of appointment of commission members, terms of office consistent with the terms of this compact, provisions for removal and suspension, and manner of appointment to fill vacancies shall be determined by each party state under its laws, but each member of the commission must be a resident of the state of appointment.

(c) Commission members serve without compensation from the commission.

(d) The commission consists of four (4) resident members of each state as follows:

(1) The governor, or the governor's designee, who serves during the tenure of office of the governor, or until a successor is

named.

(2) One (1) member of the private sector appointed by the governor to serve during the tenure of office of the governor, or until a successor is named.

(3) Two (2) legislators from different political parties, one (1) from each legislative chamber (or two (2) legislators from any unicameral legislature), who serve two (2) year terms, or until successors are appointed, and who are appointed by the appropriate appointing authority in each legislative chamber.

All vacancies must be filled according to the laws of the appointing states. A commission member appointed to fill a vacancy serves until the end of the incomplete term.

(e) Each member state has equal voting privileges, as determined by the commission bylaws.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-4

Powers and duties of commission

Sec. 4. (a) The duties of the commission are to:

(1) advocate for the funding and authorization necessary to make passenger rail improvements a reality for the region;

(2) identify and seek to develop ways that states can form partnerships, including those with rail industry and labor, to implement improved passenger rail service in the region;

(3) seek development of a long term, interstate plan for high speed rail passenger service implementation;

(4) cooperate with other agencies, regions, and entities to ensure that the Midwest is adequately represented and integrated into national plans for passenger rail development;

(5) adopt bylaws governing the activities and procedures of the commission and addressing, among other subjects:

(A) the powers and duties of officers; and

(B) the voting rights of commission members, voting procedures, commission business, and any other purposes necessary to fulfill the duties of the commission;

(6) expend funds as required to carry out the powers and duties of the commission; and

(7) report on the activities of the commission to the legislatures and governors of the member states on an annual basis.

(b) In addition to its exercise of these duties, the commission may:

(1) provide multistate advocacy necessary to implement passenger rail systems or plans, as approved by the commission;

(2) work with local elected officials, economic development planning organizations, and similar entities to raise the visibility of passenger rail service benefits and needs;

(3) educate other state officials, federal agencies, other elected officials, and the public on the advantages of passenger rail as an integral part of an intermodal transportation system in the

region;
(4) work with federal agency officials and members of Congress to ensure the funding and authorization necessary to develop a long term, interstate plan for high speed rail passenger service implementation.
(5) make recommendations to member states;
(6) implement or provide oversight for specific rail projects, if requested by each state participating in a particular project and under the terms of a formal agreement approved by the participating states and the commission;
(7) establish an office and hire staff as necessary;
(8) contract for or provide services;
(9) assess dues, according to the terms of this compact;
(10) conduct research; and
(11) establish committees.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-5
Officers

Sec. 5. (a) The commission shall annually elect from among its members:
(1) a chair;
(2) a vice chair, who may not be a resident of the state represented by the chair; and
(3) any other officers approved in the commission bylaws.

(b) The officers shall perform the functions and exercise the powers specified in the commission bylaws.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-6
Meetings; voting

Sec. 6. (a) The commission shall meet at least once in each calendar year and at other times as determined by the commission.

(b) Commission business shall be conducted according to the procedures and voting rights specified in the bylaws.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-7
Appropriations; donations; expenses; budgets

Sec. 7. (a) Except as otherwise provided, the money necessary to finance the general operations of the commission in carrying forth its duties, responsibilities, and powers as stated in this chapter shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states.

(b) This compact may not be construed to commit a member state to participate in financing a rail project except as provided by law of the member state.

(c) The commission may accept, for any of its purposes and functions, donations, gifts, grants, and appropriations of money, equipment, supplies, materials, and services from the federal government, from any party state or from any department, agency, or municipality thereof, or from any institution, person, firm, or corporation.

(d) All expenses incurred by the commission in executing the duties imposed upon it by this compact shall be paid by the commission out of the funds available to it.

(e) The commission may not issue a debt instrument.

(f) The commission shall submit to the officer designated by the laws of each party state, periodically as required by the laws of each party state, a budget of its actual past and estimated future expenditures.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-8

Eligible party states

Sec. 8. (a) The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin are eligible to join this compact.

(b) Upon approval of the commission, according to its bylaws, other states may also be declared eligible to join the compact.

(c) For an eligible party state, this compact is effective when that state's legislature enacts the compact into law. However, the compact does not become initially effective until enacted into law by any three (3) party states incorporating the provisions of this compact into the laws of those states.

(d) Amendments to the compact become effective upon their enactment by the legislatures of all compacting states.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-9

Withdrawal from compact; default; termination of compact

Sec. 9. (a) Withdrawal from this compact shall be by enactment of a statute repealing the compact and takes effect one (1) year after the effective date of the statute.

(b) A withdrawing state is liable for any obligations that the withdrawing state may have incurred before the effective date of withdrawal.

(c) If, at any time, a compacting state defaults in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements under the compact shall be suspended from the effective date of the compacting state's default, as fixed by the commission.

(d) The commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its

regular status.

(e) Unless the default is remedied under the stipulations and within the time set forth by the commission, this compact may be terminated with respect to the defaulting state by affirmative vote of a majority of the other commission members.

(f) A defaulting state may be reinstated, upon vote of the commission, by performing all acts and obligations as stipulated by the commission.

As added by P.L.131-2000, SEC.1.

IC 8-3-22-10

Severability; effect of rulings in other states; liberal construction

Sec. 10. (a) The provisions of this compact are severable, and if a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a compacting state or of the United States or the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance is not affected.

(b) If this compact entered into is held contrary to the constitution of a compacting state, the compact remains in full force and effect for the remaining states and in full force and effect for the state affected as to all severable matters.

(c) The provisions of this compact shall be liberally construed to effectuate the purposes of the compact.

As added by P.L.131-2000, SEC.1.

IC 8-4

ARTICLE 4. ORGANIZATION AND OPERATION OF RAILROADS

IC 8-4-1

Chapter 1. Incorporation of Railroad Companies

IC 8-4-1-1

Incorporation; capitalization; articles of association; election of directors

Sec. 1. (a) A railroad may incorporate under any of the following:

(1) This chapter.

(2) The Indiana Business Corporation Law (IC 23-1).

(3) Any other applicable statute.

(b) Any number of persons, not less than fifteen (15), being subscribers to the stock of any contemplated railroad may be formed into a corporation for the purpose of constructing, owning, and maintaining such railroad by complying with the following requirements:

(1) Whenever stock to the amount (measured by the consideration to be received therefor) of at least fifty thousand dollars ($50,000), or one thousand dollars ($1,000) for each and every mile of the proposed road, shall have been subscribed, the subscribers to such stock shall elect directors for such company from their own number and shall severally subscribe articles of association in which shall be set forth the following:

(A) The name of the corporation.

(B) The total number of shares into which its authorized capital stock is to be divided.

(C) Whether all or part of said shares are to have a par value and if so, the number and par value of such shares.

(D) Whether all or part of said shares are to be without par value and if so, the number of such shares.

(E) The consideration for which the company may issue and sell its shares without par value or authorization to the board of directors to fix such consideration from time to time.

(F) If said shares are to be divided into classes or kinds, the designations of the different classes, the number and par value, if any, of the shares of each class, and a statement of the relative rights, preferences, limitations, restrictions, and voting rights of each class.

(G) The number of directors and their names to manage the affairs of the company.

(H) The names of the place from which and the place to which the proposed road is to be constructed and each county into which or through which it is intended to pass.

(I) Its length as near as may be.

(2) Each subscriber to such articles of association shall state his place of residence and the number and class (if there be more than one (1) class) of shares taken by him in such company.

(Formerly: Acts 1852, 1RS, c.83, s.1; Acts 1933, c.101, s.7.) As amended by P.L.75-1990, SEC.1.

IC 8-4-1-2

Shareholders; preemptive rights

Sec. 2. The shareholders of any railroad company, now organized or hereafter to be organized under the laws of this state, shall have no preemptive rights to subscribe to or purchase any additional issues of shares of the capital stock of the corporation of any class nor any shares of the corporation purchased or acquired by the corporation and not canceled but held as treasury stock except to the extent, if any, that such rights shall be fixed and stated in the articles of association.

(Formerly: Acts 1852, 1RS, c.83, s.1a; Acts 1957, c.69, s.1.)

IC 8-4-1-3

Articles of association; filing with secretary of state

Sec. 3. Articles of association formed under section 1 of this chapter shall be filed in the office of the secretary of state; and, thereupon, the persons who have subscribed the same, and all persons who shall, from time to time, become stockholders in such company, and their successors, shall be a body politic and corporate, in perpetuity, by the name stated in such articles of association; and may sue or be sued; and may have a common seal, and may make and alter the same at pleasure; and shall be capable, in law, of purchasing, holding, and conveying any real and personal property whatever, necessary for the construction of such road and for the erection of all necessary buildings and yards and appurtenances for the use of the same. A copy of any articles of association filed in pursuance of this chapter, and certified to be a copy, by the secretary of state or his deputy, shall, in all courts and places, be presumptive evidence of the incorporation of such company and of the facts stated therein.

(Formerly: Acts 1852, 1RS, c.83, s.2.) As amended by P.L.62-1984, SEC.32.

IC 8-4-1-4

Subscriptions to the stock

Sec. 4. The directors named in section 1 of this chapter shall open books for subscription to the capital stock of the company, at such times and in such places as a majority of them may direct, due notices of which shall be given; and in case a greater amount of stock shall be subscribed than the whole capital required by such company, the directors shall distribute such capital stock, so subscribed, as equally as possible among the subscribers, but no share thereof shall

be divided in making such distribution, nor shall a greater number of shares be allotted to any one (1) subscriber than by him subscribed for.
(Formerly: Acts 1852, 1RS, c.83, s.3.) As amended by P.L.62-1984, SEC.33.

IC 8-4-1-5
Shareholders; annual meeting; directors, election, and term

Sec. 5. There shall be an annual meeting of the stockholders (to be held in one (1) of the counties in which or through which such road is proposed to be or may be constructed) for the election of directors to serve for the ensuing year, notice of which, appointing a time and place, shall be given by the directors chosen as provided in section 1 of this chapter for the first annual election, and, afterward, by their successors in office; which notice shall be published not less than twenty (20) days previous thereto in a newspaper published in each county through which such road shall be intended to run (if there be stockholders residing therein) in which a newspaper shall be published; and if no newspaper be published therein, then by six (6) written or printed notices put up in the most public places in such county; provided, however, that the directors may prescribe by bylaw a place outside the state for the holding of annual meetings, or, notwithstanding the limitations of section 10 of this chapter, by resolution adopted at any meeting by stockholders holding shares representing two-thirds (2/3) of the voting power of the capital stock entitled to vote at any annual meeting. Three (3) judges of election shall be chosen by the board of directors previous to any annual meeting of the stockholders, who shall be stockholders but not directors at the time of such election, whose duty it shall be to receive the votes of the stockholders at such election for directors, and who shall openly count the votes and declare the result, and shall furnish the directors elected at such meeting of the stockholders with a certificate of their election, which certificate shall be evidence of their authority to act as such directors. Not less than seven (7) nor more than thirteen (13) directors shall be chosen at such meeting of stockholders, by ballot, and by a majority of the votes of the stockholders present in person or by proxy. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to a vote for directors at the election at which he shall be chosen. The directors shall hold their office for one (1) year and until others are elected in their places.
(Formerly: Acts 1852, 1RS, c.83, s.4; Acts 1933, c.101, s.8; Acts 1955, c.139, s.1.) As amended by P.L.62-1984, SEC.34.

IC 8-4-1-6
Meetings of shareholders; notice; requisites

Sec. 6. Meetings of the stockholders may be called at any time during the interval between the annual meetings, by the directors or

by the stockholders owning not less than one-fourth (1/4) of the stock, by giving thirty (30) days public notice of the time and place of the meetings, in the manner provided in section 5 of this chapter for the annual meetings; and when any such meeting is called by the stockholders, the particular object of such meeting shall be stated in such notice, and if at any such meeting thus called, a majority in value of the stockholders are not represented in person or by proxy, such meeting shall be adjourned from day to day, not exceeding three (3) days, without transacting any business; and if, within said three (3) days, stockholders having a majority of the stock do not attend such meeting, then the meeting shall be dissolved.
(Formerly: Acts 1852, 1RS, c.83, s.5.) As amended by P.L.62-1984, SEC.35.

IC 8-4-1-7
Meetings of shareholders; annual report; removal of officers

Sec. 7. At a regular meeting of the stockholders of any such corporation, it shall be the duty of the president and directors in office for the preceding year to exhibit a clear and distinct statement of the affairs of said company; and at any meeting of the stockholders, a majority of those present, in person or by proxy, may require similar statements from the directors, whose duty it shall be to furnish them when thus required: and at all general meetings of the stockholders, a majority in value of the stockholders in such company may remove any president or any director of such company, and elect another in their stead; provided, notice of such intended removal shall have been given as required in sections 5 and 6 of this chapter.
(Formerly: Acts 1852, 1RS, c.83, s.6.) As amended by P.L.62-1984, SEC.36.

IC 8-4-1-8
Directors; elections; president and other officers; appointment or election

Sec. 8. In case it shall happen, at any time, that an election of directors shall not be made on the day designated by the bylaws of the company, when it ought to have been made, the company, for that reason, shall not be dissolved if, within ninety (90) days thereafter, they shall hold an election for directors in such manner as shall be provided by the bylaws of the company. There shall be a president of the company who shall be chosen by and from the directors, and also such subordinate officers as the company, by its bylaws, may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their offices as the company, by its bylaws, may require; provided, that nothing contained in this section shall be so construed as to prevent the stockholders from removing a president and electing another in his place in the manner prescribed in section 7 of this chapter.

(Formerly: Acts 1852, 1RS, c.83, s.7.) As amended by P.L.62-1984, SEC.37.

IC 8-4-1-9
Stock subscriptions; demands for payment

Sec. 9. It shall be lawful for the directors to call in and demand from the stockholders, respectively, any sums of money by them subscribed, in such payments or instalments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon if payment shall not be made by the stockholders within thirty (30) days after personal demand, or notice, requiring such payment, shall have been made in each county through which such road shall be laid out in which a newspaper shall be published: Provided, That subscriptions shall not be required to be paid except in equal instalments of not more than ten (10) per cent a month.
(Formerly: Acts 1852, 1RS, c.83, s.8.)

IC 8-4-1-10
By-laws; officers and employees; appointment and duties

Sec. 10. The directors of such company shall have power to make by-laws for the management and disposition of stock, property and business affairs of such company not inconsistent with the laws of this state, and prescribing the duties of officers, artificers, and servants, that may be employed, and for the appointment of all the officers for carrying on all business within the object and purposes of such company.
(Formerly: Acts 1852, 1RS, c.83, s.9.)

IC 8-4-1-11
Stock certificates; issuance and transfer

Sec. 11. Each shareholder shall be entitled to a certificate, signed by the president or a vice-president and the secretary or an assistant secretary or the treasurer or an assistant treasurer, certifying the number of shares of stock owned by him in the company; which shares shall be deemed personal estate, and shall be transferable in the manner prescribed in the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or the shares shall have been forfeited for the nonpayment of calls thereon. Where any such certificate is signed by a transfer agent or transfer clerk and by a registrar, the signature of any such president, vice-president, secretary, assistant secretary, treasurer or assistant treasurer upon such certificate may be facsimiles, engraved or printed. In case any such officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such before such certificate is issued, it may be issued by the company with the same effect as if such officer had not ceased to be such at the date of its issue. All

certificates, including those heretofore issued, which are signed in facsimile, as authorized herein, shall be as valid and effectual for all purposes as if signed by the proper officers.
(Formerly: Acts 1852, 1RS, c.83, s.10; Acts 1941, c.120, s.1.)

IC 8-4-1-12
Certificate of capitalization

Sec. 12. The president and a majority of the directors, within thirty (30) days after the payment of the last instalment of the capital stock so fixed and limited by the company, shall make a certificate, stating the amount of capital stock so fixed and paid in, which certificate shall be signed by the president and a majority of the directors, and sworn to by the president and secretary, and they shall, within the said thirty (30) days, file and record the same in the office of the secretary of state.
(Formerly: Acts 1852, 1RS, c.83, s.11.)

IC 8-4-1-13
Maps and route profile; filing

Sec. 13. Every such company, before proceeding to construct a part of their road into or through any county named in its articles of association, shall make a map and profile of the route intended to be adopted by such company, which shall be certified by a majority of the directors, and filed in the office of the clerk of such county, for the inspection and examination of all parties interested therein.
(Formerly: Acts 1852, 1RS, c.83, s.12.)

IC 8-4-1-14
General powers and duties; enumeration

Sec. 14. (a) Every such corporation shall possess the general powers, and be subject to the liabilities and restrictions, expressed in the special powers following:

(1) To cause such examination and surveys for the proposed railroad to be made as may be necessary to the selection of the most advantageous route for the railroad, and, for such purposes, by their officers, agents, and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

(2) To receive, hold, and take such voluntary grants and donations of real estate and other personal property as shall be made to it to aid in the construction, maintenance, and accommodation of such railroad; but the real estate thus received by voluntary grants shall be held and used for the purposes of such grants only.

(3) To purchase, and, by voluntary grants and donations receive and take, and, by its officers, engineers, surveyors, and agents, enter upon, take possession of, hold, and use all such lands and real estate and other property as may be necessary for the

construction and maintenance of its railroad stations, depots, and other accommodations necessary to accomplish the objects for which the corporation is created; but not until the compensation to be made therefor, as agreed upon by the parties or ascertained as prescribed in this chapter, shall have been paid to the owner or owners thereof, or deposited as directed by this chapter, unless the consent of such owner be given to enter into possession.

(4) To lay out its road, not exceeding six (6) rods wide, and to construct the same; and for the purposes of cuttings, embankments, and procuring stone and gravel, or the improvement of its road by the construction of additional main tracks, switches, or passing sidings, it may take as much more lands, within the limits of its charter, in the manner provided in this chapter, as may be necessary for the proper construction, improvement, and security of the road.

(5) To construct its road upon or across any stream of water, watercourse, highway, railroad, or canal, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life and property; but the corporation shall restore the stream or watercourse, road, or highway thus intersected to its former state, or in a sufficient manner not to unnecessarily impair its usefulness or injure its franchises.

(6) To cross, intersect, join, and unite its railroad with any other railroad before constructed, at any point on its route and upon the grounds of such other railroad company, with the necessary turn-outs, sidings, switches, and other conveniences, in furtherance of the objects of its connections; and every company whose railroad is intersected on or after May 6, 1852, by any new railroad shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two (2) corporations can not agree upon the amount of compensation to be made therefor, or the points or manner of such crossings and connections, the same shall be ascertained and determined by commissioners, to be appointed as is provided in this chapter in respect to the taking of lands; but this section shall not affect the rights or franchises granted before May 6, 1852.

(7) To purchase lands or take them in order that it may change the line of its road, whenever a majority of the directors shall so determine, as is provided in this chapter, but no change shall vary the general route of such road.

(8) To take, transport, carry, and convey persons and property on its railroad by the force and power of steam or animals or of any mechanical power, or by any combination of them, and receive tolls or compensation therefor.

(9) To erect and maintain all necessary and convenient

buildings, stations, depots, fixtures, and machinery for the accommodation and use of their passengers, freight, and business, and obtain and hold the lands necessary therefor.

(10) To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor.

(b) In all proceedings authorized by this chapter to take land for the construction of additional main tracks, switches, or passing sidings, the burden of proof shall be upon the corporation to prove in a court of competent jurisdiction its right to take such land and the necessity therefor, preliminary to assessment of damages; and in estimating damages, the damages of all persons, firms, limited liability company, or corporations shall be computed as in other cases, to which shall be added compensation for all such injuries, interruptions, and destruction to any trade, business, contract, occupation, residence, or industry involved, the expense and difficulty in obtaining a new location and in relocating such business or industry, as may not be elements of damage under any law other than this chapter; provided, that nothing contained in this chapter shall repeal, affect, or modify any powers or duties of the commission or any obligations imposed upon railroads by statute other than this chapter, nor impliedly nor expressly repeal, affect, or modify any other statute of this state.

(Formerly: Acts 1852, 1RS, c.83, s.13; Acts 1911, c.82, s.1.) As amended by P.L.62-1984, SEC.38; P.L.23-1988, SEC.82; P.L.8-1993, SEC.140.

IC 8-4-1-15

Eminent domain; right to acquire title

Sec. 15. In case any company formed under this chapter is unable to agree for the purchase of any real estate, in any county, required for the construction of the track, turn-outs and water stations, it shall have the right to acquire the title to the same in the manner and by the special proceedings prescribed in this chapter.

(Formerly: Acts 1852, 1RS, c.83, s.14.) As amended by P.L.62-1984, SEC.39.

IC 8-4-1-16

Eminent domain; damages; appraisals; appeals

Sec. 16. (a) A corporation formed under this chapter is authorized to enter upon any land for the purpose of examining and surveying its railroad line and may appropriate as much land as is deemed necessary for its railroad, including necessary side-tracks and water stations, materials for constructing, except timber, a right-of-way over adjacent lands sufficient to enable the company to construct and repair its road, and a right to conduct water by aqueducts, and the right of making proper drains.

(b) The corporation shall deposit with the clerk of the circuit court

of the county where the land lies, a description of the rights and interests intended to be appropriated. The land, rights, and interests shall belong to the company, to use for the purpose specified, by making or tendering payment as provided in this section.

(c) The corporation may, by its directors, purchase lands, materials, rights-of-way, or interests of the owner of the land, or, in case the land is owned by a mentally incompetent person or a person under eighteen (18) years of age, at a price to be agreed upon by the guardian or parent of the mentally incompetent person or person under eighteen (18) years of age, if the land, material, right-of-way, or interest is appraised by the court in which the description is filed. Upon agreement and approval, the owner, guardian, or parent, as the case may be, shall convey the premises purchased, in fee simple or otherwise, as the parties may agree, to the railroad corporation. The deed, when made, shall be valid in law.

(d) If the corporation does not agree with the owner of the land, or with the owner's guardian, if the owner is incapable of contracting, concerning the damages sustained by the appropriation, the corporation shall deliver to the owner or guardian, if within the county, a copy of the instrument of appropriation. If the owner or the owner's guardian, in case the owner is incapable of contracting, is unknown or does not reside within the county, the corporation shall publish, in a newspaper of general circulation in the county, for three (3) weeks, an advertisement, concerning the substance of the instrument of appropriation.

(e) Upon filing an act of appropriation and delivery of a copy, or making the publication, the circuit court in the county where the land lies, upon the application of either party, shall appoint, by warrant:

(1) one (1) disinterested freeholder of the county; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to appraise the damages which the owner of the land may sustain by the appropriation. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land. The appraisers shall be duly sworn. They shall consider the injury that the owner may sustain by reason of the railroad. The appraisers shall return their assessment of damages to the clerk of the court, setting forth the value of the property taken or injury to the property which they assess to the owner, or owners separately, to be filed and recorded by the clerk. The corporation shall pay to the clerk the amount thus assessed, or tender the amount to the party in whose favor the damages are awarded or assessed.

(f) On making payment or tender in the manner required, it is lawful for the corporation to hold the interests in the lands or materials appropriated, and to use the materials on the roadway and within fifty (50) feet on each side of the center of the roadway. The cost of the award shall be paid by the corporation. On notice by any interested party, the court may order payment and enforce the

payment by execution.

(g) The award of the arbitrators may be reviewed by the court in which proceedings may be had, on written exceptions filed by either party in the clerk's office within twenty (20) days after the filing of the award. Notice of filing of the arbitrators' award shall be given by the clerk of the court to all known parties to the action and their attorneys of record by certified mail. The period of exceptions shall run from and after the date of mailing. The court shall make an order as right and justice may require by ordering a new appraisement on good cause shown.

(h) Notwithstanding an appeal, the corporation may take possession of the property described in the exceptions, and the subsequent proceedings on the appeal only affect the amount of compensation to be allowed. If, prior to the assessment, the corporation shall tender to the owner (or the owner's guardian, if the owner is unable to contract) an amount equal to the award that was made, exclusive of costs, the costs of arbitration shall be paid equally by the corporation and the owner or guardian.

(Formerly: Acts 1852, 1RS, c.83, s.15; Acts 1973, P.L.22, SEC.4; Acts 1973, P.L.23, SEC.3.) As amended by P.L.33-1989, SEC.7; P.L.113-2006, SEC.3.

IC 8-4-1-17

Eminent domain; conflicting claimants to compensation; judicial determination

Sec. 17. If there are adverse or conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the company, or take security for the same until it can determine who is entitled to the same, and shall direct to whom the same shall be paid, and may, in its discretion, order a reference, to ascertain the facts on which such determination and order are to be made.

(Formerly: Acts 1852, 1RS, c.83, s.16.)

IC 8-4-1-18

Eminent domain; court appointed attorney for absentees or persons unknown

Sec. 18. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power, at any time, to amend any defect or informality in any of the special proceedings authorized by this chapter as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party in interest, as it deems proper; and also to appoint other commissioners in the place of any who shall die or refuse or neglect or are unable to serve, or who may leave or be absent from the state.

(Formerly: Acts 1852, 1RS, c.83, s.17.) As amended by P.L.62-1984, SEC.40.

IC 8-4-1-19
Eminent domain; stay of proceedings; perfecting defective title

Sec. 19. At any time after an attempt to acquire title by appraisal of damages or otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect the same in the same manner as if no appraisal had been made. At any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and, if not in possession, to take possession of and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions and proceedings against the company, or any officer, agent or workman of such company, on account thereof, on such company paying into court a sufficient sum, as the court may direct to pay the compensation therefor when finally ascertained; and in every such case, the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.
(Formerly: Acts 1852, 1RS, c.83, s.18.)

IC 8-4-1-20
Financing of operations; loans and issue of security

Sec. 20. Such company may, from time to time, borrow such sums of money as they may deem necessary for completing or operating their railroad, and issue and dispose of their bonds for any amounts so borrowed, for such sums, and at such rate of interest as is allowed by the laws of the state where such contract is made, and mortgage their corporate property and franchises to secure the payment of any debt contracted by such company; and the directors of such company may confer on any holder of any bond issued for money borrowed as aforesaid the right to convert the principal due or owing thereon into stock of said company, at any time not exceeding fifteen (15) years from the date of said bond, under such regulations as the company may adopt; and such company may sell their bonds, either within or without this state, at such rates and prices as permitted by law, and such sales shall be as valid as if such bonds should be sold at par value.
(Formerly: Acts 1852, 1RS, c.83, s.19.)

IC 8-4-1-21
Alteration in lines

Sec. 21. If, at any time after the location of the track of such road, in whole or in part, and the filing of the map thereof, it shall appear to the directors of such company that the line thereof may be improved, such directors may, from time to time, alter the line, and cause a new map to be filed in the office where the map showing the

first location is filed, and may thereupon take possession of the lands embraced in such new location that may be required for the construction and maintenance of such road on such new line, either by agreement with the owner or by such proceedings as are authorized under this chapter, and use the same in place of the line for which the new is substituted. But nothing in this chapter shall be so construed as to confer upon any railroad company already incorporated, any powers to locate its road on any route which would not have been authorized by the charters previously granted. And nothing in this chapter contained shall authorize the said company to make a location of their track within any city without the consent of the common council of said city; nor shall the company have power so to change their road as to avoid any point named in their articles of association.
(Formerly: Acts 1852, 1RS, c.83, s.21.) As amended by P.L.62-1984, SEC.41.

IC 8-4-1-22
Railroad crossings; grade separation

Sec. 22. Whenever the track of such railroad shall cross a road or highway, such road or highway may be carried under or over the track, as may be most expedient; and in cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road or highway, or such new line, as may be deemed requisite by said directors. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained, in the manner in this chapter provided, as nearly as may be, and duly made by such corporation to the owners and persons interested in such lands; and the same, when so taken and compensation made, to become part of such intersecting road or highway, in such manner and by such terms as the adjacent parts of such highway may be held for highway purposes.
(Formerly: Acts 1852, 1RS, c.83, s.22.) As amended by P.L.62-1984, SEC.42.

IC 8-4-1-23
Public lands; acquisition; location upon grounds of state institutions

Sec. 23. If any corporation shall, for its purposes aforesaid, require any land belonging to the state or to any county or town, the general assembly and the county and town officers respectively having charge of such lands may grant such lands to such corporation upon such terms as shall be agreed upon; and if they shall not so agree, the same may be taken by the corporation in the same manner as provided in other cases. No railroad shall be located upon or across the grounds of the state occupied by the institutions for

individuals who are:

(1) insane;

(2) blind; or

(3) deaf and without speech.

(Formerly: Acts 1852, 1RS, c.83, s.23.) As amended by P.L.99-2007, SEC.32.

IC 8-4-1-24

Employees; identification badges

Sec. 24. Every conductor, baggagemaster, engineer, brakeman, or other servant of any such railroad corporation, employed on a passenger train or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office and the initialed letters of the style of the corporation by which he is employed. No collector or conductor, without such badge, shall demand or be entitled to receive from any passenger any fare, toll or ticket, or exercise any of the powers of his office; and no other of said officers or servants, without such badge, shall have any authority to meddle or interfere with any passenger or property.

(Formerly: Acts 1852, 1RS, c.83, s.24.)

IC 8-4-1-25

State lien for penalties, taxes, and dues

Sec. 25. The state shall have a lien upon all railroads of such corporations and their appurtenances and stock therein for all penalties, taxes and dues which may accrue to the state from such corporations; which lien of the state shall have precedence of all demands, judgments or decrees against said corporations. And the citizens of this state shall have a lien upon all personal property of said corporations, to the amount of one hundred dollars ($100), for all debts originally contracted within this state, which, after said lien of the state, shall take precedence of all other debts, demands, judgments or decrees, liens or mortgages against such corporations.

(Formerly: Acts 1852, 1RS, c.83, s.26.)

IC 8-4-1-26

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-1-27

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-1-28

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-1-29

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-1-30

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-1-31

Maps and profiles; certificates of proposed line; filing

Sec. 31. Every corporation shall, within a reasonable time after their road shall be located, cause to be made:

First. A map and profile thereof, and of the land taken and obtained for the use thereof, and file the same in the office of the secretary of state; and also like maps of the parts thereof located in different counties, and file the same in the office of the clerk of the county in which said parts of said road shall be, there to remain as of record forever.

Second. A certificate specifying the line upon which it is proposed to construct the railroad, and the grades and curves.

(Formerly: Acts 1852, 1RS, c.83, s.33.)

IC 8-4-1-32

Failure to complete road; voiding of corporation

Sec. 32. If any such corporation shall not, within three (3) years after its incorporation, begin the construction of its road, and expend thereon five (5) per cent of the amount of its capital, and finish the road and put it in full operation in ten (10) years thereafter, its act of incorporation shall become void.

(Formerly: Acts 1852, 1RS, c.83, s.34.)

IC 8-4-1-33

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-1-34

Amendment or repeal of chapter

Sec. 34. This chapter may be amended or repealed at the discretion of the legislature.

(Formerly: Acts 1852, 1RS, c.83, s.37.) As amended by P.L.62-1984, SEC.43.

IC 8-4-1-35

Stockholders; personal liability for labor

Sec. 35. The stockholders shall be individually liable to laborers, their executors, administrators and assigns for all labor done in the construction of said road and shall remain unpaid after the assets of the corporation shall have been exhausted.

(Formerly: Acts 1852, 1RS, c.83, s.38; Acts 1865(ss), c.25, s.1.)

IC 8-4-2

Chapter 2. Amending Articles of Incorporation in Railroad Companies

IC 8-4-2-1

Special meeting of shareholders

Sec. 1. Whenever the board of directors of any railroad company (including any union railway corporation) organized on or after March 2, 1933, under the laws of this state or of this state and any other state or states desires to amend its charter, articles of association, articles of incorporation, or articles of consolidation, in any one (1) of the following respects, namely:

(a) to increase or decrease its capital stock;

(b) to change the number of shares of its capital stock;

(c) to increase or decrease the par value of the shares of its capital stock;

(d) to provide for shares with par value, or shares without par value, or both, with such designations, relative rights, preferences, qualifications, limitations, restrictions, voting rights, values and interests of the shares of each class as said board may specify;

(e) to provide the consideration for which the company may issue and sell its shares without par value, or to authorize the board of directors to fix such consideration from time to time;

(f) to change the shares of any class into the same or a different number of shares of any other class or classes, including a change of shares with par value into shares without par value or a change of shares without par value into shares with par value;

(g) to classify or reclassify the shares of its capital stock;

(h) to extend its corporate existence, including a term which shall extend for perpetuity;

(i) in the case of any such company which is no longer engaged in the conduct of the railroad business or in transportation by railroad, but which is engaged in leasing the railroad owned by it to a lessee which maintains and operates the same, to provide for:

(1) elimination of its powers further to construct, maintain or operate a railroad, engage in the conduct of the railroad business, and engage in transportation by railroad; and

(2) continuation of any charter powers it may, have or purport to have on March 9, 1939:

(A) first, to own a railroad for the purpose of leasing the same for a term of any duration to a lessee who or which is empowered further to construct, maintain or operate a railroad, engage in the conduct of the railroad business, or engage in transportation by railroad; and

(B) second, to acquire, own, lease, manage, operate, mortgage, and sell other real and personal property, and to

operate and maintain a public stockyard, as the same is defined in 7 U.S.C. 103 (before its repeal);

provided that no lease to which such company is a party on March 9, 1939, shall be invalid in whole or in part because of the term of its duration and that no amendment to such charter, articles of association, articles of incorporation, or articles of consolidation can be made which will impair the validity of any such lease; or

(j) to make any other amendment, without limitation, so long as the charter, articles of association, articles of incorporation, or articles of consolidation of such company, as amended, have been authorized by IC 8-4-1 as an original charter, articles of association, articles of incorporation, or articles of consolidation;

said board may call a special meeting of the stockholders of said company for the purpose of submitting to a vote of such stockholders the question of the approval of such amendment or may direct that such question be submitted to the stockholders at a regular annual meeting.

(Formerly: Acts 1933, c.101, s.1; Acts 1939, c.65, s.1.) As amended by P.L.62-1984, SEC.44; P.L.17-1985, SEC.6; P.L.7-2015, SEC.21.

IC 8-4-2-2

Special annual meeting of shareholders; publication or delivery of notice

Sec. 2. The special or annual meeting of the stockholders at which the question of the approval of such amendment is to be submitted shall be called by delivering personally, or depositing in the post-office stamped and addressed to each stockholder at such address as appears upon the records of the company, at least ten (10) days before the time fixed for such meeting, a notice, stating the time, place and object of such meeting.

(Formerly: Acts 1933, c.101, s.2; Acts 1939, c.65, s.2.)

IC 8-4-2-3

Special annual meeting of stockholders; voting

Sec. 3. At any such meeting stockholders may vote in person or by proxy, each stockholder being entitled to one (1) vote for each share of stock held by him, and votes representing at least a majority (or such greater proportion as the articles of association or consolidation may require) of all the outstanding stock of each class shall be necessary for the approval of any such change.

(Formerly: Acts 1933, c.101, s.3.)

IC 8-4-2-4

Special annual meeting of stockholders; voting; certificate of amendment; filing

Sec. 4. If at such special or annual meeting of the stockholders,

said amendments, or any of them, be submitted to a vote, and if it shall appear that votes representing a majority (or such greater proportion as said articles may require) of all the outstanding stock of each class of said company are cast in favor of the approval of said amendments or any of them, as submitted by the directors or as altered by the stockholders' meeting, a certificate setting forth such amendments as adopted and the approval thereof, verified by the affidavit of the president or vice-president and under the corporate seal of said company shall be filed in the office of the secretary of state, and thereupon the amendment or amendments so approved at such meeting of the stockholders shall be, and are hereby declared, accomplished, and the articles of association or consolidation of said company shall be deemed to be amended in accordance with said vote of the stockholders.
(Formerly: Acts 1933, c.101, s.4; Acts 1939, c.65, s.3.)

IC 8-4-2-5
Defending shareholders; payment; resubmission of proposed amendment

Sec. 5. (a) If any shareholder of any such corporation who did not vote in favor of such amendment at the meeting at which the amendment was adopted by the shareholders of such corporation, shall, at any time within thirty (30) days after such adoption of the amendment by such shareholders, object thereto in writing and demand payment of the value of his shares, the corporation shall, in the event that the amendment shall be made effective, and in the event that the amendment is of such a nature that its adoption without his consent and without giving him a remedy would unconstitutionally deprive him of rights, pay to such shareholder, upon surrender of his certificates therefor, the value of such shares on March 9, 1939, which shall be the date the certificate required in section 4 of this chapter, shall be filed in the office of the secretary of state. If before April 9, 1939, the value of such shares is agreed upon between the shareholder and the corporation, as the case may be, payment therefor shall be made before June 8, 1939. If, before April 9, 1939, the corporation and the shareholder do not so agree, either such corporation or the shareholder may, before June 8, 1939, petition the circuit or superior court of the county in which the principal office of the corporation is located, to appraise the value of such shares; and payment of the appraised value thereof shall be made within sixty (60) days after the entry of the judgment or order finding such appraised value. The practice, procedure, and judgment in the circuit or superior court upon such petition shall be the same, so far as practicable, as that under the eminent domain statutes in this state.

(b) Upon March 9, 1939, any shareholder who has made such objection and demand shall cease to be a shareholder and shall have no rights with respect to such shares except the right to receive

payment therefor. Every shareholder who did not vote in favor of such amendment and who does not object in writing and demand payment of the value of his shares at the time and in the manner aforesaid, shall be conclusively presumed to have assented to such amendment, if he does not within six (6) months thereafter, in a court of competent jurisdiction, question such action.

(c) After April 8, 1939, the board of directors of the railroad company may, in its discretion, resubmit the amendment, or any other amendment, to a meeting of the stockholders of said company, in the same manner as is provided in sections 1 and 2 of this chapter, before filing in the office of the secretary of state the certificate provided in section 4 of this chapter, and shall file such certificate only upon receiving again the affirmative vote required in section 4 of this chapter.

(Formerly: Acts 1933, c.101, s.4a; Acts 1939, c.65, s.4.) As amended by P.L.62-1984, SEC.45.

IC 8-4-2-6

Stock without par value; payment in full

Sec. 6. Any such company authorized by its articles of association or consolidation to have shares of capital stock without par value, may from time to time, issue and sell or otherwise dispose of any such shares for such consideration as may be provided for in said articles, or as may be fixed by the board of directors, pursuant to authority conferred by said articles. When the consideration for which any such shares was authorized to be issued shall have been received by the company, such share shall be deemed to be fully paid and nonassessable.

(Formerly: Acts 1933, c.101, s.5.)

IC 8-4-3

Chapter 3. Size of Board of Directors

IC 8-4-3-1

Election

Sec. 1. The stockholders of any railroad company incorporated in this state before May 6, 1853, or that may be incorporated after May 6, 1853, may, by the vote of a majority in interest of the stockholders of such company, at any annual or other meeting thereof, determine that the directors of said company shall consist of any number not less than five (5) nor more than thirteen (13), who shall be chosen from any of the stockholders; and thereafter such company may elect from any of its stockholders the number of directors it has fixed and determined upon, in the same manner and with the same effect as if this section was contained in the original statute incorporating such company.

(Formerly: Acts 1852, 1RS, c.85, s.2.) As amended by P.L.62-1984, SEC.46.

IC 8-4-4

Chapter 4. Term of Office of Directors

IC 8-4-4-1

Term of office; termination at election

Sec. 1. It shall be lawful for the board of directors of any railway company whose road passes through this state into adjoining states, by lot or otherwise, to so classify the members thereof, that one-fourth (1/4) (as near as may be) shall terminate their official terms as directors at the first annual election thereafter, and one-fourth (1/4) at each subsequent election; and after being thus classified, the stock and bondholders shall elect only the number of the board of directors necessary to fill the vacancies created by the expiration of the period of services fixed as aforesaid.

(Formerly: Acts 1869(ss), c.50, s.1.)

IC 8-4-5

Chapter 5. Consolidation of Railroad Companies

IC 8-4-5-1

Common name; adoption

Sec. 1. Whenever two (2) or more railroad companies have heretofore become associated, or shall hereafter become associated, in jointly making or running their roads under any contracts formed or to be formed by such companies, and desire to assume one (1) common name, it shall and may be lawful for such companies, by resolution of their respective boards of directors, entered upon their records, to adopt such name as shall be agreed upon.

(Formerly: Acts 1853, c.84, s.1.)

IC 8-4-5-2

Common name; powers and duties; construction and maintenance

Sec. 2. It shall be the duty of said companies, upon the adoption of such common name, to cause a copy of the resolution of such boards to be recorded in the recorder's offices of the different counties through which the road of said companies may run or be located; and thereafter, during the term of such association, such companies may have and use a common seal, contract and be contracted with, sue and be sued by such adopted name, in any and all matters relating to such union road; and shall have full power, by such association, to locate, construct, keep up, change, repair, and operate such union road as, by their respective charters and amendments to such charters, they are allowed to do; provided, however, that nothing in this chapter contained shall be construed to abridge such companies of any of the powers and franchises belonging to them by their respective incorporation statutes and amendments to such statutes; and, provided, further, that nothing contained in this chapter shall be construed to prevent said companies from suing and being sued in their original corporate names, for all rights accrued and for all liabilities incurred before the adoption of such common name.

(Formerly: Acts 1853, c.84, s.2.) As amended by P.L.62-1984, SEC.47.

IC 8-4-6
Chapter 6. Changing Names of Railroads

IC 8-4-6-1
Resolution

Sec. 1. Railroad companies desiring so to do may change their name by resolution of their boards of directors duly entered upon their records, and, in so doing, may adopt such name as may be agreed upon by the board.

(Formerly: Acts 1853, c.83, s.1.) As amended by P.L.3-1989, SEC.62.

IC 8-4-6-2
Resolution; recordation and publication

Sec. 2. It shall be the duty of said board to cause a copy of the resolutions changing the name of their road as above provided, to be recorded in the office of the recorder of the several counties through which the road may run, and also to give notice thereof by publication in some newspaper of general circulation in this state.

(Formerly: Acts 1853, c.83, s.2.)

IC 8-4-6-3
Survival of actions and proceedings

Sec. 3. The change of name as provided in this chapter shall not be construed to deprive any company of any of the powers and franchises granted to it by the original incorporation statute or amendments thereto; nor shall anything in this chapter be so construed as to prevent any company changing its name from suing or being sued in its original name for all rights and liabilities which may have accrued previous to changing its name.

(Formerly: Acts 1853, c.83, s.3.) As amended by P.L.62-1984, SEC.48.

IC 8-4-7
Chapter 7. Incorporation of Union Railway Companies

IC 8-4-7-1
Authority for formation

Sec. 1. Where two (2) or more railroad companies own or operate railroads extending into, through or near the same city or town, such companies, or any two (2) or more of them, may form a union railway corporation, according to the provisions hereinafter contained.

(Formerly: Acts 1885, c.20, s.1.)

IC 8-4-7-2
Capitalization; certificate of incorporation

Sec. 2. The railroad companies uniting in the formation of such corporation are designated as proprietary companies, and shall make a certificate of incorporation, in which they shall specify the name of the company to be incorporated thereunder, the amount of the capital stock of such company, the number and the par value of the shares into which it shall be divided, the aggregate amount of the par value of the shares of each proprietary company, the county or counties in which said union railway shall be situated, with the name of the town or city within or near which said union railway is to be constructed.

(Formerly: Acts 1885, c.20, s.2.)

IC 8-4-7-3
Certificate of incorporation; powers and duties

Sec. 3. Such certificate of incorporation shall be signed by the president or vice president and attested by the secretary of each of said proprietary companies, and shall be sealed with its corporate seal, and shall be acknowledged by the respective companies by their said officers, before some person authorized to take and certify the acknowledgments of conveyances of real estate, and shall be filed and recorded in the recorder's office of the county or counties in which said union railway company may be situated; and upon the filing of such certificate as aforesaid, the union company so formed shall be a corporation of this state, with all the powers incident thereto, and such other powers as are conferred by this chapter.

(Formerly: Acts 1885, c.20, s.3.) As amended by P.L.62-1984, SEC.49.

IC 8-4-7-4
Directors; numbers; acquisition of property

Sec. 4. The board of directors of any such union company shall consist of not less than one (1) representative for each of the proprietary companies to be selected by the respective companies which they are to represent: Provided, That the board may increase the number of directors by fixing the additional equal number of

representatives to be selected for each proprietary company, and any successor in interest to one or more original proprietary companies shall be entitled to select the number of representatives so provided for each such company. And such board of directors shall have power to construct, maintain and operate such union railroad, to regulate the use of its depots, stations, structures, appliances and facilities, and to regulate the time and manner in which engines, cars and other rolling stock shall pass or be hauled over its tracks, and the tolls, charges or compensation to be paid therefor.
(Formerly: Acts 1885, c.20, s.4; Acts 1959, c.28, s.1.)

IC 8-4-7-5
Stock certificates; proprietary companies

Sec. 5. The interest of each proprietary company in the union company in its capital stock and in its property and effects of every kind shall be deemed an appurtenance to the railroad of such proprietary company, and shall not be transferable or alienable otherwise than with and as a part of the railroad of such proprietary company. The union company shall issue to each proprietary company a certificate or certificates setting forth the interest or stock of such proprietary company in such union company, but such certificate shall express upon its face that it is not transferable, except as appurtenant to the railroad of such proprietary company.
(Formerly: Acts 1885, c.20, s.5.)

IC 8-4-7-6
Belt railroad; operation

Sec. 6. Any such union railway company may, as owner or lessee thereof, operate any belt railroad extending around, or partly around, the town or city in or near which such union railway may be situated, the track of which belt road connects with the track of said union railway company, or with the track of any of its proprietary companies, to the end that such town or city may be relieved, as far as practicable, of the passage through it of through freight cars and through freight trains.
(Formerly: Acts 1885, c.20, s.6.)

IC 8-4-7-7
Acquisition of property; eminent domain

Sec. 7. Any such union railway company may erect, construct, rebuild and replace, in connection with its tracks, union depots, car sheds and such other structures and appliances as the company may deem necessary to facilitate the transaction of its business, and the business of its proprietary companies and of other railroad companies whose tracks may connect therewith, and which may acquire from such union railway company the right to use said union tracks and their appliances. And such union company shall also have power to locate, construct, rebuild, keep up, change and repair such

union railroad and its tracks, side-tracks, switches, depots, sheds and other structures and appliances, and to take conveyances and releases in fee simple or otherwise of rights of way and of such real estate as it may deem necessary for the purposes aforesaid, and may condemn, in fee simple or otherwise, so much real estate and such rights of way as it may deem necessary for the purposes aforesaid, or any of them; also, to construct, own, maintain and operate union passenger stations, local freight stations, transfer and connecting tracks, between the property of such union company and property and tracks of other railroad companies.
(Formerly: Acts 1885, c.20, s.7.)

IC 8-4-7-8
Eminent domain; application of law

Sec. 8. The condemnations authorized in section 7 of this chapter may be made according to:

(1) the provisions of the charter of any or either of the proprietary companies;

(2) the general railroad law of Indiana in effect at the time that provides for the condemnation of real estate for railroad purposes; or

(3) IC 32-24-1.

(Formerly: Acts 1885, c.20, s.8.) As amended by P.L.62-1984, SEC.50; P.L.2-2002, SEC.41.

IC 8-4-7-9
Financing of operation; loans and bond issues

Sec. 9. Any such union railway company shall have power to borrow money for the purpose of raising means to carry out the powers conferred by this chapter, and may issue coupon or other bonds payable to bearer, bearing interest not exceeding the highest contract rate of interest which may be allowable in this state at the time, such interest to be payable semiannually, and such company may also mortgage its franchises, property, and revenues of every kind then owned or subsequently to be acquired to secure the payment of such loan and interest or of such bonds and interest.
(Formerly: Acts 1885, c.20, s.9.) As amended by P.L.62-1984, SEC.51.

IC 8-4-7-10
Vacation of street or alley

Sec. 10. (a) If any union railway company in carrying out the powers granted by this chapter considers it necessary that any part of a street, avenue, or alley in a town or city in which the union railway is situated should be vacated, it is lawful for the executive and legislative body of the town, or the legislative body of the city, as the case may be, to vacate any part of any street, avenue, or alley of the town or city for the purposes of this chapter.

(b) As a basis of the vacation, the union railway company shall present to and file with the proper municipal body or bodies of the town or city its petition, setting forth a description of the part of the street, avenue, or alley proposed to be vacated, and the purpose for which the ground is proposed to be used. There must be appended to the petition, as a part of the basis of the vacation, the written consent to the granting of the prayer of such petition of the owners in fee simple of more than one-half (1/2) of the real estate fronting on both sides of the street or alley, which, or part of which, is proposed to be vacated, estimated by the frontage in feet upon the street or alley, commencing at a line drawn across the street or alley equidistant from the termini of that portion of the street or alley proposed to be vacated, and extending along the street or alley from the line one thousand five hundred (1,500) feet in each direction, unless the street, avenue, or alley is not continuous in either direction from the line one thousand five hundred (1,500) feet, in which case, the consent of owners shall only be required for the distance that it is continuous.

(c) Before granting the prayer of the petition, the municipal body or bodies shall ascertain and determine that the consent of the owners of the requisite number of front feet has been obtained and the finding shall be made a matter of record, and is conclusive of the facts so found in all collateral proceedings.

(d) Before the petition is presented, twenty (20) days notice shall be given by the union railway company, by publication, by three (3) insertions in two (2) newspapers of general circulation printed and published in the town or city in which the union railway may be situated, setting forth that on a day, to be therein named, or at the next meeting thereafter of the municipal body or bodies, a petition for the vacation of the portion of the street or alley in question, describing it, will be presented to the municipal body or bodies for action.

(Formerly: Acts 1885, c.20, s.10.) As amended by P.L.62-1984, SEC.52; P.L.8-1989, SEC.50.

IC 8-4-7-11

Joint use of facilities and equipment

Sec. 11. Any such union railway company may, by agreement in writing with any railroad company not being one of said proprietary companies, and owning or operating a railroad which extends to, into, through or near the town or city in or near which such union railroad is or may be situated, admit said last-mentioned railroad company to such use of the tracks, side-tracks, switches, depots, depot grounds, yards, sheds and other structures or railroad facilities and appliances (including the use of its belt railroad and belt railroad facilities, if any) during such time, on such terms and conditions, and for such compensation or rent as may be agreed upon. The right of any associate company to continue in the use and enjoyment of the

property and facilities of the union company may be made to depend upon the faithful performance of such terms and conditions by such associate company as may be inserted in said agreement. The companies which may be so admitted are herein designated as associate companies: Provided, That no such associate company shall be admitted to the use of the property and facilities of such union railway company except upon the unanimous vote of the directors of such union company.
(Formerly: Acts 1885, c.20, s.11.)

IC 8-4-7-12
Directors, officers, and employees

Sec. 12. The board of directors of any such union railway company shall annually elect a president, a vice-president, a secretary and a treasurer, who shall serve for one (1) year, and until their successors are elected. Any general officer of either of the proprietary companies shall be eligible as president. The vice-president, secretary and treasurer need not necessarily be an officer of one of said proprietary companies.
(Formerly: Acts 1885, c.20, s.12.)

IC 8-4-7-13
Board of managers; associate companies

Sec. 13. It shall be competent for the board of directors of such union railway company to organize a board of managers, to consist of a representative from each proprietary company, as well as a representative from each associate company previously admitted, such representatives to be selected by the respective companies which they are to represent, and the president of the union railway company shall be ex officio president of such board. As associate companies are from time to time admitted to the use of the union railway property and facilities, as aforesaid, they shall each become entitled to have a representative on said board of managers; but after such board of managers shall have been organized, other associate companies shall only be admitted as aforesaid with the unanimous consent of all the members of such board of managers.
(Formerly: Acts 1885, c.20, s.13.)

IC 8-4-7-14
Associate companies; board of managers; delegation of powers and duties

Sec. 14. It shall be competent for the board of directors of such union railway company, in the agreement by which any associate company or companies may be admitted as aforesaid, to delegate to such board of managers such and so much of the authority, power and jurisdiction of such board of directors as may be agreed upon, subject, however, to the rights of the proprietary companies and of the union railway company as defined in the agreements under which

associate companies may have been or may be admitted; subject to these rights, the powers so delegated to said board of managers shall be exercised by said board of managers, and shall continue so long as the said associate companies, or any or either of them, shall continue to be entitled to use the property and facilities of such union railway company.
(Formerly: Acts 1885, c.20, s.14.)

IC 8-4-7-15
Contracts; tort liability

Sec. 15. Every such union railway company shall be primarily liable to the public and to third persons on its contracts and for its torts, but it shall be competent, as between themselves, for such proprietary companies, such associate companies, and said union railway company, to agree among themselves that the ultimate liability for damages for any class of injuries to persons or property shall fall upon one (1) or more of said companies, and such agreement as to such ultimate liability may be enforced as between the companies parties to such agreement: Provided, however, That nothing herein contained shall prevent any person suing for an injury to persons or property from joining as defendants any or all of said companies if the facts would have justified such joinder if this section had never been passed.
(Formerly: Acts 1885, c.20, s.15.)

IC 8-4-7-16
Acceptance of provisions of chapter; certificate; filing

Sec. 16. Any union railway company organized prior to March 2, 1885, under the provisions of Acts 1852, 1RS, c.84 may adopt the provisions of this chapter by filing a written statement setting forth its acceptance of the provisions of this chapter, which written statement shall be signed by the president and attested by the secretary of each proprietary company, under its corporate seal, and shall be acknowledged by the parties thereto before some officer authorized to take acknowledgments of conveyances of real estate, which writing shall be filed and recorded in the office of the recorder of the county or counties in which such union railway may be situated, and, from time of such filing, such union railway company shall be deemed a corporation of the state of Indiana, and shall have all the powers and be subject to all the provisions of this chapter.
(Formerly: Acts 1885, c.20, s.16.) As amended by P.L.62-1984, SEC.53.

IC 8-4-7-17
Filing of certificate of acceptance of provisions of chapter; conclusiveness upon associate companies

Sec. 17. Whenever, prior to March 2, 1885, any union railway company shall have been incorporated, and the proprietary

companies of such union railway company shall have, by agreement in writing with any other railroad company, such as is designated in this chapter as an associate company, admitted such associate company to the use of the property and facilities of such union company, then, upon the filing of the certificate of acceptance contemplated by section 16 of this chapter, such agreement between such proprietary companies and such associate company shall have the same force and effect and be as valid and binding as if the same had been made after March 2, 1885, and the terms of such agreement, including the provision for such a board of managers as is contemplated by this chapter, the delegation of powers to such board, and the right of such associate company to representation on such board, shall be observed and enforced as may have been provided for in said agreement.
(Formerly: Acts 1885, c.20, s.17.) As amended by P.L.62-1984, SEC.54.

IC 8-4-7-18
Mechanic's liens; joint liability of proprietary companies

Sec. 18. The proprietary companies shall be jointly liable for all debts due for labor done for such union railway company on its tracks, depots and other property that shall not be paid by such union railway company, but such liability shall not be enforceable against the said proprietary companies until the remedy against such union company shall have been exhausted, unless it is shown that said union company is insolvent.
(Formerly: Acts 1885, c.20, s.18.)

IC 8-4-7-19
Facilities and connections; joint use by proprietary companies

Sec. 19. Any such union railway company may make running arrangements with any of its proprietary companies, or with any of its associate companies, whereby such union railway company shall acquire the right to use the roads and tracks of such proprietary companies, or of said associate companies, so as to afford connecting facilities between the tracks of such union company and any belt railroad contemplated by this chapter.
(Formerly: Acts 1885, c.20, s.19.) As amended by P.L.62-1984, SEC.55.

IC 8-4-8

Chapter 8. Branch Railroads

IC 8-4-8-1

Authority to operate; stocks and bonds

Sec. 1. It shall be lawful for any railroad company in this state, organized under the general or special laws of this state, to make branches or extensions of its railroad to the boundary-line of any county in which such railroad may have a terminus, such boundary-line being also a boundary-line of the state, and such railroad company shall have all the powers, rights and privileges in relation to such branches of extensions as it has or may have in relation to its original road, under the law by which it was organized, and in conformity to the law of its organization, with power to said company to subscribe and take stock in any railroad bridge company on the route of said road, or at the terminus of said railroad, for the use and benefit of said road: Provided, That any such bridge at the terminus of such road shall be so constructed as to admit the passage of vehicles, foot passengers, and for general purposes: And, provided also, That where the terminus of such road is, or shall be, at or near the state-line, and the board of directors of such railroad company shall, by resolution, declare that it is desirable for such railroad company to acquire terminal property, or terminal rights and facilities, to enable it to operate through or into any city in another state and adjoining the terminus of such company, such railroad company shall have power, by its board of directors, to take stock in any terminal company organized under the laws of any adjoining state for the purpose of acquiring and constructing terminal property and terminal facilities, and to guarantee the bonds thereof. The amount of such stock investments and of the bonds guaranteed shall be determined by such board of directors.

(Formerly: Acts 1863, c.4, s.1; Acts 1911, c.59, s.1.)

IC 8-4-9
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-10
Chapter 10. Lateral Railroads

IC 8-4-10-1
Authority to construct and operate; eminent domain

Sec. 1. (a) The owner or owners or their lessees of lands, mills, blast-furnaces, quarries, iron ore, coal mines, or other minerals, or other real estate or any company of persons who desire to construct a lateral railroad, not exceeding ten (10) miles in length, may locate and construct the lateral railroad to any other railroad, canal, or slack-water navigation on, over, through, or under any intervening lands. The engineers, agents, artists, and assistants of the owner or owners or their lessees may enter upon any intervening lands, doing no unnecessary damage, and survey, mark, and lay out a route for the proposed lateral railroad.

(b) A person described in subsection (a) may present a petition to the circuit court, superior court, or probate court of the county in which the intervening lands are situated that sets forth the beginning, course, distance, and termination of the proposed lateral railroad, together with a map or profile of the route, indicating the excavations and embankments on the route, and designating, particularly, the name or names of the owner, owners, occupant or occupants, and agent or agents of such intervening lands, with a particular description of the same. The petition must be filed in the court.

(c) After the petition is filed, the court shall appoint:

(1) one (1) disinterested freeholder of the county; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana as viewers. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the land.

(d) After five (5) days notice, to be given by the applicant to each of the owners, occupants, or agents of the intervening lands, of the time and place, and after being duly sworn to discharge their duties fairly and honorably as viewers, the viewers shall view the proposed route as marked and laid out for the railroad. The viewers or a majority of the viewers shall assess the damages, if any, that may be sustained by the owners, separately, of the intervening lands by reason of the location, construction, and use of the proposed lateral railroad, and report the assessment in writing to the clerk of the court immediately after the assessments are made. The report shall be filed in the office of the clerk of the court.

(e) If a party does not reject the report within twenty (20) days after the filing of the report, by writing on the report "not accepted" and signing the report, the report shall be confirmed by the court. If any party rejects the report, the report shall stand for trial.

(f) At trial, the general denial to the petition and report shall be taken as filed, and all matters of defense and reply may be given in evidence under the general denial. The party rejecting the report has

the affirmative of the issues. The viewers or jury trying the cause shall, in assessing damages, take into consideration the advantages that may be derived by the owner or owners of the lands passed on, over, through, or under by the proposed lateral road by its location and construction.

(g) Upon the filing of the report by the viewers in the court, the damages assessed by the viewers shall be paid to the clerk, to be tendered to the party in whose favor the damages are awarded or assessed.

(h) After payment or tender is made under this section, the person, persons, or company of persons, and their lessees described in subsection (a), may hold and take possession of the interests in the intervening lands or materials appropriated, and the privileges of using any materials on the roadway within fifty (50) feet on each side of the center of the roadway for the use described in subsection (a).

(i) The costs of the assessments by the viewers and the costs in case of trial shall be paid as in other cases.

(Formerly: Acts 1869(ss), c.46, s.1.) As amended by P.L.1-1990, SEC.118; P.L.113-2006, SEC.4; P.L.84-2016, SEC.38.

IC 8-4-10-2

Width of road; route restriction

Sec. 2. Such proposed lateral railroad shall not exceed one hundred (100) feet in width, except where excavations, embankments, or other necessity require it; nor shall the same pass through any burial ground, place of public worship, or any public building or dwelling-house without the consent of the owner.

(Formerly: Acts 1869(ss), c.46, s.2.)

IC 8-4-10-3

Adjoining lands; entry to secure materials

Sec. 3. It shall be lawful for any such person or persons, or company of persons, their agents or employees, desiring to construct such lateral railroad, to enter upon any land near or adjoining thereto, to search for stone, wood, gravel or other materials to be used in the construction thereof; but no stone, gravel, wood or other materials shall be taken from any land, for said purpose, until the rate of compensation therefor shall be ascertained and tendered to the owner thereof; but if the parties can not agree thereon, each party shall choose a disinterested and reputable freeholder of the neighborhood who, if they can not agree, shall choose an umpire of like qualifications who shall, under oath or affirmation, fairly and impartially estimate the same; and such award shall be final and conclusive–the amount of which said award shall be paid or tendered to the person or persons entitled thereto, if within the state or known.

(Formerly: Acts 1869(ss), c.46, s.3.)

IC 8-4-10-4

Connections with other roads

Sec. 4. It shall be lawful for any such person or persons or company of persons to connect such lateral railroad with any railroad or railroads incorporated or to be incorporated in this state, and also with any highway or public improvement; provided, that if the parties interested can not agree upon the mode, manner, or point of connection with such railroad or railroads, the same shall be determined in the same manner as the compensation for materials prescribed in section 3 of this chapter.

(Formerly: Acts 1869(ss), c.46, s.4.) As amended by P.L.62-1984, SEC.56.

IC 8-4-10-5

Sheriff as owner; nonresident, incompetent, or unknown party

Sec. 5. If any of the owners of any intervening lands aforesaid shall be unknown, nonresident, or incompetent to act, then the occupant of such lands or the agent of such owner shall be deemed and taken to be the owner of such lands; and in case where such owner or agent is unknown and such lands are unoccupied, then, in all such cases, the sheriff of such county shall be deemed the owner of such lands for all the purposes contemplated in this chapter, and shall be paid two dollars ($2) per day for every day's service in and about such matter.

(Formerly: Acts 1869(ss), c.46, s.5.) As amended by P.L.62-1984, SEC.57.

IC 8-4-10-6

Certificate of organization and route description; general powers and duties

Sec. 6. Such person or persons or company of persons, who shall determine to construct such lateral railroad, shall make out, under oath a certificate of the name or names of such person or persons, or company of persons, setting out the beginning, termination, and length of said proposed lateral railroad, and file the same in the recorder's office in the county or counties in which said road is located; and shall have the power and capacity to contract and be contracted with, to sue and to be sued, and generally to exercise such powers and perform such acts and duties as may be necessary and proper to carry out the purposes contemplated by this chapter; and in cases of sale or assignment, the purchasers, assignees, or lessees thereof shall file the same in such recorder's office; and such certificate of organization, sale, or assignment shall be, by the recorder, recorded in the proper record of his office; and for all services aforesaid, such recorder shall be entitled to receive fifteen cents ($.15) for each one hundred (100) words.

(Formerly: Acts 1869(ss), c.46, s.6.) As amended by P.L.62-1984, SEC.58.

IC 8-4-10-7
Viewers; fee

Sec. 7. The viewers mentioned in this chapter shall each receive two dollars ($2) per day for their services, to be paid by said petitioners.

(Formerly: Acts 1869(ss), c.46, s.7.) As amended by P.L.62-1984, SEC.59.

IC 8-4-10-8
Construction across highways or roads; prohibition

Sec. 8. It shall be lawful for any such person or persons, or company, or owner, or owners, or their lessees as referred to in IC 1971, 8-4-10-1 to construct such lateral railroad across public highways or roads. This chapter is to apply to all such lateral railroads and highway or road crossings presently planned, under construction, previously constructed, or to be constructed in the future. Said person, or persons, or company, or owner, or owners, or their lessees, shall comply with all laws or regulations of the State of Indiana, or any agency thereof, concerning the location, construction, or maintenance of such railroads or crossings of public highways or roads.

(Formerly: Acts 1974, P.L.29, SEC.1.) As amended by P.L.112-1995, SEC.1.

IC 8-4-11
Chapter 11. Extension of Railroad Franchise

IC 8-4-11-1
Authority to construct and operate

Sec. 1. Any railroad company organized under any general law of this state is hereby empowered to extend its road, from time to time, beyond either terminus fixed in its articles of association, and to construct, or cause to be constructed, to own and operate such extension or extensions, in the same manner, and to the same extent, as if such extension or extensions had been included between the termini named in its original articles of association: Provided, however, That before any such extension or extensions are commenced, the same shall be authorized by resolutions adopted by the holders of a majority, in value, of the capital stock of the company proposing to extend its road, and such resolutions shall specify the point from and the point to which such extension is to be made, and the township or townships and county or counties into or through which the same is to be constructed; and a copy of such resolution, signed by the president and attested by the secretary of said company, under its corporate seal, shall be filed in the office of the secretary of state of this state.
(Formerly: Acts 1879, c.28, s.1.)

IC 8-4-11-2
Eminent domain

Sec. 2. Any railroad company extending its line under the provisions of this chapter may acquire right of way and other property, by condemnation or otherwise, in the same manner and with the same effect as if such extension had been included within the original articles of association of such company.
(Formerly: Acts 1879, c.28, s.2.) As amended by P.L.62-1984, SEC.60.

IC 8-4-12
Chapter 12. Abandonment of Certain Railroads

IC 8-4-12-1
Forfeiture of rights, privileges, and franchises

Sec. 1. Any railroad company organized under a special charter, or under the general law of the state for the construction of railroads, whose lines are wholly within this state or partly within this state and partly in another state, which shall fail to keep up the directory of their road and expend at least the sum of fifty thousand dollars ($50,000) upon the line of their road in this state, within any period of two (2) years from March 11, 1867; or where any railroad company, so organized as aforesaid, shall have located before March 11, 1867, the line of her road in this state, and have afterwards adopted another and different line and route thereof in this state, then, in either of the above cases, such railroad company shall be taken and held to have abandoned such road, or so much of the line thereof in this state as has been abandoned by so selecting and adopting another and different line; and such company is hereby declared to have forfeited all her rights, privileges, and franchises in such road or part thereof.

(Formerly: Acts 1867, c.80, s.1; Acts 1877, c.68, s.1.) As amended by P.L.62-1984, SEC.61.

IC 8-4-12-2
Takeover of derelict company by new company; appraisement

Sec. 2. Any company that is or that may be organized under the general laws of this state providing for the incorporation of railroad companies may complete any such abandoned road or part thereof, and shall, for such purpose, be invested with all the rights, privileges, interests, rights of way, franchises, properties, and immunities of such derelict railroad company, and shall proceed to construct the same, as is hereafter provided. However, before any such new company shall succeed to said rights, privileges, interests, rights of way, franchises, properties and immunities, and before it shall proceed to complete such road or part of such road, the value of the same shall be ascertained by:

(1) one (1) disinterested freeholder in any county through which the line of the road may run; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana, one (1) of whom shall be selected by said new company, and one (1) by the old company, or the assignee or purchaser of the franchises thereof, and the other by the auditor of such county. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the property. The freeholder and the two (2) appraisers appointed under subdivisions (1) and (2) shall constitute a board of appraisers; and in the event that the said old company, or the assignee or purchaser of the franchises

thereof, shall fail or refuse, upon request, to name such appraiser, then the appraiser shall be named by the said auditor. Such board of appraisers shall take an oath to faithfully discharge their duties, and make a true and impartial appraisement of such rights, privileges, interests, rights of way, franchises, properties and immunities. Such board shall report their appraisement to said auditor, and, upon the payment of the same by such new company to the treasurer of such county, it shall succeed to and be invested as aforesaid. Nothing in this chapter shall authorize or permit any railroad company which has constructed and is operating its road to change its line of road from that now used and occupied so as to avoid any point named in their charter or articles of association.
(Formerly: Acts 1867, c.80, s.2; Acts 1877, c.68, s.2; Acts 1975, P.L.76, SEC.3.) As amended by P.L.113-2006, SEC.5.

IC 8-4-12-3
Payment of appraised value; disposition
Sec. 3. The money so paid, as is provided in section 2 of this chapter, shall be held by such treasurer in trust for the payment, firstly, of the debts of such old company; and, secondly, the balance, if any, shall be equitably distributed among the stockholders thereof.
(Formerly: Acts 1867, c.80, s.3.) As amended by P.L.62-1984, SEC.62.

IC 8-4-12-4
Fees of appraisers
Sec. 4. The said appraisers shall receive for their service, five dollars ($5.00) per day for the time by them employed, to be paid by said treasurer out of the amount of said assessment.
(Formerly: Acts 1867, c.80, s.4.)

IC 8-4-12-5
Evidence of abandonment
Sec. 5. Any such railroad company whose road is incomplete who shall fail to complete the same, or who shall fail to expend at least twenty-five thousand dollars ($25,000) towards the completion thereof in each year, shall be taken and held to come within the purview of this chapter.
(Formerly: Acts 1867, c.80, s.5.) As amended by P.L.62-1984, SEC.63.

IC 8-4-12-6
Annual financial statement and report; filing
Sec. 6. All railroad companies in this state, or whose roads run into this state, shall, on the fifteenth day of January of each year, file with the auditor of state a statement in writing, verified by the affidavit of the treasurer of such company, showing the gross receipts of such company; the amount paid to each officer, the gross amount

paid to other employees; the amount paid for rolling-stock; the amount paid for the actual construction of such road; itemizing the amount paid for earthwork, bridges, iron, ties, culverts and all other items of such construction; and also the amount of the capital stock of such company, the assets thereof, and the rate of dividends to the stockholders, and also any and all other expenses of such company. *(Formerly: Acts 1867, c.80, s.6.)*

IC 8-4-12-7
Completion of road by transferee company

Sec. 7. Whenever any railroad company, coming within the provision of this chapter, shall sell or transfer their property, rights, or franchises to any other railroad company, it shall be the duty of such last named railroad company to complete the road so transferred to them, and put the same in complete running order, within three (3) years after the time of such transfer; and upon failure so to do, it shall be taken and held to have abandoned and forfeited the same, and any company organized, as provided in this chapter, shall succeed to and be invested with the same, as is herein provided; provided, however, that nothing in this chapter contained shall be regarded as a recognition of the right of two (2) or more railroad companies to consolidate by voluntary agreement.
(Formerly: Acts 1867, c.80, s.7.) As amended by P.L.62-1984, SEC.64.

IC 8-4-13
Chapter 13. Voluntary Dissolution of Railroad Companies

IC 8-4-13-1
Authority for dissolution

Sec. 1. Any corporation organized before or after May 22, 1933, under Indiana statutes for the purpose of construction, owning, maintaining, and/or operating a railroad, other than a street railroad or an interurban railroad, may voluntarily dissolve under and pursuant to the provisions of this chapter.

(Formerly: Acts 1933, c.107, s.1.) As amended by P.L.62-1984, SEC.65.

IC 8-4-13-2
Consent of shareholders; certificate of dissolution

Sec. 2. If the holders of record of all the outstanding shares of the capital stock of a corporation organized under the laws of this state for the purpose of constructing, owning, maintaining and/or operating a railroad other than a street railroad or an interurban railroad, consent, or have heretofore consented, in writing to its dissolution or if at a special meeting of which notice has been given to, or waived by, all the shareholders of every class, whether or not entitled to vote, a resolution is adopted, or has heretofore been adopted, by the votes cast in person or proxy by the holders of record of shares entitling them to exercise two-thirds (2/3) of the voting power, or such other proportion as the articles of incorporation or by-laws may require, declaring that it is desirable to wind-up and dissolve such corporation, the president or a vice-president and the secretary or an assistant secretary shall file in the office of the secretary of state a certificate verified by their oath, stating:

1. The name of the corporation.
2. The place where its principal office is located.
3. The names and post-office addresses of its directors and officers, and, if any post-office address be in a city, the street and number or any other particular description thereof, if known.
4. That it elects to wind-up and dissolve.
5. That (if) they have been authorized to execute and file such certificate by a resolution adopted as above provided or that they have been so authorized by the written consent of the holders of record of all the outstanding shares of the corporation.

(Formerly: Acts 1933, c.107, s.2.)

IC 8-4-13-3
Filing certificate; entry by secretary of state

Sec. 3. Upon the filing of any such certificate together with an affidavit of one (1) of the principal officers of said corporation containing a statement that said corporation has lawfully disposed of all of its property and that all debts, obligations and liabilities of the

corporation have been paid, or discharged, or that adequate provision has been made therefor, including all taxes accrued up to the date of such filing, the corporation shall be dissolved, and the secretary of state shall make an appropriate entry or record accordingly.
(Formerly: Acts 1933, c.107, s.3; Acts 1945, c.121, s.1.)

IC 8-4-13-4
Notice; publication

Sec. 4. The directors of such dissolved corporation shall forthwith cause a notice of such dissolution to be published once a week on the same day of each week for two (2) successive weeks in a newspaper published in and of general circulation in the county in which the principal office of the corporation is located.
(Formerly: Acts 1933, c.107, s.4.)

IC 8-4-14
Chapter 14. Reorganization of Railroads After Sale

IC 8-4-14-1
Authority for reorganization

Sec. 1. (a) In case of the sale of any railroad and its property, under or by the authority of any competent court or courts (part of which railroad may be situate within the state of Indiana and part situate in an adjoining state, and embraced in the mortgage or mortgages or deed or deeds of trust), it may be sold at one (1) time and place, as an entirety, at such point on the line of said railroad, either within or without the state, and upon such notice, as the court or courts ordering such sale may direct.

(b) In case of the reorganization of any railroad and its property under or by the authority of any competent court or courts of the United States in a proceeding for the reorganization of a railroad pursuant to Regional Rail Reorganization Act (11 U.S.C. 101(33), 1163, and 1166 et seq.), the corporation to which all or any part of said railroad and its property may be transferred by or pursuant to an appropriate order or decree of said court or courts may be a corporation organized under this chapter and having all of the powers, rights, privileges, immunities, and franchises provided in this chapter.

(c) This chapter is hereby declared to apply to and embrace any and all sales or purchases of railroads, their franchises, rights, and privileges, under judicial degrees, or judgments of any of the courts of the state of Indiana, or of the United States, at any time, whether said sale under such decrees or judgments, may have occurred before or after March 6, 1945.

(Formerly: Acts 1945, c.202, s.1.) As amended by P.L.62-1984, SEC.66.

IC 8-4-14-2
Certificate of reorganization

Sec. 2. In case of the sale of any railroad and its property (situated wholly or partly within this state, or situated partly in this state and partly in an adjoining state) by virtue of any mortgage or mortgages or deed or deeds of trust, either by foreclosure or other judicial proceedings, or pursuant to any power contained in such mortgage or mortgages or deed or deeds of trust, or by the joint exercise of said powers and authorities, the purchaser or purchasers thereof, their survivor or survivors, or he or his or they or their associates or assigns, may form a corporation by filing in the office of the secretary of state a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of original capital, and the number of shares into which said capital is to be divided; and in case of the reorganization of any

railroad and its property (situated wholly or partly within this state and whether owned prior to the reorganization proceedings by a corporation of this state or by a corporation of another state) in a proceeding under section 77 of the Act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States," as amended, any three (3) or more persons, being either directors or officers of the railroad, may form a corporation by filing in the office of the secretary of state a certificate specifying the name and style of the corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of original capital, and the number of shares into which said capital is to be divided; and the persons signing said certificate, and their successors, shall be a body corporate and politic, by the name in said certificate specified, with power to sue and be sued, contract and be contracted with, and maintain and operate the railroad in said certificate named, and transact all business connected with same; and a copy of such certificate, attested by the signature of the secretary of state or his deputy, shall, in all courts and places, be evidence of the due organization and existence of the said corporation and of the matters in said certificate stated.
(Formerly: Acts 1945, c.202, s.2.)

IC 8-4-14-3
Powers, rights, privileges, immunities, and franchises

Sec. 3. Such corporation shall possess all the powers, rights, privileges, immunities, and franchises in respect to said railroad, or the part thereof purchased or received pursuant to reorganization as aforesaid, and of all the real and personal property appertaining to the same, which were possessed or enjoyed by the corporation that owned or held the said railroad previous to such sale or reorganization proceeding by virtue of its charter and amendments thereto and other laws of this state or any state in which any part of said railroad is situate not inconsistent with the laws of this state. And it shall have power, at any time after the formation of the corporation as aforesaid, to assume any debts and liabilities of the former corporation or of the trustee in the reorganization proceeding, and to make such adjustment and settlement with any stockholder or stockholders or creditor or creditors of such former corporation as may be deemed expedient, and, for such purpose, to use such portions of the bonds and stock of said corporation as may be deemed advisable and in such manner as said corporation may deem proper; provided, that all subscribers to the original stock of said railroad company, their heirs, executors, and administrators shall (by the acceptance or adoption of this chapter by any purchaser or purchasers of any such railroad, as above provided) be released and discharged from all their unpaid subscriptions which shall not have been previously settled or arranged by agreement or compromise;

and, provided, further, that such corporation, when so formed and organized, shall, in suing and being sued, and in operating such railroad, be subject to the general laws of this state not inconsistent with the original charter of said road and the amendments thereto.
(Formerly: Acts 1945, c.202, s.3.) As amended by P.L.62-1984, SEC.67.

IC 8-4-14-4
Bonds, mortgages, or trust deeds as security

Sec. 4. (a) Said corporation shall have power to make and issue bonds, bearing any rate of interest, whether fixed or contingent, cumulative or noncumulative, payable at such times and places, and in such amount or amounts, and with such provisions with respect to redemption, sinking fund, maturity, issuance of said bonds in series, and conversion of said bonds into stock of said corporation at any time up to the maturity of said bonds, as it may deem expedient, and to sell and dispose of said bonds at such prices and in such manner as it may deem proper, to secure the payment of any bonds which it may make, issue or assume to pay by mortgage or mortgages or deed or deeds of trust of its railroad, or any part thereof, and of its real and personal property and franchises, and to act as a corporation.

(b) All property of said corporation included in such mortgage or mortgages or deed or deeds of trust, whether then held or thereafter acquired, shall be subject to the operation and lien of such mortgage or mortgages or deed or deeds of trust, and in case of sale under the same, it shall pass to and become vested in the purchaser or purchasers thereof so as to enable them to form a corporation in the manner herein prescribed, and to vest in such corporation all the faculties, powers, authorities, immunities, and franchises conferred by this chapter.
(Formerly: Acts 1945, c.202, s.4.) As amended by Acts 1981, P.L.11, SEC.48.

IC 8-4-14-5
Sinking fund; stock issuance

Sec. 5. Said corporation shall have power to establish a sinking fund for the payment of its liabilities, and to issue capital stock to such aggregate amount as may be deemed necessary, not exceeding the amount named in the certificate of organization, the shares of which stock may, if so provided in a plan of reorganization approved or confirmed by a court of competent jurisdiction, be held, for a period not exceeding fifteen (15) years, by trustees possessing such voting and other rights pertaining to said shares as may be provided in such reorganization plan and in the trust document executed pursuant thereto; may make preferred or other special stock; make and establish preference in respect to dividends and assets in favor of one (1) or more classes of stock over and above other classes, and secure the same in such order and manner and to such extent as said

corporation may deem expedient; may determine whether all or part of the shares of its capital stock shall have a par value, and, if so, the number and par value of such shares, and whether all or a part of said shares shall be without par value, and, if so, the number of such shares; may provide that each class of stockholders shall elect a specified number of members of each board of directors; may provide that stockholders shall have the privilege of cumulative voting in all elections of directors; may provide for the issuance of nondividend bearing and nonvoting script for fractional shares of stock; and may confer upon the holders of any of the bonds which it may issue or assume to pay the right to vote at all meetings of stockholders (not exceeding one (1) vote for each one hundred dollars ($100) of the par amount of said bonds), if deemed expedient; which right to vote, when once fixed, shall attach to and pass with said bonds, under such regulations as said corporation may prescribe, but shall not subject the holder to any assessment made by said company or to any liability for its debts, or entitle any holder thereof to dividends, or, in the alternative, may confer upon the holders of the bonds which it may issue or assume to pay, subject to such limitation, terms and conditions as said corporation may deem expedient to impose, the right to require that any number of the members of each board of directors (being not more than twenty-five (25) per cent of said members) shall at the time of their selection be persons satisfactory to the holders of said bonds provided that said corporation, subject to such limitations, terms and conditions as it may deem expedient to impose, may confer upon the holders of any issue of its bonds the right, whenever there shall be any unpaid accumulations of contingent interest thereon, to require that any number of the members of each board of directors shall at the time of their election be persons designated or nominated by the holders of the bonds of such issue, but in no case shall the number of directors so selected by bondholders exceed sixty per cent (60%) of the total number of members of the board of directors, and such right shall not subject the holder to any assessment made by said company or to any liability for its debts. The said corporation shall have capacity to hold, enjoy and exercise, within other states, the aforesaid faculties, powers, rights, franchises and immunities, and such others as may be conferred upon it by any law of this state or of any other state in which any portion of its railroad may be situate, or in which it may transact any part of its business; and may hold meetings of stockholders and of its board of directors, and do all corporate acts and things without this state as validly, and to the same extent, as it may do the same within the state, on the line of such road; and may make by-laws, rules and regulations, in relation to its business and the number of its directors, and the times and places of holding meetings of stockholders and directors; and may alter and change the same as may be deemed expedient.
(Formerly: Acts 1945, c.202, s.5.)

IC 8-4-14-6
Vesting of railroad in foreign railroad corporation

Sec. 6. In case a portion of any railroad situated within this state (a part of which is situated in another state) shall become vested in a corporation of another state, the said corporation may exercise and enjoy within this state, and also in such other state, for the purposes of such railroad and its business, all the rights, powers, faculties, franchises, and privileges in this chapter contained; and its mortgages and trust deeds shall operate and be binding as therein specified, and all sales under the same shall be valid and effectual. Where the railroad of a railroad corporation organized under the laws of this state has or shall become vested in a railroad corporation of another state, pursuant to an order or decree of any court or courts of the United States, in a proceeding for the reorganization of such railroad corporation of another state, pursuant to Regional Rail Reorganization Act (11 U.S.C. 101(44), 11 U.S.C. 1163, and 11 U.S.C. 1166 et seq.), such reorganized railroad corporation may exercise and enjoy within this state for the purpose of such reorganized railroad and its business, all rights, powers, privileges, franchises, and immunities that were possessed and enjoyed by said railroad corporation organized under the laws of this state; and such reorganized railroad corporation, when necessary or proper, may exercise the power of eminent domain in acquiring additional lands or property necessary or convenient for betterments, maintenance, extension, or operation of such railroad, and for the construction, use, and maintenance of spurs, switches, sidetracks, depots, stations, terminals, and other facilities to be used in connection with such railroad, in the manner and to the extent and subject to the limitations applying to Indiana railroad corporations.

(Formerly: Acts 1945, c.202, s.6.) As amended by P.L.62-1984, SEC.68; P.L.7-2015, SEC.22.

IC 8-4-14-7
Powers and duties

Sec. 7. Any railroad company incorporated under the provisions of this chapter, shall have the power and authority to acquire, by purchase or contract, the road, road bed, real and personal property, rights, and franchises, of any other railroad corporation or corporations which may cross or intersect the line of such railroad company, or any part of same, or the use and enjoyment thereof, in whole or in part, and may also purchase or contract for the use and enjoyment, in whole or in part, of any railroad or railroads, lying within adjoining states, may assume such of the debts and liabilities of such corporations as may be deemed proper; and upon purchasing any such railroad or railroads, all the real and personal property of such corporations, so purchased, and also the rights, powers, and franchises of the same, shall become vested in the railroad company so purchasing the same, together with all the rights, powers,

privileges, and franchises conferred by the charter of the roads so purchased and all amendments thereto and the provisions of this chapter, and the company so purchasing or acquiring the title to, or use of such railroad or railroads shall have power to complete, maintain, and operate the same. Any railroad company incorporated under the provisions of this chapter shall also have power to consolidate with other railroad corporations in the continuous line, either within or without this state, upon such terms as may be agreed upon by the corporations owning the same; and also shall have the power and authority to construct, equip, maintain, and operate branch railroads leading from the main line or from the termini of such railroad, from and to such points, with this state or any adjoining state, as may be deemed expedient, and in constructing the same shall have the right to enter in, and upon all lands, to survey routes, receive donations of lands or moneys, purchase, and condemn lands required for the use of the road, lay single or double tracks, to cross all watercourses and public highways, not unnecessarily obstructing the same, and in condemning lands for the use of such roads shall have all of the rights and powers conferred upon such corporations by their charters, and amendments and the general laws of this state, and all railroads purchased, and branch roads constructed as aforesaid, shall be vested in and become a part of the property of the corporation so purchasing or constructing the same, as aforesaid, and shall be in all things governed by the laws, rules, and regulations governing the corporation, purchasing or constructing the same as aforesaid, and be operated as part of its line of road upon purchasing or constructing any railroad as provided in this chapter, the corporation purchasing or constructing the same, shall have power and authority to issue new stock to such extent as may be considered advisable, and the same to dispose of, as provided in this chapter, and to issue and sell bonds to such extent as may be deemed expedient, and to secure the same by mortgages and deeds of trust upon all the real and personal property, rights, powers, and franchises of any railroad so purchased, constructed, or in course of construction as provided in this chapter; provided, that the provisions of this chapter shall not be so construed as to authorize any railroad company organizing under the same to consolidate with or acquire by contract or purchase the road, road bed, real and personal property, rights, and franchises of any railroad already built, equipped, and operated within the state of Indiana and which may cross or intersect the line of the road of any company organized under this chapter, but the powers of consolidation and purchase are hereby limited and restricted to such roads within the state of Indiana as may cross and intersect the same and which have not been equipped and operated in whole or in part.

(Formerly: Acts 1945, c.202, s.7.) As amended by P.L.62-1984, SEC.69.

IC 8-4-14-8
Savings provisions

Sec. 8. No rights, privileges, or immunities vested or accrued by or under Acts 1865, c.20, as amended, which was repealed by Acts 1945, c.202, s.8, shall be impaired or eliminated by reason of such repeal, nor shall such repeal affect any suits pending, rights of action conferred, or duties, restrictions, liabilities, or penalties imposed or required by or under Acts 1865, c.20, as amended, upon or of any corporation created or subject to Acts 1865, c.20, as amended, before March 6, 1945, it being understood that with respect to any corporation formed before March 6, 1945, the rights, powers, or duties given or imposed by Acts 1865, c.20, as amended, which was repealed by Acts 1945, c.202, s.8, may be exercised or enforced after March 6, 1945, as though such repeal had not been enacted, whether or not such right, power, or duty has before March 6, 1945, been exercised or imposed upon such corporation.

(Formerly: Acts 1945, c.202, s.9.) As amended by P.L.62-1984, SEC.70.

IC 8-4-15
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-16
Chapter 16. Consolidation of Certain Railroads

IC 8-4-16-1
Authority for operation

Sec. 1. Any railroad or other company organized under the laws of this state, or of this state and any other state or states, and owning or operating, or authorized by its charter to construct or acquire, a railroad, bridge or tunnel, either wholly within or partly within and partly without this state, may consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad, tunnel or bridge company or companies organized under the laws of this state, or of this state and any other state or states, or of any other state or states, or may merge or be merged into any such other company, whenever the two (2) or more railroads of the companies so to be consolidated or merged, their tunnels, bridges or branches or any part thereof, or the lines or routes of their roads if not constructed, shall or may connect either directly or over the intervening line or lines of any one (1) or more railroad companies, and any such consolidated or surviving company may thereafter construct or finish the construction of such line of railroad if not previously constructed, and may operate the same, subject to all the provisions of law applicable to such railroad company.
(Formerly: Acts 1937, c.59, s.1; Acts 1955, c.342, s.1.)

IC 8-4-16-2
Joint agreement; stocks and bonds

Sec. 2. Such consolidation or merger shall be made in the following manner:

(1) The directors of the companies proposing to consolidate or merge may enter into a joint agreement, under the corporate seal of each company, for the consolidation or merger of such companies, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new company in the case of a consolidation or of the company that is to survive in the case of a merger, the number and names of the directors and other officers thereof, and in case of a consolidation who shall be the first directors and officers of the new company and their places of residence, and either the amount of the authorized capital stock of the new or surviving company and the number and par value of the shares of which it is to consist or, if the new or surviving company is to issue shares without par value or shares of more than one (1) class, the statements required in such case by IC 8-4-1-1, and the manner of converting into the capital stock of the new or surviving company, or of otherwise disposing of, the capital stock of each company, the capital stock of which is to be so converted or disposed of, and how and when the directors shall

be chosen, with such other details as they shall deem necessary to perfect such consolidation or merger; provided, however, that in case of a merger it shall not be necessary for such joint agreement to contain the provisions above specified with regard to the directors and officers and capital stock of the surviving company unless, and then only to the extent that, changes in respect to such matters are to be made by such merger agreement. Such joint agreement may also provide for the issue of shares of the capital stock of the new or surviving company in exchange for or conversion of bonds or other evidences of debt of each, all or any of the companies so consolidated or merged and may prescribe the manner, terms, and conditions of effecting such exchange or conversion. But in no case shall the capital stock, bonds, and other evidences of debt of the company formed by such consolidation or of the surviving company in case of a merger, including any shares of its capital stock issued in exchange for or conversion of bonds or other evidences of debt as herein provided, exceed the sum of the capital stock, bonds, and other evidences of debt of the companies parties to such consolidation or merger, at the par value thereof or, in the case of stock without par value, the amount of the consideration received therefor or the amount of the stated capital applicable thereto if greater than the amount of such consideration. Nor shall any bonds or other evidences of debt be issued as a consideration for such consolidation or merger. If any of the companies parties to such consolidation or merger is a corporation organized under the laws of any other state or states, or of any other state or states and this state, the joint agreement herein provided for may fix the location of the principal office of the new or surviving company in any of said states.

(2) If the holders of outstanding shares of stocks of any of the companies parties to such joint agreement representing two-thirds (2/3) (or such greater proportion as the articles of association, consolidation, or merger under which such company was formed may require) of the voting power of all the stock of such company entitled to vote thereon shall by consent in writing, acknowledged as are deeds entitled to be recorded and endorsed upon or annexed to such joint agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such company. If such agreement shall not be assented to in writing by stockholders of any of the companies parties thereto, as provided in this section, such agreement shall be submitted to the stockholders of such company at a meeting thereof called for the purpose of considering the same. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by such company to its stockholders by written or

printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, and delivered to such persons respectively or sent to them by mail if their postoffice address is known to the company, at least thirty (30) days before the time of holding such meeting, and also by a general notice published at least once a week for four (4) weeks successively in some newspaper published in the city, town, or county where such company has its principal office or place of business. At such meeting of stockholders, such agreement shall be considered and a vote by ballot taken for the adoption or rejection of the same and if the votes of the holders of outstanding shares of stock of such company representing at least two-thirds (2/3) (or such greater proportion of said articles may require) of the voting power of all the stock of such company entitled to vote thereon, present and voting in person or by proxy, shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretary or assistant secretary of such company, under the seal thereof. When such agreement shall have been consented to or adopted by stockholders of each of the companies parties thereto, as provided in this section, such agreement, or a certified copy thereof, shall be filed in the office of the secretary of state and shall thenceforth be deemed and taken to be the agreement and act of consolidation or merger of the companies parties thereto, and thereafter such companies shall be one (1) company by the name provided in such agreement, but such act of consolidation or merger shall not release such new or surviving company from any of the restrictions, liabilities, or duties of the several companies parties to such consolidation or merger.

(Formerly: Acts 1937, c.59, s.2.) As amended by P.L.62-1984, SEC.71.

IC 8-4-16-3

Vesting of rights, privileges, and franchises in new or surviving company; bond

Sec. 3. Upon the consummation of such consolidation or merger, all the rights, privileges, exemptions, and franchises of each of the companies, parties to the same, and all the property, real, personal, and mixed, and all the debts due on whatever account to any of them, as well as all stock subscriptions and other things in action belonging to any of them, shall be taken and deemed to be transferred to and vested in, or to remain vested in, such new or surviving company, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new or surviving company as they were formerly of the companies parties to such consolidation or merger; and the title to all real estate, acquired by deed or otherwise, under the laws of this state, vested in any of such companies, parties to such consolidation

or merger, shall not be deemed to revert or be in any way impaired by reason of this chapter or anything done by virtue thereof, but shall be or remain vested in the new or surviving company by virtue of such consolidation or merger. And it shall be lawful for any railroad company formed on or after June 7, 1937, by the consolidation of one (1) or more railroad companies organized under the laws of this state, or under the laws of this state and any other state or states, with one (1) or more railroad companies or corporations organized under the laws of any other state, or the laws of this state and any other state or states, or in the case of a merger of any such companies for the surviving company, to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by any of said companies parties to such consolidation or merger, or for any purpose and to the amount authorized by the laws of the state or states under which any of said companies was organized, and to secure the same by mortgage upon its real or personal property, or both, franchises, rights, and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of any of said states. Any such consolidated or surviving company shall have the same right as any other railroad company organized under the laws of this state to confer on the holders of any bonds issued by it the right to convert the same into capital stock of the company. Nothing in this chapter shall be construed to compel any bondholder to accept payment in whole or in part for any bond or bonds held by him or to surrender the same before they shall become due.
(Formerly: Acts 1937, c.59, s.3.) As amended by P.L.62-1984, SEC.72.

IC 8-4-16-4
Survival of actions; creditors' rights; liens; survival

Sec. 4. The rights of all creditors of, and all liens upon the property of, any of such companies, parties to such consolidation or merger, shall be preserved unimpaired, and the respective companies shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by any of such companies shall thenceforth attach to such new or surviving company, and be enforceable against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which any of said such companies is a party shall abate or be discontinued by reason of such consolidation or merger, but may be conducted to final judgment in the name of such company, or such new or surviving company may be, by order of the court, on motion substituted as a party.
(Formerly: Acts 1937, c.59, s.4.)

IC 8-4-16-5
Repealed

(Repealed by P.L.1-1989, SEC.75.)

IC 8-4-17

Chapter 17. Service of Process on Railroads

IC 8-4-17-1

Authority for appointment

Sec. 1. Every railroad corporation incorporated under IC 8-4-1 and every railroad corporation owning any railroad or the franchises thereof created under any law of this state, and the vendee, lessee, or other party owning, running, controlling, or operating any railroad into or through this state, shall file, on July 1 of each year, the name and address of a resident agent with the Indiana department of transportation. Service of process on the resident agent shall be deemed notice to the railroad company.

(Formerly: Acts 1877(ss), c.31, s.1; Acts 1975, P.L.81, SEC.1.) As amended by P.L.384-1987(ss), SEC.47; P.L.18-1990, SEC.55.

IC 8-4-17-2

Repealed

(Repealed by Acts 1975, P.L.81, SEC.2.)

IC 8-4-17-3

Repealed

(Repealed by Acts 1975, P.L.81, SEC.2.)

IC 8-4-17-4

Repealed

(Repealed by Acts 1975, P.L.81, SEC.2.)

IC 8-4-17-5

Repealed

(Repealed by Acts 1975, P.L.81, SEC.2.)

IC 8-4-17-6

Repealed

(Repealed by Acts 1975, P.L.81, SEC.2.)

IC 8-4-18
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-19
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-20
Chapter 20. Contracts Between Connecting Railroads

IC 8-4-20-1
Transportation of freight and passengers

Sec. 1. All railroad companies now organized or that may be hereafter organized under the laws of this state, having connecting roads, may enter into contracts by their respective boards of directors by which the locomotives and trains of one (1) railroad company, for the transportation of freight and passengers, may be run and operated over and upon the track and road of another railroad company, upon such terms as the said companies may agree upon.
(Formerly: Acts 1873, c.77, s.1.)

IC 8-4-20-2
Ratification

Sec. 2. All contracts heretofore made in good faith between railroad companies organized under the laws of this state, acting by their respective boards of directors, by which the locomotives and trains of one (1) railroad company, for the transportation of freight and passengers, are to be run and operated over the track and road of another railroad company, are hereby ratified and made legal.
(Formerly: Acts 1873, c.77, s.2.)

IC 8-4-20-3
Operation upon tracks of another company; tort liability

Sec. 3. Every railroad company that shall run and operate its locomotives and trains upon the track and road of another railroad company shall be liable to third persons for all damages occasioned by such locomotives and trains, in the same manner and to the same extent as though the track and road upon which such locomotives and trains were run and operated belonged to the company owning and operating the same.
(Formerly: Acts 1873, c.77, s.3.)

IC 8-4-21

Chapter 21. Stockholder's Rights in Sale or Lease

IC 8-4-21-1

Consent of stockholders

Sec. 1. No such sale and purchase or lease shall be perfected until a meeting of the stockholders of each of the companies has been called for that purpose as hereinbefore provided, and the holders of at least two-thirds (2/3) of stock of each company in person or by proxy, at such meeting, assent thereto.

(Formerly: Acts 1913, c.169, s.2.)

IC 8-4-21-2

Dissenting shareholders; arbitration of claims

Sec. 2. A stockholder who, at such meeting, votes against such sale and then, within ten (10) days thereafter, signifies, in writing, to the purchasing company that the stockholder desires to dispose of the stockholder's stock in the selling company shall be entitled to receive from such purchasing company the average market value of the stockholder's stock for the six (6) months next preceding the day of the meeting of the selling company at which the sale is approved, on the surrender of the stockholder's stock. If the purchasing company and the stockholder can not agree as to the value of the stock, the parties may submit the question to arbitration, to be conducted in accordance with the provision of law regulating arbitration, so far as applicable, by three (3) disinterested persons, to be appointed upon the motion of either of the parties by the judge of the circuit court, superior court, or probate court of the county in which the owner of the stock resides, or in case the owner of the stock is nonresident of the state or of any county through or into which the road passes, then any county in which the road so sold passes.

(Formerly: Acts 1913, c.169, s.3.) As amended by P.L.84-2016, SEC.39.

IC 8-4-21-3

Dissenting shareholders; arbitration of claims; deposit of award with court

Sec. 3. If such stockholder refuses for a period of ten (10) days after request therefor to submit the question to arbitration, then, upon the application of a director of either the purchasing or selling company, the proper judge shall appoint the arbitrators, who shall proceed and ascertain the value of the stock as if the question had been submitted by consent of both parties. If the party owning the stock refuses to receive the amount awarded, the company may deposit it with the clerk of the circuit court of the county in which the arbitration is held, which deposit shall operate as if payment was made to the owner of the stock. If the owner of the stock shall accept the award of the arbitrators, he shall surrender his stock certificates.

(Formerly: Acts 1913, c.169, s.4.)

IC 8-4-21-4
Notice of intention to arbitrate

Sec. 4. In all cases of arbitration under sections 2 and 3 of this chapter, the party desiring such arbitration shall give the opposite party at least ten (10) days notice of his intention to apply to the judge for the appointment of arbitrators, which notice shall be served in the manner provided for the service of a summons, and must specify the time and place of hearing of the application. In cases of nonresidents, the notice shall be by publication for three (3) consecutive weeks in some newspaper printed in the county where the application is made.

(Formerly: Acts 1913, c.169, s.5.) As amended by P.L.62-1984, SEC.73.

IC 8-4-21-5
Approval by department

Sec. 5. A purchase or lease made under this chapter is not valid until it is approved by the Indiana department of transportation.

(Formerly: Acts 1913, c.169, s.6.) As amended by P.L.384-1987(ss), SEC.48; P.L.18-1990, SEC.56.

IC 8-4-22

Chapter 22. Stockholder Approval of Lease or Purchase

IC 8-4-22-1

Approval of lease or purchase required

Sec. 1. Any railroad company organized under the laws of Indiana, or created by consolidation of a company or companies organized under the laws of Indiana, and a company or companies organized under the laws of another state or states may lease or purchase, in whole or in part, the connecting or continuous and noncompeting line of any railroad in any other state, together with all its rights, powers, privileges, franchises, and immunities. However, a sale or lease may not be made under this chapter without the approval of:

(1) the stockholders owning not less than two-thirds (2/3) of the outstanding capital stock of each of the companies that are parties to such lease or sale; and

(2) the Indiana department of transportation.

(Formerly: Acts 1921, c.126, s.1.) As amended by P.L.384-1987(ss), SEC.49; P.L.18-1990, SEC.57.

IC 8-4-23
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-24

Chapter 24. Purchase and Sale of Defunct Railroads

IC 8-4-24-1

Certificate of sale; public lease; sale notice

Sec. 1. (a) In case a majority in interest of the creditors of a railroad company and the majority in interest of the stockholders of such company agree upon a plan for the readjustment or capitalization of the debt and stock thereof, thereupon an agreement as aforesaid, either before or after a sale of such railroad under judicial proceedings, and a purchase at such sale by trustees on behalf of the parties to such agreement, all the franchises and powers, including the franchises to act as a corporation conferred by the charter of such railroad company, pass by such sale and vest in the trustees, together with the railroad and all the other property embraced in the sale. In case any railroad situate wholly or partly within Indiana, or any part thereof situate within Indiana, shall, in pursuance of such agreement, be sold by virtue of any mortgage or mortgages or deed or deeds of trust, either by foreclosure or other proceedings in law or equity, or pursuant to any power in such mortgage or mortgages or deed or deeds of trust contained, or by the joint exercise of those authorities, as provided in this section, the purchaser or purchasers of the same, or their survivor or survivors, or the associates of a purchaser or survivor, may form a corporation, by filing in the office of the secretary of state a certificate, under the signature of the purchasers, survivors, and associates specifying the name of such corporation, the number of directors, the names of the first directors and the period of their service (not exceeding one (1) year), the amount of the original capital, and the number of shares into which such capital is to be divided.

(b) The persons signing the certificate, and their successors, shall be a body politic and corporate, by the name therein specified. A copy of such certificate, attested by the signature of the secretary of state or the secretary's deputy, shall, in all courts and places, be evidence of the due organization and existence of the corporation and of the facts in the certificate stated. No sale under this chapter shall be valid unless notice thereof, stating time and place of sale, shall have been published in some newspaper of general circulation in the city of New York, and also by publishing the notice in at least one (1) newspaper of general circulation published in each county in Indiana through which the railroad may run, not less than thirty (30) nor more than sixty (60) days, at the discretion of the court ordering the sale, immediately preceding the sale.

(Formerly: Acts 1861, c.78, s.1.) As amended by P.L.62-1984, SEC.74; P.L.1-1989, SEC.17.

IC 8-4-24-2

Powers, privileges, facilities, and franchises

Sec. 2. Such corporation shall possess all the powers, rights, privileges, immunities, faculties, and franchises in respect to the said railroad, or the part thereof purchased as aforesaid, which were possessed or enjoyed by the corporation that owned or held the said railroad previous to such sale by virtue of its charter or amendments thereto or other laws of this state, or of any state not inconsistent with the laws of this state in which any part of the said railroad is situate, and shall also have power, by agreement of the persons forming the said corporation as aforesaid, or by a vote of a majority in interest of the stockholders, at any time within six (6) months after the formation of the said corporation, to assume any debts or liabilities of the corporation which owned or held the said railroad before the said sale; and in like manner and within a like period, to make such adjustments with any stockholders of the said last mentioned corporation as it may deem expedient, and, for the said purposes, to use such portions of the bonds and stock it may be authorized to create as it may deem necessary, and in such manner as it may deem proper; and shall also have power to make and issue bonds, payable at such times and places and bearing such rates of interest as it may deem expedient, and to sell or dispose of such bonds at such prices and in such manner as it may deem proper, and to secure the payment of any bonds which it may make, issue, or assume to pay, by a mortgage or mortgages or deed or deeds of trust of its railroad, or of any part thereof, or any other of its property, real or personal; and may include in such mortgage or mortgages or deed or deeds of trust any locomotives, cars, and other rolling stock and equipments, and any machinery, tools, implements, fuel, and materials, whether then held or thereafter to be acquired for the constructing, operating, repairing, or replacing the said railroad, or any part thereof, or any of its equipments or appurtenances; all of which property, so included, whether then held or thereafter to be acquired, shall be subject to the lien and operation of such mortgage or mortgages or deed or deeds of trust, all franchises held by said corporation and connected with or relating to the said railroad, and all corporate franchises of the said company; which said franchises, in case of sale by virtue of any such mortgage or mortgages or deed or deeds of trust, are hereby declared to pass to the purchasers, so as to enable them to form a corporation in the manner prescribed in this chapter, and to vest in such corporation all the faculties, powers, authorities, immunities, and franchises conferred by this chapter; and the said corporation shall have power to establish a sinking fund for the redemption of any of its debts; and shall likewise have power to issue capital stock to such aggregate amount as it shall deem necessary, not exceeding any limitation which may be fixed by agreement with the persons forming the said company in the manner provided in this chapter, and may establish preference in respect to dividends in favor of one (1) or more classes of the said stock, in such order and manner and to such extent and with securities, as it

may deem expedient; and may confer on holders of any bonds which it may issue or assume to pay such rights to vote at all meetings of stockholders, not exceeding one (1) vote for every one hundred dollars ($100) of the par amount of the said bonds, as may by it be deemed advisable, which rights when once fixed, shall attach to and pass with such bonds, under such regulations as the bylaws may prescribe, to the successive holders thereof, but shall not subject any holders to any assessment by the said company, or to any liability for its debts, or entitle any holder to dividends; and the said corporation shall also have capacity to hold and enjoy and exercise within other states the aforesaid faculties, powers, rights, immunities, and franchises, and such others as may be conferred upon it by any law of the state or of any other state in which any part of its railroad may be situate or in which it may do any part of its business, and to hold meetings of stockholders and directors, and to do all corporate acts and all things without this state as validly as it may do the same within this state.
(Formerly: Acts 1861, c.78, s.2.) As amended by P.L.62-1984, SEC.75.

IC 8-4-24-3
Reciprocity; foreign corporations

Sec. 3. In case the part situate within this state of any railroad, a part of which is situate in another state, shall become vested in a corporation of such other state, and such corporation shall also acquire a part situate in such other state of the said railroad, the said corporation may exercise and enjoy, within this state, for the purpose of the said railroad and its business, so far as it may be endowed by the laws of the state of its creation with capacity to do so, all the powers, rights, faculties, privileges, immunities, and franchises enumerated in section 2 of this chapter, and its mortgages or trust deeds shall operate as therein specified.
(Formerly: Acts 1861, c.78, s.3.) As amended by P.L.62-1984, SEC.76.

IC 8-4-24-4
Liens and encumbrances

Sec. 4. Next in the order of lien to the existing mortgage debt of the old road shall stand the amounts due persons for labor performed, wood and other such materials furnished the old company in running the road, and damages for killing stock and right of way: Provided, That all the property of said company shall be liable for damages recovered against said company for stock killed or injured by them and exempt from mortgage liens.
(Formerly: Acts 1861, c.78, s.4.)

IC 8-4-24-5
Place of sale

Sec. 5. So much of any railroad as lies in this state and is embraced in the mortgage or mortgages sought to be foreclosed may be sold at such sale as an entirety; and the court making a decree or order of sale may declare, in the order, where the principal office of the railroad company is situate within the state, and may order the sale to be made at the court-house door of the county in which the principal office within the state is situate.
(Formerly: Acts 1861, c.78, s.5.)

IC 8-4-24-6
Surrender or assignment of stock; acquisition of stock in reorganized company

Sec. 6. In case of the sale of a railroad, or any part thereof, as in section 1 of this chapter mentioned, full power is hereby given to the corporate authorities of the several counties, cities, townships, and other municipal corporations holding stock in the company by which such railroad was owned, and to all persons holding such stock in a fiduciary capacity, to surrender or assign such stock, and to accept and receive such new stock in any corporation which, after such sale, may become the owners of said railroad or any part thereof, as may be apportioned or given in respect to the said first mentioned stock under any reorganization of the ownership of the said railroad.
(Formerly: Acts 1861, c.78, s.6.) As amended by P.L.62-1984, SEC.77.

IC 8-4-24-7
Settlement of former account

Sec. 7. No purchaser or purchasers of any railroad shall be entitled to any rights or benefits under this chapter until such purchaser or purchasers shall first assume and pay, in money or first class or satisfactory securities, to be issued by the new corporation formed upon the sale or transfer of any railroad as herein provided for, as the creditor or creditors may elect, all ticket balances and back charges for freight, with interest, whether due upon account, judgment of a court of record, bond, note, or other instrument in writing, which the former railroad corporation may have owned or been in arrears for, to any connecting railroad company, operating a railroad entirely or in part in this state.
(Formerly: Acts 1861, c.78, s.7.) As amended by P.L.62-1984, SEC.78.

IC 8-4-24-8
Amendment or repeal of chapter

Sec. 8. This chapter may be amended or repealed at the discretion of the legislature.
(Formerly: Acts 1861, c.78, s.8.) As amended by P.L.62-1984, SEC.79.

IC 8-4-25
Chapter 25. Underwriting Bonds of Foreign Railroads

IC 8-4-25-1
Authority to underwrite

Sec. 1. The board of directors of any railway company organized under and pursuant to the laws of the state of Indiana whose line of railway extends across the state in either direction, may, upon the petition of the holders of a majority of the stock of such railway company, direct the execution by such railway company of an indorsement guaranteeing the payment of the principal and interest of the bonds of any railway company organized under or pursuant to the laws of any adjoining state the construction of whose line or lines of railway would be beneficial to the business or traffic of the railway so indorsing or guaranteeing such bonds.
(Formerly: Acts 1883, c.127, s.1.)

IC 8-4-25-2
Petition

Sec. 2. The petition of the stockholders specified in section 1 of this chapter shall state the facts relied on to show the benefits accruing to the company indorsing or guaranteeing the bonds above mentioned.
(Formerly: Acts 1883, c.127, s.2.) As amended by P.L.62-1984, SEC.80.

IC 8-4-25-3
Limitation on amount

Sec. 3. No railway company shall, under the provisions of this chapter, indorse or guarantee the bonds of any such railway company or companies as is above mentioned to an amount exceeding one-half (1/2) of the par value of the stock of the railway company so indorsing or guaranteeing as authorized under this chapter.
(Formerly: Acts 1883, c.127, s.3.) As amended by P.L.62-1984, SEC.81.

IC 8-4-26

Chapter 26. Settlement of Railroad Mortgages

IC 8-4-26-1

Notice; procedure

Sec. 1. If any railroad company has heretofore executed, or may hereafter execute, any mortgage upon the whole or any portion of their road, it shall be lawful for such company, with the consent of persons owning a majority of the capital stock of such company, to settle and compromise with such mortgagees, and release and convey to such mortgagees or creditors for whose benefit such mortgage is or may be held such part of the road mortgaged, and upon such terms as may be agreed upon; and thereafter such vendees, by such name as they may assume, shall possess, own, and enjoy all the rights, privileges and immunities of said company over the part of the road so conveyed; and no act or omission of the company making the conveyance shall work a forfeiture of their franchises over that part of the road so conveyed. And such vendees, by the name by them assumed, shall be a body corporate and politic, with the rights, privileges, franchises and immunities as aforesaid, and may issue stock not exceeding twenty thousand dollars ($20,000) per mile, and sell the same, and issue certificates therefor, which shall be assignable upon such terms as they may prescribe; and if from any cause there shall be any failure of the title to any right of way, or when the title thereto has not been acquired, upon which any railroad of this state is now constructed, it shall be lawful for the company owning the road, or for the party owning such lands upon which any part of the road is constructed, to apply to the proper court for the writ of assessment or damages, and have the damages which the owner of said property has sustained or may sustain by reason of the taking, use and occupancy thereof by the company for the construction and maintenance of said road; and upon assessment and payment by the company of the damages which may be assessed or awarded, the title to such property shall vest absolutely in the company for the purposes of said railroad; and the business of no road actually constructed shall be obstructed by reason of any such defect of title to any part of the property upon which it may be built, unless there shall be default in the payment of money awarded after the verdict shall have been rendered and judgment thereon; but every company, having actually constructed and having in operation said road shall be entitled to maintain the same and avail itself of the privilege of this section, whenever, from any cause, its right of way for the track occupied is not perfect and absolute: Provided, That no such compromise or conveyance shall be made until thirty (30) days' notice has been given of the intention so to do, by publication in some newspaper published in this state in the county in which the principal office of such company is kept.

(Formerly: Acts 1855, c.81, s.1.)

IC 8-4-27

Chapter 27. Disposition of Foreclosed Foreign Railroad Property

IC 8-4-27-1

Authority for purchase

Sec. 1. Whenever any railroad, situated partly in this state and partly in an adjoining state, shall be owned by a corporation formed by the consolidation of a railroad corporation or corporations of this state with a railroad corporation or corporations of such adjoining state, and which consolidated corporation shall have its principal office and the greater part of its railroad in such other state, shall be sold under a decree or decrees of foreclosure or sale of any court of competent jurisdiction, any lines of such railroad situated in the state of Indiana may be purchased, together with the connecting lines or a connecting line in such adjoining state, by any corporation organized under the laws of such adjoining state, and authorized and empowered by the laws of such adjoining state to purchase, own, operate and maintain any railroad sold or transferred under such decree of foreclosure or sale.

(Formerly: Acts 1921, c.11, s.1.)

IC 8-4-27-2

Acquiring corporation; certificate of articles of incorporation; filing; powers and duties

Sec. 2. In case the whole or any part of any railroad situate within this state (a part of which is situate in another state) shall become vested in a corporation of such other state, and such corporation shall also acquire a part of such railroad situate in such other state, the said corporation may exercise and enjoy, within this state, for the purposes of such railroad and its business, all the powers, rights, privileges, immunities, and franchises of a railroad corporation organized under the statutes of this state; provided, that such corporation shall have filed, in the office of the secretary of state of this state, a copy of its certificate of articles of incorporation, certified by the secretary of state of such other state; and provided, further, that the corporation which acquires any such railroad shall hold and operate the part thereof so acquired in this state, and shall exercise the powers, rights, privileges, immunities, and franchises hereby conferred, subject to all the rights, powers, privileges, duties, and obligations prescribed by the general laws of this state, for the regulation, government, taxation, or control of railroad companies organized under the laws of this state; and provided, further, that this chapter shall not be construed as authorizing any railroad company to purchase any parallel and competing line of railroad in this state.

(Formerly: Acts 1921, c.11, s.2.) As amended by P.L.62-1984, SEC.82.

IC 8-4-28
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-29
Chapter 29. Awards Against Railroad Carriers

IC 8-4-29-1
Complaint or petition; order of commission

Sec. 1. If, after hearing on a complaint or petition filed with the Indiana department of transportation, the department determines that a party complainant is entitled to an award of damages for the violation of the laws of this state prescribing the duties and powers of the department, the department shall make an order directing the carrier to pay to the complainant the sum to which the complainant is entitled, on or before a day named, and stating the sum. No order shall be made if the carrier has made reparation to the complainant for the injury alleged to have been done. In connection with damages or reparation sought for the assessment and collection by a railroad of unreasonable or otherwise improper charges for the transportation of property within Indiana, if the facts material to the question are set forth in written verified statements by the parties involved and the facts are not in controversy, the department, after investigation and in its discretion, may waive hearing and dispose of the case by order, as provided in this chapter.

(Formerly: Acts 1913, c.273, s.1; Acts 1955, c.176, s.1.) As amended by P.L.384-1987(ss), SEC.50; P.L.18-1990, SEC.58.

IC 8-4-29-2
Action against carrier

Sec. 2. If a carrier does not comply with an order for the payment of money within the time limit in an order, the complainant (or a person for whose benefit the order was made) may file, in the circuit or superior court of a county into or through which the road of the carrier runs, a complaint setting forth briefly the causes for which the complainant claims damages and the order of the Indiana department of transportation in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that, on the trial of the suit, the findings and order of the department shall be prima facie evidence of the facts therein stated, and the complainant, if the complainant prevails, shall be allowed a reasonable attorney's fee, collected as a part of the cost of the suit. No proof of the findings and order of the department shall be required unless the allegations in the complaint concerning the same are specially denied by a pleading under oath.

(Formerly: Acts 1913, c.273, s.2.) As amended by P.L.384-1987(ss), SEC.51; P.L.18-1990, SEC.59.

IC 8-4-29-3
Limitation of actions

Sec. 3. All complaints for the recovery of damages shall be filed with the Indiana department of transportation within two (2) years

from the time the cause of action accrues. A complaint for the enforcement of an order for the payment of money shall be filed in court within one (1) year from the date of the order.
(Formerly: Acts 1913, c.273, s.3.) As amended by P.L.384-1987(ss), SEC.52; P.L.18-1990, SEC.60.

IC 8-4-29-4
Joinder of parties; service of process

Sec. 4. (a) In suits filed under this chapter, all parties in whose favor the Indiana department of transportation may have made an award for damages by a single order may be joined as plaintiffs, and all the carriers that are parties to the order awarding damages may be joined as defendants. The suit may be maintained by joint plaintiffs against joint defendants in a county where one (1) of the joint plaintiffs could maintain a suit against one (1) of the joint defendants. Service of process against one (1) of the joint defendants as may not be found in the county where the suit is brought may be made in any other county of the state as provided by law.

(b) In case of a joint suit, the recovery, if any, may be by judgment in favor of one (1) or more of the plaintiffs against one (1) or more of the defendants found to be liable to the plaintiff or plaintiffs.
(Formerly: Acts 1913, c.273, s.4.) As amended by P.L.384-1987(ss), SEC.53; P.L.18-1990, SEC.61.

IC 8-4-29-5
Cumulative effect of chapter

Sec. 5. The provisions of this chapter are cumulative to all other rights and remedies of the parties and all other powers of the Indiana department of transportation.
(Formerly: Acts 1913, c.273, s.5.) As amended by P.L.62-1984, SEC.83; P.L.384-1987(ss), SEC.54; P.L.18-1990, SEC.62.

IC 8-4-30
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-31

Chapter 31. Railroad's Liability for Fire Damage

IC 8-4-31-1

Insurance; actions against railroads

Sec. 1. Each railroad corporation owning or operating a railroad in this state shall be responsible in damage to every person or corporations whose property may be injured or destroyed by fire communicated directly or indirectly by locomotive engines in use upon the railroad owned or operated by such railroad corporations, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it, and may procure insurance thereon in its own behalf for its protection against such damages; Provided, In all actions instituted under this chapter, the burden of proving the defense of contributory negligence shall be upon the defendant; Such defense may be provided without special plea; Provided, That this chapter shall not be construed to prevent or affect in any wise fire clauses which may be inserted in contracts between railroad companies and other parties relative to the construction of and operation over private sidetracks; Provided further, That the liability imposed herein shall also include reimbursement to volunteer fire departments for fighting fires caused by any railroad corporation.

(Formerly: Acts 1911, c.107, s.1; Acts 1972, P.L.62, SEC.1.)

IC 8-4-31-2

"Railroad corporations" defined

Sec. 2. The term "railroad corporations" contained in this chapter shall be deemed and taken to mean all corporations, companies, and individuals which on or after April 21, 1911, own or operate any railroad within this state.

(Formerly: Acts 1911, c.107, s.2.) As amended by P.L.62-1984, SEC.84.

IC 8-4-32
Chapter 32. Railroad's Liability for Livestock

IC 8-4-32-1
Scope of liability; evidence as to name of railroad

Sec. 1. Any railroad corporation, lessee, assignee, receiver, and other person or corporation, running, controlling, or operating any railroad into or through this state, shall be liable, jointly or severally, for stock killed or injured by the locomotives, cars, or other carriages run on such road, in the name in which the road was run or operated at the time, to the extent and according to the provisions of this chapter; and the bills of lading usually issued at any railroad station in the county in which such stock was killed or injured shall be prima facie evidence as to the character or name in which said railroad was owned, held, controlled, or operated.

(Formerly: Acts 1863, c.25, s.1; Acts 1877(ss), c.30, s.1.) As amended by P.L.62-1984, SEC.85.

IC 8-4-32-2
Complaints; venue

Sec. 2. If an animal is killed or injured by the locomotives, cars, or other carriages used on any railroad in or running into or through Indiana, whether the railroad is run and controlled by the company, a lessee, an assignee, a receiver, or other person, an owner of the animal may file a complaint and prosecute a claim in the circuit court, superior court, or probate court of the county in which the animal was injured or killed.

(Formerly: Acts 1863, c.25, s.2.) As amended by P.L.1-1990, SEC.119; P.L.84-2016, SEC.40.

IC 8-4-32-3
Summons; service

Sec. 3. When the complaint is filed in the circuit court, superior court, or probate court under section 2 of this chapter, the clerk of the court shall issue a summons in the case as in other cases. The summons may be served by copy on any conductor on any train on the road passing into or through the county.

(Formerly: Acts 1863, c.25, s.3.) As amended by P.L.1-1990, SEC.120; P.L.84-2016, SEC.41.

IC 8-4-32-4
Parties

Sec. 4. The action may, in all cases contemplated by this chapter, be brought against the railroad as defendants, whether the same is or was being run by the company, or by a lessee, assignee, receiver, or other person in the name of such company.

(Formerly: Acts 1863, c.25, s.4.) As amended by P.L.62-1984, SEC.86.

IC 8-4-32-5
Judgment upon hearing; order to appear; answer; deposit in court pending final judgment

Sec. 5. (a) After the hearing of the cause under this chapter, the court or jury trying the cause shall give judgment for the plaintiff or plaintiffs for the value of the animal or animals killed or the injury done, without regard to the question whether the killing or injury was the result of willful misconduct, negligence, or unavoidable accident.

(b) If the cause is commenced in the county specified under section 2 of this chapter, the court shall, on motion of the plaintiff or plaintiffs, on the rendition of the judgment, or afterward, at any time, after notice is served on the railroad company defendant, order a writ to issue, directed to the sheriff of the proper county, for any agent, conductor, or employee of the railroad company or the lessee, a receiver, or an assignee of the company, named in the motion, to appear and answer upon oath as to:

(1) the amount of money in their hands, if any, belonging to the company or the assignee, lessee, or receiver; and

(2) the probable amount of money receivable by the agent, conductor, or employee belonging to the railroad company, lessee, assignee, or receivers.

(c) If an agent, a conductor, or an employee ordered to appear under subsection (b) answers that the agent, conductor, or employee has any money, or is in constant receipt of money as agent, conductor, or employee, the court shall order the agent, conductor, or employee to pay into the clerk's office of the court, at the times named by the court, the portions of the money held or received, not exceeding one-half (1/2) the amount held or received, as may be determined just by the court, until the judgment and costs are fully paid and satisfied.

(Formerly: Acts 1863, c.25, s.5.) As amended by P.L.1-1990, SEC.121.

IC 8-4-32-6
Repealed

(Repealed by P.L.1-1990, SEC.122.)

IC 8-4-32-7
Applicability to fenced property

Sec. 7. This chapter shall not apply to any railroad securely fenced in, and such fence properly maintained by such company, lessee, assignee, receiver, or other person running the same.

(Formerly: Acts 1863, c.25, s.7.) As amended by P.L.62-1984, SEC.88.

IC 8-4-32-8
Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-4-33

Chapter 33. Fencing Railroads

IC 8-4-33-1

Time for construction; areas to be enclosed

Sec. 1. Any railroad corporation, lessee, or assignee or receiver, or other person or corporation, running, controlling, or operating, or that may after July 18, 1885, construct, build, run, control, or operate, any railroad into or through this state, shall, not later than July 18, 1886, and within twelve (12) months from the date of the construction and completion of any part of a line of road constructed after July 18, 1885, erect, build, construct, and thereafter maintain fences, which may be constructed of barbed wire, on both sides of such railroad throughout the entire length completed within the state of Indiana, sufficient and suitable to turn and prevent cattle, horses, mules, sheep, hogs, or other stock from getting on such road, except at the crossings of public roads and highways, and within such portions of cities and incorporated towns and villages as are on or after July 18, 1885, laid out and platted into lots and blocks, and shall also, in like manner and within the time herein before prescribed, construct, where the same has not already been done, and thereafter maintain, at all public road and highway crossings, existing on July 18, 1885, or established after July 18, 1885, barriers and cattle guards suitable and sufficient to prevent cattle, horses, sheep, hogs, and other stock from getting on such railroad; provided, however, when such fences and cattle guards are not made as herein provided, or when such fence or cattle guards are not kept in repair, such railroad corporation, or persons operating the same, shall be liable for all damages which may be done by the agents, employees, engineers, or cars of such corporation or person operating the same, to any such cattle, horses, sheep, hogs, or other stock thereon; provided, however, that such railroad corporation or other person operating the same shall not be required to fence such railroad track through unimproved and uninclosed lands, and the provisions of this chapter shall not apply to such parts and portions of any such railroad which runs through unimproved and uninclosed lands, but when such lands become improved and inclosed on three (3) sides, the same shall apply, and such railroad corporation or person operating the same shall be required to fence the same under the provisions of this chapter within six (6) months from the date of such inclosure.

(Formerly: Acts 1885(ss), c.91, s.1.) As amended by P.L.62-1984, SEC.89.

IC 8-4-33-2

Failure of railroad to construct; construction by abutting landowner; compelling payment by railroad

Sec. 2. If such railroad corporation, lessee, assignee, receiver or other person or corporation aforesaid neglect or refuse to construct

such fence, barriers or cattle-guards as provided in the preceding section, the owner of any lands abutting on the land or right of way of said railroad shall have the right (after giving thirty (30) days' notice in writing of his intention so to do, to be served upon the nearest freight receiving and shipping agent employed by the company or person controlling and operating said railroad), to enter upon the land, right of way and track of said railroad, and may build, erect and construct such fences, barriers and cattle-guards as therein provided for, so far as the lands of such landowner abuts on the land and right of way of such railroad, and when he has completed the same, he may present for payment to the agent of such corporation or person controlling and operating such road at the nearest shipping station to the tract of land so fenced, an itemized statement, verified by the affidavit of such person, or his agent, of the expenses thereof, including material and labor, and if such corporation or person so operating said road neglects or refuses for sixty (60) days to pay said account, such landowner may recover, in any court of competent jurisdiction, the reasonable value of such fence, barrier and cattle-guards from said corporation or person operating the same, together with reasonable attorney's fees: Provided, however, If such railroad corporation or other person operating the same, so liable for the value of such fence, cattle-guards and barriers, shall, within said sixty (60) days, make a tender of a sum of money to such person in satisfaction of such claim or liability against such corporation or person, and such person to whom such tender is made shall refuse to accept the same in satisfaction of such claim, and shall sue for the recovery of the value of such fence, barriers and cattle-guards, and shall not recover more than the amount so tendered, he shall not in such action recover attorney's fees.
(Formerly: Acts 1885(ss), c.91, s.2.)

IC 8-4-33-3
Maintenance and repair

Sec. 3. When such fence, barrier and cattle-guards are completed, such railroad corporation, lessee, assignee, receiver or other person or corporation operating and controlling the same shall keep the same in good repair and sufficient to answer the purposes for which constructed, and if any such corporation, lessee, assignee, receiver or other person or corporation shall permit any part of the fence, barrier or cattle-guards to get out of repair so that it will not turn cattle, horses, mules, sheep, hogs or other stock, the owner of the land abutting upon the land or right of way of such railroad may notify the agent, in writing, for receiving and shipping freight at the station nearest the tract of land so owned by such person, that a portion of the fence is out of repair, stating where the same is out of repair, and the probable cost of making such repair, and if such railroad corporation, lessee, assignee, receiver or other person or corporation shall fail, for thirty (30) days, to make or commence such repairs,

such abutting landowner shall have the right to enter upon the land, right of way and railroad track, and make such repairs, and shall furnish a sworn itemized account of the cost of such repairs, including the material necessarily used and the labor, to the agent aforesaid, and if such bill is not paid within sixty (60) days from the time the same was so furnished to such agent, the said party so making such repairs may recover the reasonable value of such repairs so made from such railroad corporation, lessee, assignee, receiver, or other person or corporation so controlling and operating the same, together with reasonable attorney's fees: Provided, That in case the said railroad corporation or person operating the same, liable for such repairs, shall, within said sixty (60) days, tender to such person so making such repairs a sum of money in satisfaction of such repairs made by him, and such person shall refuse to accept the same, and shall sue for the recovery of the value of such repairs, and shall not recover more than was so tendered, he shall not recover attorney's fees in such suit.
(Formerly: Acts 1885(ss), c.91, s.3.)

IC 8-4-33-4
Liability for stock killed or injured

Sec. 4. Nothing in this chapter contained shall in any manner affect or change the liability of railroad corporations, or of the assignees, lessees, or receivers of such corporations, for stock killed or injured upon their railroads; but such liability shall exist and be governed as if this chapter had never been enacted.
(Formerly: Acts 1885(ss), c.91, s.4.) As amended by P.L.62-1984, SEC.90.

IC 8-4-33-5
Farm crossings; constructing gates and bars

Sec. 5. All gates and bars at farm crossings, shall, in the absence of a contract or agreement to the contrary, be constructed and maintained and kept closed by the owner of such farm crossing.
(Formerly: Acts 1885(ss), c.91, s.5.)

IC 8-4-34
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-4-35
Repealed
(Repealed by P.L.40-1995, SEC.5.)

IC 8-4.5

ARTICLE 4.5. TRANSPORTATION CORRIDOR PLANNING

IC 8-4.5-1

Chapter 1. Definitions

IC 8-4.5-1-1

Applicability of chapter

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-2

"Applicant"

Sec. 2. "Applicant" refers to an applicant for a grant under IC 8-4.5-5.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-3

Repealed

(As added by P.L.40-1995, SEC.3. Repealed by P.L.113-2010, SEC.170.)

IC 8-4.5-1-4

"Commissioner"

Sec. 4. "Commissioner" refers to the commissioner of the Indiana department of transportation appointed under IC 8-23-2-2.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-5

"Department"

Sec. 5. "Departments" refers to the Indiana department of transportation and the department of natural resources acting jointly under this article.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-6

"Director"

Sec. 6. "Director" refers to the director of the department of natural resources appointed under IC 14-9-2-1.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-7

"Executive"

Sec. 7. "Executive" has the meaning set forth in IC 36-1-2-5.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-8
"Fund"
Sec. 8. "Fund" refers to the transportation corridor fund established by IC 8-4.5-3-7.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-9
"Governmental entity"
Sec. 9. "Governmental entity" refers to any of the following:
(1) An agency or instrumentality of the state.
(2) A political subdivision.
(3) An agency or instrumentality of a political subdivision.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-10
"Legislative body"
Sec. 10. "Legislative body" has the meaning set forth in IC 36-1-2-9.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-11
"Municipality"
Sec. 11. "Municipality" has the meaning set forth in IC 36-1-2-11.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-12
"Political subdivision"
Sec. 12. "Political subdivision" has the meaning set forth in IC 36-1-2-13.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-13
"Program"
Sec. 13. "Program" refers to the recreational trails program established by IC 8-4.5-5.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-14
"Property owner"
Sec. 14. "Property owner" refers to a person that:
(1) owns property adjacent to a recreational trail; and
(2) is not a responsible party.
For purposes of this section, a person that satisfies both subdivisions (1) and (2) is a property owner even if the person owns any part of a fee simple interest in the corridor.
As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.1.

IC 8-4.5-1-15

"Public utility"

Sec. 15. "Public utility" has the meaning set forth in IC 8-1-8.5-1.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-16

"Recreational trail"

Sec. 16. "Recreational trail" means a trail or path that:

(1) includes a corridor along any part of its length; and

(2) is intended to be used for:

(A) bicycling;

(B) exercising;

(C) hiking;

(D) running;

(E) riding:

(i) in or on a vehicle of any kind, regardless of the means of propelling the vehicle; or

(ii) on any animal;

(F) walking; or

(G) any other recreational purpose.

However, the term does not include a highway, road, or street (as defined in IC 8-23-1-23).

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.2.

IC 8-4.5-1-17

"Responsible party"

Sec. 17. "Responsible party" means the person or governmental entity that is responsible for operating a recreational trail.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-1-18

Repealed

(As added by P.L.40-1995, SEC.3. Repealed by P.L.158-1999, SEC.21.)

IC 8-4.5-1-19

Repealed

(As added by P.L.40-1995, SEC.3. Repealed by P.L.158-1999, SEC.21.)

IC 8-4.5-2
Repealed

(Repealed by P.L.113-2010, SEC.170.)

IC 8-4.5-3

Chapter 3. Transportation Corridor Use Master Plan

IC 8-4.5-3-1

Duties of departments

Sec. 1. (a) The departments annually shall do the following:

(1) Prepare a list of existing rights-of-way that might be abandoned during the following year.

(2) Set priorities for potential future uses of rights-of-way consistent with the Indiana department of transportation's comprehensive transportation plan and the department of natural resources trail system plan.

(3) Contact each railroad owner that holds an interest in a corridor in Indiana to assess the status and any issues concerning corridors that may be abandoned.

(b) The Indiana department of transportation annually, in consultation with affected state and local agencies, shall prepare a list of corridors for preservation.

As added by P.L.40-1995, SEC.3. Amended by P.L.59-2005, SEC.1; P.L.133-2012, SEC.56.

IC 8-4.5-3-2

Repealed

(As added by P.L.40-1995, SEC.3. Repealed by P.L.133-2012, SEC.57.)

IC 8-4.5-3-3

Updated list of priorities

Sec. 3. The departments annually shall update the list prepared under section 1(1) of this chapter and the priorities set under section 1(2) of this chapter based on the following:

(1) Annual system diagram map and supplemental information submitted to the state agencies identifying potential abandonment applications.

(2) Changes in local agency interest.

(3) Availability of funds.

(4) Possible future uses for rail, transit, highway, bicycle, pedestrian, utility, communication, or recreation corridors.

As added by P.L.40-1995, SEC.3. Amended by P.L.133-2012, SEC.58.

IC 8-4.5-3-4

Petition regarding corridor identified for preservation

Sec. 4. The Indiana department of transportation shall file a petition with the United States Surface Transportation Board for public use conditions on a corridor that has been identified for preservation under this chapter.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.4;

P.L.133-2012, SEC.59.

IC 8-4.5-3-5
Petition regarding corridor not identified for preservation

Sec. 5. The Indiana department of transportation, in cooperation with any of the following, may file a petition with the United States Surface Transportation Board for public use conditions on any corridor not described in section 4 of this chapter and for which a petition has been filed:

(1) The department of natural resources.
(2) Local government agencies.
(3) Statewide utility associations.
(4) Nonprofit special interest groups.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.5.

IC 8-4.5-3-6
Reports

Sec. 6. The departments annually shall assemble a written report containing the following information:

(1) A description of the rights-of-way that have been abandoned during the previous year. This description is not required to include the legal description of any of the rights-of-way.
(2) Any property that has been purchased under the program.
(3) Sources of funds for the program.
(4) Other information that the departments consider relevant.

As added by P.L.40-1995, SEC.3. Amended by P.L.133-2012, SEC.60.

IC 8-4.5-3-7
Transportation corridor fund

Sec. 7. (a) The transportation corridor fund is established to provide money for the purposes of this article. The fund shall be administered by the Indiana department of transportation.

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of the following:

(1) All federal money received by the state that may be used for the purposes of this article and that is allocated by the Indiana department of transportation.
(2) Revenue derived from recreational trails under IC 8-4.5-6.
(3) Contributions made for the purposes of this article.
(4) Appropriations made by the general assembly.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest earned from these investments shall be credited to the fund.

(d) Except for money appropriated from the state general fund, money in the fund at the end of a state fiscal year does not revert to the state general fund. Unexpended appropriations from the state

general fund revert to the state general fund at the end of a state fiscal year.

(e) Money in the fund is appropriated for the purposes of this article.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-4

Chapter 4. Acquisition of Abandoned Rights-of-Way by the State

IC 8-4.5-4-1

Acquisition of railroad's interest

Sec. 1. The Indiana department of transportation shall determine whether the state should acquire a railroad's interest in a corridor that is proposed to be abandoned.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.6; P.L.59-2005, SEC.2.

IC 8-4.5-4-1.5

Assistance in acquisition of railroad's interest

Sec. 1.5. The board shall advise and assist the Indiana department of transportation in matters concerning the acquisition of a railroad's interest in a corridor under this chapter.

As added by P.L.59-2005, SEC.3.

IC 8-4.5-4-2

Purposes of acquisition

Sec. 2. The state may acquire any part of a railroad's interest in a corridor under this chapter for any of the following purposes:

(1) A present or future rail line.

(2) A transportation corridor.

(3) A communication corridor.

(4) A recreational trail.

(5) A utility corridor.

(6) The preservation of a railroad corridor.

(7) Any combination of purposes described in subdivisions (1) through (6).

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.7.

IC 8-4.5-4-3

County meeting to consider acquisitions

Sec. 3. (a) The Indiana department of transportation shall hold at least one (1) public meeting in a county through which the corridor passes before determining whether the state should acquire a railroad's interest in a corridor that is proposed to be abandoned. Notice of the meeting must be given in accordance with IC 5-14-1.5.

(b) In addition to the notice requirements of IC 5-14-1.5, the department shall give notice of a meeting under this section to the following:

(1) The county commissioners of each county through which the railroad's interest in the proposed abandoned corridor passes.

(2) The legislative body of each city or town:

(A) through which the railroad's interest in the corridor

passes; or

(B) that is within one (1) mile of any part of the railroad's interest in the corridor.

(3) The railroad that proposes to abandon the railroad's interest in the corridor.

(4) The Indiana utility regulatory commission.

Notice must be given to the persons described in subdivisions (1) through (4) not later than the date notice is required to be published under IC 5-14-1.5.

(c) The department may hold additional meetings before making a determination under this chapter.

(d) The department shall hold a meeting under this section in each county through which the railroad's interest in the corridor passes.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.8; P.L.59-2005, SEC.4.

IC 8-4.5-4-4

Factors to be considered

Sec. 4. In determining whether the state should acquire any part of a railroad's interest in a corridor, the Indiana department of transportation shall consider the following factors:

(1) The potential for future use of the railroad's interest in the corridor as a freight or high-speed passenger rail line, considering the following:

(A) The potential need for use of the railroad's interest in the corridor for future transportation purposes.

(B) The cost of maintaining the railroad's interest in the corridor during any time before the future transportation use will begin.

(C) The effect of any interim use and the future transportation use of the railroad's interest in the corridor on property owners.

(D) Any relevant requirement of any federal law.

(E) Any other factor the department considers relevant.

(2) Based on the recommendation of the department of natural resources, the potential for recreational use of the railroad's interest in the corridor considering the following:

(A) The recreational value of the railroad's interest in the corridor.

(B) The feasibility of using the railroad's interest in the corridor for recreation.

(C) The likelihood that there may be significant recreational use of the railroad's interest in the corridor if the railroad's interest in the corridor is converted to a recreational trail.

(D) The general acceptability of the proposed recreational use of the railroad's interest in the corridor to property owners and the community at large.

(E) The existence of a willing person, whether public or

private, to operate the railroad's interest in the corridor for the proposed recreational use.

(F) Any relevant requirement of any federal law.

(G) Any other factor the department considers relevant.

(3) The potential for the use of the railroad's interest in the corridor for communications or utility use.

(4) Whether there are funds to acquire the railroad's interest in the corridor.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.9.

IC 8-4.5-4-5
Repealed

(As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.10. Repealed by P.L.59-2005, SEC.5.)

IC 8-4.5-4-6
Acquisition

Sec. 6. (a) If:

(1) a determination is made under this chapter to acquire the railroad's interest in the corridor; and

(2) money is available in the fund;

the state shall acquire the railroad's interest in the corridor under IC 4-20.5-3.

(b) An acquisition by the state under this chapter does not deprive a public utility of the use of all or part of the railroad's interest in the corridor, if, at the time of acquisition:

(1) the public utility is occupying and using all or part of the railroad's interest in that corridor for the location and operation of its facilities; or

(2) the public utility has acquired an interest for use of all or part of the railroad's interest in the corridor.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.11.

IC 8-4.5-4-7
Deposit of revenues

Sec. 7. If the state acquires any interest in the corridor under this article, all revenues from a railroad's interest in a corridor acquired under this chapter, including payments derived from public utility or other easements, must be deposited in the fund.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.12.

IC 8-4.5-4-8
Acquisition for recreational purpose

Sec. 8. If a railroad's interest in a corridor is acquired under this chapter for a recreational purpose, the railroad's interest in the corridor must be developed and operated under IC 8-4.5-5.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.13.

IC 8-4.5-5

Chapter 5. Recreational Trails Program

IC 8-4.5-5-1

Purpose and administration

Sec. 1. (a) The recreational trails program is established.

(b) The purpose of the program is to provide funding and other support for the acquisition, construction, or improvement of recreational trails open for public use or trails that will be dedicated to public use upon completion.

(c) The department of natural resources shall administer the program.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-2

Grant eligibility

Sec. 2. (a) The following are eligible to receive a grant under this chapter:

(1) A state agency.

(2) A political subdivision.

(3) A nonprofit organization.

(b) The following may not receive a grant under this chapter:

(1) A private trail project.

(2) A project for a private purpose.

(3) A private business.

(4) A developer.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-3

Duties of applicant

Sec. 3. (a) An applicant shall complete and submit an application as prescribed by the department of natural resources.

(b) An applicant may submit more than one (1) application in a state fiscal year.

(c) Two (2) or more eligible applicants may submit a joint application. A joint application must designate a lead applicant to serve as the principal contact with the department of natural resources.

(d) The department of natural resources may not consider an application under this chapter until the department determines that the requirements for approval of a recreational trail under IC 8-4.5-6 have been satisfied.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-4

Application

Sec. 4. (a) An application must contain the following information:

(1) The information required by IC 8-4.5-6-3.

(2) The applicant's name, mailing address, and telephone number.
(3) The name, mailing address, and telephone number of an individual who will serve as liaison with the department of natural resources.
(4) A time schedule for the total trail project with the applicant's written assurance of project completion as scheduled.
(5) An adequate justification for the project based on the project eligibility criteria in section 5 of this chapter and the evaluation criteria in section 11 of this chapter.
(6) A written assurance from the applicant that the total trail used to justify the project will be adequately maintained and made available for the intended public use for at least twenty (20) years after completion of the project, except as approved by the board.
(7) The amount of the grant requested from the fund. The application may offer a matching fund contribution larger than is required.
(8) A certified copy of the following:
(A) If the entire project will be located within a municipality, an ordinance adopted by the legislative body of the municipality under IC 8-4.5-6-4 that includes a consent to approval of the grant application.
(B) If clause (A) does not apply, an ordinance adopted by the legislative body of each county in which any part of the project will be located under IC 8-4.5-6-4 that includes a consent to approval of the grant application.

(b) An application that is considered but not funded in a fiscal year may be resubmitted for consideration in the next fiscal year.

(c) An applicant may submit a request for a time schedule adjustment. A time schedule adjustment may be approved by the department of natural resources if the project involves unusually complex studies, extensive real estate negotiations, extensive analyses for environmental clearances, complex planning for associated developments, or other compelling reasons.

(d) An applicant may withdraw an application at any time.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-5
Eligibility criteria

Sec. 5. A proposed project must meet all of the following eligibility criteria:
(1) The project must be part of a local, an areawide, a regional, or a statewide plan.
(2) The trail route must be designed in a reasonably safe manner and to allow enjoyment of scenic views or points of historical interest. The route may use:
(A) existing roads, streets, or parkways if the normal flow of

motor vehicle traffic will not be hindered;

(B) abandoned railroad corridors;

(C) water corridors, such as river levees and canal tow-paths;

(D) utility corridors; or

(E) new rights-of-way, if necessary.

(3) The project must include a contribution of at least twenty percent (20%) matching funds. Matching funds must be from sources other than the program. Matching funds may not include other grants from state agencies or the provision of in kind services. The value of donated real property may be used to satisfy the matching fund requirement if both of the following apply:

(A) The real property is donated after the board's funding commitment.

(B) The value is based on a real estate appraisal acceptable to the department of natural resources. The appraisal is subject to review and approval by the department of natural resources after a funding commitment has been made.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-6

Permitted costs

Sec. 6. The following costs may be paid from a grant made under this chapter:

(1) Real property acquisition costs, including appraisal costs and negotiation costs.

(2) Trail surfacing, resurfacing, rehabilitation, modernization, upgrading, and reconstruction, including pavement repairs and overlays and shoulder widening and stabilization.

(3) Initial trail construction, including grading, drainage, paving, and erosion control.

(4) Bridge and culvert repair, modernization, replacement, or initial construction.

(5) Roadway intersection and interchange improvements, including warranted traffic signals that are an integral part of the project.

(6) Construction or improvement of rest areas, information centers, waysides, permanent interpretive displays, lighting, and restrooms, including the costs of utility connections that are an integral part of the project.

(7) Design engineering and construction inspection costs directly associated with the project.

(8) Storm drainage and storm sewer costs to the extent needed for draining the trail.

(9) Utility relocation costs necessary for trail construction or improvement if the utility is not located on a public road.

(10) Trail signs, fencing, landscaping, parking areas, and walkways.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-7
Prohibited costs

Sec. 7. The following costs may not be paid from a grant made under this chapter:

(1) Any cost incurred before approval by the board of funding for a project.

(2) Routine maintenance of a trail, bridge, culvert, fence, or sign.

(3) Winter maintenance of a trail or bridge, including snow plowing, sanding, or salting.

(4) Overhead and operating costs associated with a project, such as auditing, legal, and administrative costs.

(5) Expenses associated with the preparation and submission of a project application.

(6) Predesign engineering and planning expenses.

(7) Utility costs other than those described in section 6 of this chapter.

(8) Pavement markings, traffic signs, safety appurtenances, or lighting, except as an integral part of a trail project.

(9) Purchase of office furnishings or equipment, construction equipment, or personal property.

(10) Sanitary sewers or water mains, except as necessary for restroom construction.

(11) General government expenses and expenses associated with the provision of any public service that are not otherwise eligible for project funding.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-8
Waiver of specified costs

Sec. 8. (a) Notwithstanding section 7 of this chapter, the board may grant a waiver from section 7 of this chapter for specified costs.

(b) An applicant must make a written request for a waiver under this section.

(c) If the board grants a waiver, the applicant may make the specified expenditure. Approval of a waiver does not imply or guarantee that a subsequent application will be approved.

(d) Unless an applicant requests an advance waiver and the request is approved before an expenditure, any costs incurred before a waiver is granted may not be reimbursed from a grant under this chapter.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-9
Waiver for acquisition of real property

Sec. 9. (a) Notwithstanding section 7(1) of this chapter, if there is

extreme urgency involving real property acquisition, the board may grant an applicant's request for a waiver to acquire the real property immediately.

(b) A request for a waiver under subsection (a) must be in writing and include all of the following:

(1) Justification for the urgency of the acquisition.

(2) A description of the real property to be acquired.

(3) A county map showing the location of the real property to be acquired.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-10

Request for preconstruction costs

Sec. 10. (a) The board may grant an applicant's request for preconstruction project planning design and development costs.

(b) A request submitted under subsection (a) must be in writing.

(c) The board may not grant a request under subsection (a) if the total design and development expenditure exceeds fifteen percent (15%) of the total construction costs for the project.

(d) The board shall require adequate documentation of eligible costs before approving reimbursement under this section.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-11

Review and evaluation of applications

Sec. 11. (a) The board:

(1) shall review each application;

(2) may verify the contents of an application; and

(3) may visit the trail site that is the subject of an application.

(b) The board shall evaluate each complete application on the basis of the following criteria:

(1) Whether the predicted use of the trail justifies the construction and maintenance costs.

(2) Need, in terms of the population to be served and existing trails in the area.

(3) Compatibility with local, areawide, regional, or statewide plans.

(4) The acceptability of the proposed trail to property owners.

(5) The general acceptability of the proposed trail to the community at large.

(6) Benefits of multiple uses and recreational opportunities.

(7) Quality of the site.

(8) Economic benefits to the local area.

(9) Accessibility for persons with disabilities.

(10) Interference with any existing public utility use.

(11) Other criteria set by the board.

(c) The board shall determine the applicants to whom grants will be awarded.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.14.

IC 8-4.5-5-12
Funding commitments

Sec. 12. The board is solely responsible for all funding commitments and shall determine which projects are funded, subject to availability of money in the fund.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-13
Funding by board

Sec. 13. (a) The board may approve, modify, or deny an application for funds.

(b) The board may fund all or part of a project.

(c) The board may condition funding upon the applicant's adherence to a time schedule or to fulfillment of an agreement.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-14
Unexpended funds

Sec. 14. The board is not required to commit all funds available during a fiscal year. The board may reserve unexpended or repaid money for the next programming cycle or for anticipated present or future project needs or for other contingencies.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-15
Limitations on reimbursement

Sec. 15. Project costs that exceed the amount granted by the board may not be reimbursed from the fund or the state general fund. Reimbursement of project costs is limited to the percentage match approved by the board and actual eligible project costs incurred.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-16
Project agreement

Sec. 16. (a) After the board has approved funding for a project, the department of natural resources and the applicant must execute a project agreement.

(b) Except as provided in subsection (d), the agreement shall specify the responsibilities for project planning, design, real property acquisition, contracting, construction and materials inspection, and documentation and the criteria for each.

(c) The agreement shall specify the overall funding level approved and contain an estimated budget for eligible work items.

(d) The agreement shall specify that the department of natural resources shall assume control of the trail if the project fails because

the applicant breaches the agreement.

(e) An entity having jurisdiction over a road shall administer a project located on a road. The entity by agreement may delegate part or all of this responsibility.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-17

Reimbursement of actual project costs

Sec. 17. (a) Actual eligible project costs incurred as specified in the agreement, not to exceed the amounts authorized by the project agreement, must be reimbursed.

(b) Project expenditures incurred after the board has made a funding commitment but before execution of the agreement may be reimbursed if prior written authorization is obtained from the department of natural resources and a project agreement is subsequently executed. However, reimbursement may not be paid until the project agreement has been executed.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-18

Real property acquisitions

Sec. 18. (a) Real property may be acquired by lease, by easement, or in fee simple.

(b) If real property is acquired in fee simple, title must be taken in the name of the state.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-19

Audits

Sec. 19. The department of natural resources may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-20

Revocation or repayment of funds

Sec. 20. The board may revoke funding commitments or seek repayment of funds loaned or granted, or take both actions, if any of the following are true:

(1) The terms of the project agreement have not been fulfilled.

(2) The department of natural resources finds that the application contained inaccuracies, omissions, errors, or misrepresentations.

(3) The time schedule for project completion was misrepresented or has not been maintained.

(4) The authority fails to comply with section 4(a)(7) of this chapter.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-21
Abandoned projects

Sec. 21. (a) If a project is completed and later abandoned, the department shall inform the board as soon as is reasonably possible.

(b) After the board receives notification under subsection (a), the board shall consider all possible uses by the state, including continued abandonment of the corridor.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-6

Chapter 6. Local Participation in Establishment of Recreational Trails

IC 8-4.5-6-1

Authorization

Sec. 1. (a) Subject to this chapter, a corridor may be used for a recreational trail.

(b) A recreational trail may not be authorized under this chapter to be used by motorized vehicles except for the following:

(1) Vehicles used to maintain or provide security for the trail.

(2) Vehicles used by persons with disabilities.

(c) A recreational trail may be authorized under this chapter on any part of a corridor that has rail traffic with the consent of the rail traffic operator and owner after consideration of appropriate and safe design and operation.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.15.

IC 8-4.5-6-2

Places to file

Sec. 2. Before a corridor in any part of a county may be converted for use as a recreational trail, a responsible party must file the information required by section 3 of this chapter with the following:

(1) The department of natural resources.

(2) If any part of the recreational trail is intended to be located in a municipality, with the executive of the municipality.

(3) If any part of the recreational trail is intended to be located on property not within a municipality, with the county executive of any county in which the recreational trail is intended to be located.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.16.

IC 8-4.5-6-3

Information to be filed

Sec. 3. A responsible party must file the following information under section 2 of this chapter:

(1) A description and map of the proposed recreational trail. The information filed under this subdivision must identify the following:

(A) The properties for which the responsible party has secured the legal right to use as a recreational trail.

(B) The properties for which the responsible party has not, at the time of the filing, secured the legal right to use as a recreational trail.

(2) The name and address of the responsible party. If the responsible party is not an individual, the following information

about the responsible party must also be included:

(A) If the responsible party is a governmental entity, the following:

(i) The name and address of the individual or body responsible for the administration of the governmental entity.

(ii) The name, address, and head of any agency of the governmental entity that will be responsible for the operation of the recreational trail.

(B) If the responsible party is a corporation of any kind, the officers of the corporation and the address at which legal documents for the corporation may be served.

(C) If the responsible party is a partnership of any kind, the names and addresses of all of the partners.

(D) If the responsible party is any other kind of entity, the name and address of each individual who satisfies the following:

(i) The individual belongs to or is affiliated with the entity.

(ii) The individual has some responsibility for the organization or governance of the entity.

(3) A project concept statement for the recreational trail, including a location map, cross-section, and sketch of the project, detailed enough to generate project cost estimates. The proposed project is not required to be designed before filing, but the concept must be reasonable from a transportation engineering standpoint and detailed enough to generate project cost estimates.

(4) An environmental impact statement, if required by law.

(5) An itemized cost estimate for the total project showing for each item the cost and funding source.

(6) Expenses, including personnel costs, costs of goods and services, contractual services, equipment, utilities, travel, and taxes. The information provided under this subdivision must specifically show expenses for:

(A) trail security;

(B) fencing;

(C) maintenance; and

(D) drainage.

(7) A trail operation agreement under which the responsible party agrees to operate the recreational trail. The trail operation agreement must provide that the responsible party shall grant easements to persons who own adjacent property on both sides of the recreational trail permitting those persons to cross the trail in a reasonable fashion given the use of the adjacent property. The following may require inclusion of other provisions in the trail operation agreement considered advisable:

(A) The department of natural resources.

(B) The executive of a county if an ordinance of the legislative body of the county is required to authorize the recreational trail under this chapter.

(C) The executive of a municipality if an ordinance of the legislative body of the municipality is required to authorize the recreational trail under this chapter.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.17.

IC 8-4.5-6-4

Ordinances for authorization and regulation

Sec. 4. (a) After the responsible party completes the filings required by section 3 of this chapter:

(1) if the entire recreational trail is intended to be located within a municipality, the legislative body of the municipality may adopt an ordinance authorizing the recreational trail within the municipality; or

(2) if subdivision (1) does not apply, the legislative body of each county in which the recreational trail is intended to be located may adopt an ordinance authorizing the recreational trail within the county.

(b) A recreational trail is not authorized until both of the following occur:

(1) One (1) of the following applies:

(A) If the entire recreational trail is intended to be located in a municipality, the legislative body of the municipality adopts an ordinance under subsection (a)(1).

(B) If clause (A) does not apply, the legislative body of each county in which the recreational trail will be located adopts an ordinance under subsection (a)(2).

(2) The department of natural resources approves establishment of the recreational trail.

(c) The legislative body of a municipality or a county may adopt ordinances to regulate the use or operation of the recreational trail.

(d) The department of natural resources may do the following:

(1) Amend the approval given under subsection (b) to regulate the use or operation of the recreational trail.

(2) Authorize a county or a municipality to repeal an ordinance adopted under subsection (b) to revoke authorization of the recreational trail if the responsible party substantially breaches the trail operation agreement.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-6-5

Liability for injury

Sec. 5. (a) A property owner has no duty of care to any person who is using a recreational trail.

(b) This section does not relieve a property owner from liability

for injury that is a direct result of the property owner's:

(1) own use of a recreational trail; or

(2) gross negligence or willful or wanton misconduct.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-6-6

Erection of fence

Sec. 6. At the request of a property owner, the responsible party (including a governmental entity), at the responsible party's expense, shall do the following:

(1) If the responsible party is not a governmental entity, either:

(A) post a bond in an amount sufficient to satisfy the responsible party's obligation to erect the fences requested under this section; or

(B) establish an escrow account with a financial institution or a person selected by mutual agreement with a property owner that contains sufficient money to erect the fences requested under this section.

The terms of the escrow agreement described in clause (B) must require that the money in the account be dedicated to the provision of the fences requested under this section with the surplus to be returned to the responsible party. The responsible party may post a single bond or establish a single escrow account to provide fences for more than one (1) property owner.

(2) Erect and maintain fencing between the recreational trail and the property owner's property. The fencing must be in accordance with current fencing standards of the Indiana department of transportation for urban or rural settings, as appropriate to the location of the recreational trail.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.18.

IC 8-4.5-6-7

Determination by governmental entity

Sec. 7. A governmental entity shall determine that the requirements for approval of a recreational trail under this chapter have been satisfied before the governmental entity may do either of the following:

(1) Participate in the operation of a recreational trail.

(2) Spend or grant money under its control for a recreational trail.

As added by P.L.40-1995, SEC.3.

IC 8-5

ARTICLE 5. COMMUTER RAILWAYS

IC 8-5-1

Chapter 1. Interurban Railroads

IC 8-5-1-1

Powers and duties; enumeration

Sec. 1. Any street railroad company organized before or after March 11, 1901, under Indiana statutes and desiring to construct or acquire, or having before March 11, 1901, constructed or acquired, any street railroad, interurban street railroad, or suburban street railroad, shall, in addition to the rights, privileges, and powers given and granted by statute before March 11, 1901, to street railroad companies, possess the general powers and be subject to the liabilities and restrictions expressed in the special powers following:

First, to cause such examination and surveys for the proposed railroad to be made as may be necessary to the selection of the most advantageous route for the railroad, and, for such purposes, by their officers, agents, and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which they shall do thereto.

Second, to receive, hold, and take such voluntary grants and donations of real estate and other personal property as shall be made to it to aid in the construction, maintenance, and accommodation of such railroad; but the real estate thus received by voluntary grants shall be held and used for the purpose of such grants only.

Third, to purchase, or by voluntary grants and donations, or by the special proceedings provided in this chapter, receive, acquire, and take, and by its officers, engineers, surveyors, and agents enter upon, take possession of, hold, and use, all such lands and real estate and other property as may be necessary for the construction, maintenance, and operation of its railroads, railroad stations, depots, powerhouses, shops, carbarns, offices, lines for transmission of electricity for heat, light, and power for such companies or the public, which transmission lines may be on the line of said railroad or elsewhere, as such company may desire, and other accommodations necessary to accomplish the objects for which the corporation is created, but not until the compensation to be made therefor, as agreed upon by the parties or ascertained as provided in this chapter, shall have been paid to the owner or owners thereof or deposited as in this chapter directed, unless the consent of such owner be given to enter into possession.

Fourth, to lay out its road or any part thereof, not exceeding four (4) rods wide, and to construct, maintain, and operate the same, and for the purpose of cuttings, embankments, and

procuring stone and gravel, it may take as much more lands, which lands if taken for stone or gravel may be adjacent to the line of said road or elsewhere, in the manner provided in this chapter, as its directors may deem necessary for the proper construction and security of the road.

Fifth, to construct its road across any stream of water, watercourse, road, highway, railroad, or canal, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life and property, and, with the consent of the authorities of the proper county, town, or city, on any street, road, or highway, but the corporation shall restore the stream or watercourse, street, road, or highway to its former state, or in a sufficient manner not to unnecessarily impair its usefulness or injure its franchises. And in case such street railroad company shall cross the tracks of any other street railroad company or any railroad company, if the two (2) corporations can not agree upon the amount of compensation to be made therefor, the same shall be ascertained and determined by commissioners to be appointed as is provided in this chapter in respect to the taking of lands; provided, however, that such rights as street railroad companies may have under statutes existing on March 11, 1901, without agreement with the company to be crossed, and without resorting to the special proceedings prescribed in this chapter, to construct, maintain, and operate their street railroads, interurban street railroads, or suburban street railroads across any railroad or street railroad on any street, road, or highway on which such street railroad companies may be legally authorized to operate, shall not be diminished or impaired by anything in this chapter contained.

Sixth, to maintain and operate, and to that end to construct, purchase, lease, or otherwise acquire, and own or control, street railroad, interurban street railroad, or suburban street railroad lines and systems, constructed or in process of construction, or any part or parts thereof, and property appertaining thereto or to be used in connection therewith, in, through, between and connecting the towns and cities, or any of them, named in its articles of association, or those of its constituent companies, or which lines and systems, or part or parts thereof, connect, or will connect, with its lines and system of street railroad interurban street railroad or suburban street railroad, and to take, transport, carry, and convey passengers and property on its said railroad lines and systems by such force as it is permitted to use for such purpose, and to receive tolls and compensation therefor.

Seventh, to erect and maintain all necessary and convenient buildings, stations, depots, fixtures, and machinery for the accommodation and use of its business, and to obtain and hold

the lands necessary therefor.

Eighth, to regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor; provided, however, that nothing contained in this chapter shall take away from the towns and cities the power to regulate and fix the tolls and compensation for such transportation within such cities and towns, as a condition to the grant of the right to operate therein; and nothing in this chapter shall be construed to give any street railroad company the right to construct or operate a railroad in any city or town without first getting the consent of the proper authorities of the city or town to such construction and operation.

Ninth, if, at any time after the location or construction, in whole or in part, of such street railroad, interurban street railroad, or suburban street railroad, it shall appear to a majority of the directors of such company that the line of such railroad is unnecessarily dangerous, inconvenient, or expensive to operate by reason of grades, curves, or other physical conditions affecting the construction, maintenance, or operation of such road, or that, for any other reason, the location of such street railroad, interurban street railroad, or suburban street railroad should be changed, it may make alterations in its line and route, and for that purpose may enter upon, take, and hold the real estate necessary therefor in the manner and by the special proceedings prescribed in this chapter.

Tenth, to make such changes in the grade or the line of highways as it may be directed or permitted to make by the proper county commissioners, with the view to the safety or the convenience of the public, or the better alignment or construction of such railroad, and to take by the special proceedings described in this chapter such lands as may be necessary for such changes.

(Formerly: Acts 1901, c.207, s.1; Acts 1903, c.36, s.1.) As amended by P.L.62-1984, SEC.91.

IC 8-5-1-2

Crossings; construction

Sec. 2. Where it becomes necessary for the track or trolley-wires of one (1) street railroad company to cross the track or trolley-wires of another street railroad company or the track of any railroad company the company owning the road last constructed at such crossing shall, unless otherwise agreed to between such companies, be at the exclusive expense of constructing such crossing in a manner to be convenient and safe for both companies.

(Formerly: Acts 1901, c.207, s.2.)

IC 8-5-1-3

Crossings; maintenance

Sec. 3. Whenever such railroad crossing is constructed in the manner provided for in the preceding section, it shall be the duty of each company respectively to maintain and keep in repair its own track, so as at all times to provide a ready, safe and convenient crossing for all locomotives, trains or cars passing on either road at such point.

(Formerly: Acts 1901, c.207, s.3.)

IC 8-5-2
Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-5-3
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-4
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-5
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-7
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-8
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-9
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-10
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-11
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-12
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-13
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-14
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-5-15

Chapter 15. Commuter Transportation Districts

IC 8-5-15-1

Definitions

Sec. 1. As used in this chapter:

"Board" means the board of trustees of the commuter transportation district.

"Commuter transportation system" means any rail common carrier of passengers for hire, the line, route, road, or right-of-way of which crosses one (1) or more county boundaries and one (1) or more boundaries of the state and serves residents in more than one (1) county. This system is limited to commuter passenger railroads.

"Cost" as applied to a railroad or railroad project includes:

(1) the cost of construction;

(2) the cost of acquisition of personal property, capital stock, land, rights-of-way, property rights, easements, and interests;

(3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(4) the cost of relocating public roads and land, or of easements;

(5) the cost of all machinery and equipment, financing charges, interest before and during construction and for not exceeding two (2) years after the estimated date of completion of construction;

(6) the cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, traffic, and revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing or acquiring any such project;

(7) administrative expense; and

(8) such other expenses as may be necessary or incident to the construction or acquisition, of the project, the financing of the construction or acquisition, and the placing of the project in operation.

"District" means a commuter transportation district established under this chapter.

"Passenger" means a frequent user of the commuter transportation system who can demonstrate an interest and familiarity with the commuter transportation system.

"Project" or "railroad project" includes any facilities, adjuncts, and appurtenances necessary to operate a railroad, such as lines, routes, roads, rights-of-way, easements, licenses, permits, tangible personal property, and real property. It also includes all or a majority of the outstanding capital stock of a corporation that operates a railroad.

"Revenues" means all fees, tolls, rentals, gifts, grants, money, and all other funds coming into the possession or under the control of the

board by virtue of this chapter, but does not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under this chapter.
As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.64-1984, SEC.1; P.L.3-1989, SEC.63; P.L.295-2001, SEC.1.

IC 8-5-15-2
Establishment; county membership; name; membership limitation

Sec. 2. (a) A county served by a system of commuter transportation and through which the line, road, route, or right-of-way of the system passes is a member, subject to subsection (b), of a commuter transportation district. The district is created and shall be composed solely of counties which are served by the system and through which the system passes.

(b) A county is a member of a district if that county's board of county commissioners adopted an ordinance authorizing the county's membership in the district under this chapter before January 1, 1987.

(c) A district shall be a distinct municipal corporation and shall bear a name including the words "commuter transportation district". Such municipal corporation shall include all the territory of the counties that are members of the district and shall be coterminous with such counties.

(d) Membership of the district is limited to counties which are directly served by a commuter transportation system which provides daily interstate commuter service and which owns and operates over trackage within the boundaries of the county.
As added by Acts 1980, P.L.8, SEC.68. Amended by Acts 1981, P.L.67, SEC.5; P.L.385-1987(ss), SEC.2.

IC 8-5-15-3
Board of trustees; membership; term

Sec. 3. (a) The district shall be supervised and managed by a board of trustees, which consists of the following:

(1) Four (4) members, one (1) from each county that is a member of the district, appointed by that county's board of county commissioners. In the case of a member appointed or reappointed under this subdivision after December 31, 2009, the member must be a member of the board of county commissioners of the county that the member represents.

(2) Four (4) members, one (1) from each county that is a member of the district, each of whom is the president of that county's county council or another council member designated by the president as a board member.

(3) After June 30, 2010, one (1) member representing the rest of the state, appointed by the governor.

(4) After June 30, 2010, one (1) passenger member appointed by the governor. The member appointed under this subdivision must be selected from passengers who have submitted a letter

of interest to the governor. To be considered for this position, a passenger must submit a letter of interest to the governor during a two (2) week period that begins, in 2010, on May 2, 2010, and, in any year after 2010 in which the term of a member appointed under this subsection expires, sixty (60) days before the expiration of the term of the member appointed under this subdivision. A member of the board serving under this subdivision is not required to submit a letter of interest to be eligible for appointment to a successive term.

(5) After June 30, 2010, one (1) member who is an employee of the district, appointed by the governor from a list of names submitted by the labor unions representing the employees of the district. Each labor union representing employees of the district may submit one (1) name to be included on the list of names under this subdivision.

(b) A member shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(c) The members of the board shall elect for a one (1) year term:

(1) one (1) member as chairman;

(2) one (1) member to serve as vice chairman;

(3) one (1) member to serve as secretary; and

(4) one (1) member to serve as treasurer.

(d) Not later than:

(1) April 1, 2010; and

(2) in any year after 2010 in which the term of a member appointed under subsection (a)(4) expires, ninety (90) days before the expiration of the term of the board member appointed under subsection (a)(4);

the district shall post in each commuter station in the district a notice of the opening on the board of trustees. The notice must announce the opening for a passenger member on the board of trustees and provide information on submitting a letter of interest. The notice must state the period in which the passenger must submit a letter of interest. The notice must remain posted until, in 2010, May 15, 2010, and, in any subsequent year in which the term of a member appointed under subsection (a)(4) expires, the expiration of the two (2) week period described in subsection (a)(4).

(e) A member appointed under subsection (a)(4) or (a)(5) may not:

(1) vote on issues involving perceived or actual financial conflicts of interest, including personnel issues, collective bargaining, and assessment or levy of taxes; or

(2) participate in an executive session of the board under IC 5-14-1.5-6.1, on issues regarding:

(A) the discussion of strategy for:

(i) collective bargaining; or

(ii) the initiation of litigation or litigation that is either pending or has been threatened specifically in writing;

as described in IC 5-14-1.5-6.1(b)(2); or

(B) the discussion of job performance evaluation of individual employees, except for a discussion of the salary, compensation, or benefits of employees during a budget process, as described in IC 5-14-1.5-6.1(b)(9).

(f) The members appointed under subsection (a)(4) and (a)(5) must reside in different counties.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.12-1983, SEC.18; P.L.64-1984, SEC.2; P.L.385-1987(ss), SEC.3; P.L.295-2001, SEC.2; P.L.182-2009(ss), SEC.263; P.L.48-2010, SEC.1.

IC 8-5-15-4

Board; powers; meetings; compensation

Sec. 4. (a) The board may exercise the executive and legislative power of the district as provided by this chapter.

(b) The board shall hold regular meetings, to be held not less than four (4) times a year, and shall keep its meetings open to the public.

(c) The members of the board are entitled to reimbursement for traveling expenses and other expenses incurred in connection with the members' duties, subject to state travel policies and procedures established by the state budget agency, to be paid by the district. Members are also entitled to a salary per diem provided by IC 4-10-11-2.1(b) while performing their duties.

(d) A majority of the members appointed to the board constitutes a quorum for a meeting. The affirmative votes of a majority of the members are necessary for any action to be taken by the board.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.385-1987(ss), SEC.4.

IC 8-5-15-5

Powers of board; dissolution of district

Sec. 5. (a) The board has all powers reasonably necessary to carry out the purpose of this chapter including the following powers:

(1) To receive federal, state, county, and municipal funds, or private contributions and disburse them for the purpose of aiding commuter transportation systems serving the district.

(2) To monitor and evaluate the use of funds granted or distributed by the district.

(3) To apply for federal, state, municipal, or county funds for the purpose of rendering assistance to commuter transportation systems.

(4) To coordinate its plans and activities with:

(A) any public transportation authority serving one (1) or more counties that are members of the district;

(B) the Indiana department of transportation;
(C) regional planning commissions serving any portion of the district;
(D) units of county and municipal government included in the district; and
(E) any regional transportation authority, transit authority, or like governmental unit in another state if the commuter transportation system crosses the boundary of the state or serves another.

(5) To purchase, lease, or lease with option to purchase capital equipment in aid of any system of commuter transportation operating in the district, and lease the equipment to the system under conditions and for a term to be determined by the board.

(6) As a municipal corporation, to sue and be sued.

(7) To conduct public hearings to accomplish the purpose of this chapter.

(8) To seek and accept the assistance of any public or publicly funded agency in carrying out its functions and duties.

(9) To enter into agreements with either private or public agencies for any purpose required to accomplish the intent of this chapter. The board may enter into a trust indenture or any other agreement with the board for depositories in order to obtain a loan or a loan guarantee under IC 5-13-12-11.

(10) To set levels of service and rates notwithstanding IC 8-3-1, for transportation of passengers subject to section 7 of this chapter.

(11) To expend funds granted to the district from any source for the purpose of paying reasonable administrative expenses.

(12) To purchase, acquire, lease, or lease with option to purchase all or any part of the assets of a railroad that is providing commuter transportation services within the district and to purchase or acquire all or any part of the issued and outstanding stock of a railroad that is providing commuter transportation services within the district.

(13) To own all or any part of the capital stock or assets of a railroad that is providing commuter transportation services within the district, and to operate either directly, by management contract, or by lease any such railroad.

(14) To issue revenue bonds of the district payable solely from revenues for the purpose of paying all or any part of the cost of acquiring the capital stock of a railroad company, all or any part of the assets of a railroad, or any property, real or personal, for the purposes of this chapter.

(15) To acquire, lease, construct, maintain, repair, police, and operate a railroad and to establish rules for the use of the railroad and other properties subject to the jurisdiction and control of the board.

(16) To acquire and dispose of real and personal property in the

exercise of its powers and the performance of its duties under this chapter.

(17) To lease to others for development or operation all or any part of a railroad on such terms and conditions as the board considers advisable.

(18) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(19) To employ, subject to sections 18 and 19 of this chapter, an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation.

(20) To negotiate and enter into agreements for railroad trackage rights regardless of the location of the track.

(21) To do all other acts necessary or reasonably incident to carrying out the purpose of this chapter.

(b) Notwithstanding the powers granted to the board in subsection (a), the district does not have the power to levy taxes.

(c) In the event the board of trustees determines that the commuter transportation system or the railroad owned by the district cannot continue to provide adequate transportation service, or the district is terminated, the board may, subject to the conditions of any state or federal grant used to purchase equipment or property, dispose of any properties of the district.

(d) In the event the district is dissolved, ninety percent (90%) of the proceeds shall be paid to the state and ten percent (10%) to the counties in proportion to their contributions.

(e) In the exercise of any of the powers granted to the board in subsection (a), the board is not subject to any other laws related to commuter transportation systems or railroads.

As added by Acts 1980, P.L.8, SEC.68. Amended by Acts 1981, P.L.67, SEC.6; P.L.12-1983, SEC.19; P.L.64-1984, SEC.3; P.L.48-1986, SEC.2; P.L.19-1987, SEC.22; P.L.385-1987(ss), SEC.5; P.L.18-1990, SEC.63.

IC 8-5-15-5.4

Bonds

Sec. 5.4. (a) The board may provide by resolution, at one (1) time or from time to time, for the issuance of revenue bonds of the district for the purpose of paying all or any part of the cost of a railroad project. The principal of and the interest on the bonds are payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, bear interest at any rate, and mature at a time or times not exceeding forty (40) years from the date thereof, as may be determined by the board, and may be made redeemable before maturity, at the option of the board, at such price

or prices and under such terms and conditions as may be fixed by the board in the authorizing resolution.

(b) The board shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest.

(c) The bonds shall be issued in the name of the district and executed by the manual or facsimile signature of the president of the board. The manual or facsimile seal of the district shall be affixed or imprinted on the bonds and attested by the manual or facsimile signature of the secretary of the district. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized representative of a trustee for the bondholders. Any coupons attached to the bonds must bear the facsimile signature of the treasurer of the board. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be considered valid and sufficient for all purposes the same as if he had remained in office until the delivery. The bonds must contain on their face a statement to the effect that the bonds, as to both principal and interest, are payable solely from the revenues pledged for their payment.

(d) All bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the negotiable instruments law of Indiana.

(e) The bonds may be issued in coupon, registered, or book entry form, or any combination of these, as the board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The board may sell the bonds in such manner and for such price as it may determine to be in the best interest of the district, either at public sale under IC 5-1-11 or at private sale.

(g) The board may issue bonds under this chapter only after obtaining approval of the issuance by the Indiana department of transportation. Before giving approval, the Indiana department of transportation shall give due consideration to any contract terms and conditions that impinge on the continuation of revenues for the term of any bond.

(h) This chapter constitutes full and complete authority for the issuance of bonds. No law, procedure or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency or instrumentality of the state, county, or any municipality shall be required to issue such bonds except as may be prescribed in this chapter.

(i) Bonds issued under the provisions of this section shall

constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loans 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 any other financial institutions organized under the laws of the state of Indiana.

(j) Bonds may not be sold to purchase or lease assets or purchase capital stock of a railroad unless the board has a written undertaking from the seller or lessor that the seller or lessor will take no direct action calculated to cause the reduction of levels of freight service being rendered or revenues being generated on any such railroad for a period of time not less than the term of the bonds.

As added by Acts 1981, P.L.67, SEC.7. Amended by P.L.64-1984, SEC.4; P.L.18-1990, SEC.64; P.L.42-1993, SEC.6.

IC 8-5-15-5.5

Bonds; security; pledges or assignments; rights and remedies of bondholders; depository; expenses

Sec. 5.5. (a) In the discretion of the board, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within this state. Any resolution adopted by the board providing for the issuance of revenue bonds and any trust agreement pursuant to which the bonds are issued may pledge or assign, subject only to valid prior pledges, all or any portion of the revenues received or to be received by the board, except such part as may be necessary to pay the cost of the board's administrative expenses, operation, maintenance, and repair of the railroad, and to provide reserves required by any bond resolution adopted or trust agreement executed by the board.

(b) In authorizing the issuance of bonds, the board may limit the amount of bonds that may be issued as a first lien against the amounts pledged to the payment of those bonds, or the board may authorize the issuance from time to time thereafter of additional bonds secured by the same lien. Additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the board and in the trust agreement or any agreement supplemental to the trust agreement. Additional bonds may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds, or may be made junior to the original issue of bonds.

(c) Any pledge or assignment made by the board under this section is valid and binding from the time that the pledge or assignment is made, and the amounts so pledged and thereafter received by the board are immediately subject to the lien of the pledge or assignment without physical delivery of those amounts or

further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the board or district irrespective of whether these parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created or an assignment made need be filed or recorded in order to perfect the resulting lien against third parties. However, a copy of the pledge or assignment shall be filed in the records of the board.

(d) Any trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. The provisions may include, but are not limited to, covenants setting forth the duties of the board in relation to:

(1) the acquisition of property;

(2) the custody, safeguarding, investment, and application of all moneys received or to be received by the board of trustees;

(3) the establishment of funds, reserves, and accounts;

(4) the construction, improvement, maintenance, repair, operation, and insurance of the railroad project in connection with which the bonds shall have been authorized; and

(5) the rates of fees, tolls, rentals, or other charges to be collected for the use of the railroad project.

(e) It is lawful for any bank or trust company incorporated under the laws of the state, and any national banking association which may act as depository of the proceeds of bonds or other funds of the board, to furnish such indemnifying bonds or to pledge such securities as may be required by the board.

(f) Any trust agreement entered into under this section may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition, such a trust agreement may contain such other provisions as the board may deem reasonable and proper for the security of the bondholders.

(g) All expenses incurred in carrying out the provisions of a trust agreement entered into under this section may be paid from the amounts distributed to the district from the electric rail service fund, from the bond proceeds, or from revenues.

As added by Acts 1981, P.L.67, SEC.8. Amended by P.L.64-1984, SEC.5.

IC 8-5-15-5.6

Covenants with bond purchasers; distributions from electric rail service fund

Sec. 5.6. (a) The general assembly covenants with the purchasers of any bonds issued pursuant to the authority of this chapter that the taxes providing the amounts to be distributed to the district from the

electric rail service fund (IC 8-3-1.5-20.6) and the commuter rail service fund (IC 8-3-1.5-20.5), which amounts are pledged to the payment of those bonds, shall not be repealed, amended, or altered in any manner that would adversely affect the levy and collection of those taxes, or change the method of fixing the rates of those taxes, so long as the principal of, or interest on, any such bonds is unpaid.

(b) The board, on behalf of the state and the district, is hereby authorized to make a similar pledge or covenant in any agreement with the purchasers of any bonds issued pursuant to the authority of this chapter.

(c) For purposes of this section, the principal of or interest on bonds or notes shall be considered paid if provision has been made for their payment in such a manner that the bonds or notes are not considered to be outstanding under the provisions of the resolution or trust agreement pursuant to which the bonds or notes are issued.

As added by Acts 1981, P.L.67, SEC.9. Amended by P.L.385-1987(ss), SEC.6.

IC 8-5-15-5.7

Commuter transportation system bond fund; reserve; surplus

Sec. 5.7. (a) If there are bonds outstanding issued pursuant to section 5.4 of this chapter, the treasurer of the board shall deposit in a separate and distinct fund called the commuter transportation system bond fund all amounts distributed to the district from the commuter rail service fund (IC 8-3-1.5-20.5) and the electric rail service fund established by IC 8-3-1.5-20.6.

(b) "Bond fund requirement" means the total of the following:

(1) the principal of and interest on all outstanding bonds issued pursuant to this chapter becoming due in the next twelve (12) months; plus

(2) as a reserve for such payment the amount provided in the resolutions or trust agreements pursuant to which such bonds are issued which reserve shall not in any event exceed an amount equal to two (2) times the maximum amount of principal and interest coming due of such bonds in any subsequent year by reason of stated maturities, scheduled mandatory prepayments or by operation of any mandatory prepayments or by operation of any mandatory sinking fund (assuming for the purpose of the foregoing that all such bonds which are subject to mandatory redemption or prepayment are redeemed or prepaid in accordance with the requirements of such mandatory redemption or prepayment and further assuming that such bonds are otherwise redeemed or prepaid prior to maturity).

(c) Amounts in the commuter transportation bond fund up to the bond fund requirement shall be applied to the payment of principal of such bonds and the interest thereon and to no other purpose whatsoever. Any amount in the bond fund which exceeds the bond

fund requirement may be expended by the board for any purpose authorized by this chapter.

(d) The reserve shall be held as a separate subaccount within such bond fund. To the extent authorized and directed in any resolution of the board or in any trust agreement providing for the issuance of bonds pursuant to this chapter, proceeds of such bonds may be deposited in such reserve subaccount. However, the amount so deposited when added to any amount then in such subaccount shall not exceed the maximum amount required to be in such subaccount as above provided.

As added by Acts 1981, P.L.67, SEC.10. Amended by P.L.385-1987(ss), SEC.7.

IC 8-5-15-6

Conditions on grant

Sec. 6. Any commuter transportation system receiving assistance from a district shall, as a condition of the grant:

(1) submit its operating budget for passenger service rendered to the district for public hearings annually at least ninety (90) days before the beginning of the system's fiscal year;

(2) permit the Indiana department of transportation (IC 8-23-2) to audit the financial books and records of the system as the department would audit any intrastate railroad; and

(3) assume the responsibility for operation and maintenance of the equipment in accordance with a lease agreement executed between the system and district.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.385-1987(ss), SEC.8; P.L.18-1990, SEC.65.

IC 8-5-15-7

Conflicts with federal law or regulations; levels of services

Sec. 7. (a) Any provision of this chapter in conflict with the Interstate Commerce Act of the United States or any other federal law or regulations governing transportation by common carrier is void, but all other provisions of this chapter shall be given effect if possible, without the provision or provisions so voided.

(b) The board may eliminate service or reduce levels of service for the transportation of passengers or property only after obtaining approval by the Indiana department of transportation.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.64-1984, SEC.6; P.L.18-1990, SEC.66.

IC 8-5-15-8

Grant of funds

Sec. 8. (a) The board of commissioners of any county may authorize the grant of funds to any commuter transportation system serving or passing through the county for the purchase of equipment or other capital improvements. The grants shall be made to a district

for distribution to the commuter transportation systems or for purchases of equipment or capital improvements to be used on or by the systems in connection with its public transportation operation.

(b) In the event the county is not a member of a district, a grant authorized by this section may be distributed directly to a commuter transportation system.

As added by Acts 1980, P.L.8, SEC.68.

IC 8-5-15-9
Repealed

(Repealed by P.L.11-1993, SEC.9.)

IC 8-5-15-10
Financial records; inspection; publicity; exclusion of freight service costs

Sec. 10. (a) Any commuter transportation system which receives aid from the district under this chapter must make its financial records available for inspection during normal working hours by a designated representative of the district.

(b) The district may provide any information to the general public which it develops from its review of the system's financial records which relates to the qualification for financial aid by that system.

(c) The district shall develop a formula which fairly allocates the administrative and operational costs incurred by the system between its freight service and passenger service.

(d) No state or local funds may be expended to reimburse the system for costs allocated to freight service.

As added by Acts 1981, P.L.67, SEC.12.

IC 8-5-15-11
Proceeds of bonds; issuance of interim receipts or temporary bonds; mutilated, destroyed, or lost bonds

Sec. 11. (a) The proceeds of the bonds of each issue:

(1) shall be used solely for the payment of the cost of the railroad project for which the bonds have been issued; and

(2) shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the same.

(b) If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than the cost of the railroad project for which they have been issued, additional bonds may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds shall be considered to be of the same issue and entitled to payment from that same fund without preference or priority of the bonds first issued.

(c) If the proceeds of the bonds of any issue exceed the cost of the

railroad project for which they have been issued, the surplus shall be deposited to the credit of the sinking fund for those bonds.

(d) Before the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds that are mutilated, destroyed, or lost.

As added by P.L.64-1984, SEC.7.

IC 8-5-15-12

Revenue refunding bonds

Sec. 12. (a) The board may provide by resolution for the issuance of revenue refunding bonds of the district or revenue advance refunding bonds of the district, payable solely from revenues, for the purpose of refunding or advance refunding any bonds then outstanding that have been issued under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if considered advisable by the board, for the additional purpose of constructing improvements, extensions, or enlargements of the railroad in connection with which the bonds to be refunded have been issued.

(b) The issuance of the bonds, the maturities and other details of the bonds, the rights of the bondholders, and the rights, duties, and obligations of the board in respect to the bonds, shall be governed by this chapter insofar as it may be applicable.

As added by P.L.64-1984, SEC.8.

IC 8-5-15-13

Money received under this chapter; disposition; depositories; trustee; guaranteed investment contract

Sec. 13. (a) All money received under this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise:

(1) shall be considered to be trust funds to be held and applied solely as provided in this chapter; and

(2) except as provided in subsection (d), may be invested before the time when needed to the extent and in the manner provided by IC 5-13-9, insofar as applicable.

(b) The funds shall be kept in depositories as selected by the board in the manner provided by law.

(c) The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or any bank or trust company to which, the money is entrusted shall act as trustee of the money and shall hold and apply the money for the purposes of this section, subject to this chapter and the authorizing resolution or trust agreement.

(d) Proceeds received by the district from the sale of equipment

in a sale and leaseback transaction may be invested in or used to purchase a guaranteed investment contract with an insurance company whose long term indebtedness is rated in one (1) of the two (2) highest categories by at least two (2) national rating services. The guaranteed investment contract may not exceed the term of the lease and may be assigned to secure performance of the lease.
As added by P.L.64-1984, SEC.9. Amended by P.L.19-1987, SEC.23; P.L.8-1996, SEC.11.

IC 8-5-15-14
Actions by bondholders or trustee; protection and enforcement of rights; enforcement and compelling performance of duties under chapter

Sec. 14. Any holder of bonds issued under this chapter and the trustee under any trust agreement, except to the extent the rights granted by this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings:

(1) protect and enforce all rights under Indiana law or granted under this chapter or under the trust agreement, or the resolution authorizing the issuance of the bonds; and

(2) enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the board or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the railroad or railroad project.

As added by P.L.64-1984, SEC.10.

IC 8-5-15-15
Eminent domain; relocation assistance; properties in public use

Sec. 15. (a) The board may exercise the power of eminent domain for the purpose of carrying out this chapter and award damages to landowners for real estate and property rights appropriated and taken. If the board cannot agree with the owners, lessees, or occupants of any real estate selected by the board for the purpose set forth in this chapter, the board may proceed to procure the condemnation of the property under IC 32-24.

(b) Relocation assistance under IC 8-23-17 shall be provided to any person displaced under this section.

(c) If the property over and across which the railroad must be constructed and must operate is already in use or acquired for use for a public purpose, the public use or acquisition of the property is not a bar to the right of the board to condemn the property for the purpose of this chapter.
As added by P.L.64-1984, SEC.11. Amended by P.L.18-1990, SEC.67; P.L.2-2002, SEC.42.

IC 8-5-15-16

Exercise of powers under this chapter for benefit of people of Indiana; tax exemption

Sec. 16. (a) The exercise of the powers granted by this chapter is in all respects for the benefit of the people of Indiana, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a railroad project by the board will constitute the performance of essential governmental functions, the board shall not be required to pay any taxes or assessments upon any railroad project or any property acquired or used by the board under this chapter, or upon the income from it, and the bonds issued under this chapter, the interest on them, the proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption before maturity or proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation in Indiana as provided in IC 6-8-5.

As added by P.L.64-1984, SEC.12. Amended by P.L.3-1990, SEC.30.

IC 8-5-15-17

Employees of commuter railroad transportation system; protection

Sec. 17. If the district acquires a commuter railroad transportation system and proceeds to operate the system directly, by management contract, or by lease under this chapter, the employees of the system shall be protected as follows:

(1) The employees of the system must be retained to the fullest extent consistent with sound management, and those terminated or laid off must be assured priority of reemployment.

(2) The rights, privileges, and benefits of the employees under any pension or retirement plan are not affected, and the board shall assume the duties of the system under the plan.

(3) The board shall act in such a manner as to insure the continuing applicability to affected railroad employees of the provisions of all federal statutes applicable to them prior to April 1, 1984, and a continuation of their collective bargaining agreements until the provisions of those agreements can be renegotiated by representatives of the board and the representatives of those employees duly designated pursuant to terms and provisions of the federal Railway Labor Act (45 U.S.C. 151 et seq.).

(4) The employees of the system shall receive protection no less favorable than the employee conditions provided In the Matter of the New York Dock (360 I.C.C. 60), and no person with an employment relation with the commuter transportation system on April 1, 1984, may be deprived of employment or placed in a worse position by reason of the district's acquisition of a commuter transportation system.

As added by P.L.64-1984, SEC.13.

IC 8-5-15-18
Legal services; attorney general

Sec. 18. (a) Each district shall request the attorney general to perform any legal services required in providing transportation service within the district. If the attorney general is unable to perform those services, the district may, with the attorney general's approval, employ an attorney.

(b) The attorney general shall, to the extent feasible and upon request of a district, perform legal services for the district.

As added by P.L.385-1987(ss), SEC.10.

IC 8-5-15-19
Auditing services

Sec. 19. (a) Each district shall request the state board of accounts to perform any auditing services required under this chapter in providing transportation service within the district. If the state board of accounts is not able to perform those services, the district may employ an auditor to perform audits for the district.

(b) The state board of accounts shall, to the extent feasible and upon request:

(1) perform auditing services for the district; and

(2) consult with the district in acquiring auditing services.

As added by P.L.385-1987(ss), SEC.11.

IC 8-5-15-20
Agreements between district and system; contents

Sec. 20. Any agreement between the district and the system, the principal purpose of which is to provide passenger rail service, must include the following provisions:

(1) That the replacement of capital assets employed in the provision of passenger service will be provided for prudently.

(2) That the methods of conducting and accounting for financial transactions between parties to agreements will be compatible with the fiduciary responsibilities of the district and the purposes of this chapter and follows generally accepted accounting principles.

(3) That the system shall maintain complete and accurate books and records, permit reasonable access by the district and its duly authorized representatives to the books and records of the system, and permit the district or its representatives, at reasonable times and subject to reasonable confidentiality restrictions, to inspect the properties and operations of the system.

(4) That the system shall also provide:

(A) system performance information, which will permit an assessment of passenger service in general and service levels in particular;

(B) information concerning the operation and administration

of the passenger rail service;

(C) a projection of significant operational and administrative changes scheduled to take place in the enusing fiscal year;

(D) a projection of capital expenditures scheduled to be undertaken by the system in the ensuing fiscal year; and

(E) a list of capital improvements that the system requests that the district undertake in the ensuing five (5) years.

(5) That a marketing study shall be undertaken no less frequently than every three (3) years. The study may be undertaken jointly by the system and the district. The study must measure and evaluate passenger attitudes and requirements concerning service levels, service quality, fares, and opportunities to improve service or to increase ridership.

(6) That the passenger service deficit will not exceed an agreed amount (with an allowance agreed to by the parties for variable expenses) during the term of the agreement.

As added by P.L.385-1987(ss), SEC.12.

IC 8-5-15-21

Agreements between district and system; property interests; operation

Sec. 21. Any agreement between the district and the system may include a provision that, with respect to assets owned by either party, property interests may be conveyed and responsibilities for operation and maintenance may be assigned to either party, or jointly held and exercised by either party.

As added by P.L.385-1987(ss), SEC.13.

IC 8-5-15-22

Agreements between district and system; service profile

Sec. 22. Any agreement between the district and the system must include a service profile describing passenger service levels. The service profile shall be described with terms and conditions that are objective and measurable.

As added by P.L.385-1987(ss), SEC.14.

IC 8-5-15-23

Financial or operating agreements; approval

Sec. 23. Any financial or operating agreement between a district and a system does not take effect until the Indiana department of transportation approves the agreement.

As added by P.L.385-1987(ss), SEC.15. Amended by P.L.18-1990, SEC.68.

IC 8-5-15-24

Financial responsibility; certification; proof

Sec. 24. (a) Before January 1 of each year, the district shall certify to the Indiana department of transportation that the district has taken

action to provide financial responsibility against liability of the district under any agreement with a commuter transportation system.

(b) Proof of financial responsibility under this section may be established by proof that:

(1) a liability insurance policy is in force; or

(2) a self-insurance program is in effect.

(c) The district shall participate, if feasible, in the programs established by the political subdivision risk management commission under IC 27-1-29.

As added by P.L.385-1987(ss), SEC.16. Amended by P.L.18-1990, SEC.69.

IC 8-5-15-25

Capital improvement contingency fund

Sec. 25. (a) The capital improvement contingency fund is established for the purpose of:

(1) receiving taxes, appropriations, and other revenues;

(2) matching state or federal transportation grants made to permit the acquisition of capital assets;

(3) acquiring capital improvements or assets; or

(4) receiving, holding, and disbursing funds as a fiduciary.

(b) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.385-1987(ss), SEC.17.

IC 8-5-15-26

Petition to discontinue rail passenger service; acquisition of property

Sec. 26. If a petition is filed by the system under the Interstate Commerce Act to discontinue rail passenger service, the district may take the necessary action to acquire the system's passenger and freight properties under sections 5(a)(12) and 5(a)(13) of this chapter and, if necessary, exercise the power of eminent domain under section 15 of this chapter.

As added by P.L.385-1987(ss), SEC.18.

IC 8-6

ARTICLE 6. RAILROAD CROSSINGS

IC 8-6-1

Chapter 1. Highway Crossings

IC 8-6-1-1

Investigations; numbering of crossings

Sec. 1. The Indiana department of transportation (referred to as "the department" in this chapter) shall carefully investigate and examine all the highway crossings of railroads in this state and to make or cause to be made files and numbers of the highway crossings, so that the crossings may be known and designated by mileposts or otherwise, and referred to and considered, from time to time, as may be necessary to carry out this chapter.

(Formerly: Acts 1913, c.182, s.1.) As amended by P.L.62-1984, SEC.93; P.L.384-1987(ss), SEC.56; P.L.18-1990, SEC.70.

IC 8-6-1-2

Requisite information; forms; investigation

Sec. 2. The department shall secure from the several companies owning or operating railroads throughout this state detailed and specific information concerning the highway crossings along their lines, outside the corporate limits of cities and incorporated towns in this state, and, for that purpose, the department shall prepare and submit to each of such companies blank forms indicating the various items of information concerning such highway crossings upon which the department desires to be advised. Such companies shall, within six (6) months after the receipt of such blank forms by them respectively, fill out the same with the complete information requested and return to the department a separate blank form so filled out for each such highway crossing, accompanied by a photograph of each separate crossing so described. The department shall then proceed to examine the conditions of each highway crossing and ascertain which of the same should, under all the circumstances, be separated, and, to that end, the department may employ a civil engineer and such expert assistance as is necessary to make such investigation.

(Formerly: Acts 1913, c.182, s.2.) As amended by P.L.384-1987(ss), SEC.57.

IC 8-6-1-3

Surveys and reports

Sec. 3. The department may require to be made ocular or instrumental surveys or reports and examinations, as may be deemed expedient, and the department shall carefully examine and consider the files, reports, and surveys of each of said highway crossings in this state, with reference to:

(1) separation of the grade, the purpose being to separate as rapidly as practicable grade crossings in this state; and

(2) a better location and consolidation of the crossings, the purpose being to have all crossings at right angles if possible.

(Formerly: Acts 1913, c.182, s.3.) As amended by P.L.384-1987(ss), SEC.58.

IC 8-6-1-4

Hearings on location and construction; orders

Sec. 4. Whenever the department shall come to the conclusion, whether on account of the topography of the ground at the crossings, or on account of the great number of travelers using any crossing of a highway and railroad, or for any reason deemed by the department to be sufficient, that the grades of such crossing should be separated, and it shall be found practicable to do so, the department shall serve with notice the railroad company or companies, and also serve with notice the board of commissioners of the county or counties in which such highway crossing is located. Said notice shall set out that the department, on the day named, will consider the matter of separation of the grades at such crossing and the department shall have jurisdiction of the parties and the subject matter in said proceedings and shall hear and determine the matter. If satisfied that said crossing is dangerous to life and that safety and the accommodation of the public requires that the grades be separated, and that it is practicable to separate said grades, the department may so order. The department shall, in said order, prescribe the manner in which such separation shall be accomplished. The cost of such separation shall be borne one-fourth (1/4) by the county and counties in which such grade is separated and three-fourths (3/4) by the railroad company or companies, and whenever the department may order any such grades separated, it may, if it shall deem it best, relocate or consolidate highway crossings over railroads, street railroads, interurban street railroads, or suburban street railroads in this state, and may relocate or consolidate highways leading to any such crossing. If any of the parties to such proceeding fail or refuse to obey the orders of the department, the department may proceed, in any circuit or superior court of any one (1) of the counties in which said highway crossing may be located, to enforce its orders. The provisions of this section shall not apply to cities of over twenty thousand (20,000) population.

(Formerly: Acts 1913, c.182, s.4; Acts 1915, c.75, s.1.) As amended by P.L.62-1984, SEC.94; P.L.384-1987(ss), SEC.59; P.L.81-1996, SEC.1.

IC 8-6-1-5

Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-6-1-6

Maximum or ruling grade; exceeding

Sec. 6. In any case of grade separation under the provisions of this chapter, no plan shall be adopted by the department or order made requiring a grade of any railroad track that shall exceed the established maximum or ruling grade governing the operation of that division or part of the railroad on which separation of grades is to be made without the consent of the company operating said railroad; nor shall the track or tracks of the companies concerned be required to be placed below high-water mark at the point where such change is made.

(Formerly: Acts 1913, c.182, s.6.) As amended by P.L.62-1984, SEC.96; P.L.384-1987(ss), SEC.60.

IC 8-6-1-7

Relocation or consolidation of crossings; hearing on establishment or extension of highway at grade over railroad; construction of new railroad

Sec. 7. (a) Whenever the department finds it best to relocate or to consolidate highway crossings over railroads in this state, it has jurisdiction for that purpose, and may serve the board of county commissioners and the railroad companies with notice, and shall proceed to hear and determine said matters, and thereupon make such orders as, in the opinion of the department, are necessary to make the said relocation or consolidation effective. Such orders shall be binding upon the parties so served with the notice, and if not observed by them within the time prescribed in said orders, the department shall proceed as provided in section 4 of this chapter to enforce such orders.

(b) Whenever it shall be desired to establish or extend a highway at grade over any railroad in this state, it shall be necessary, before establishing or extending the highway, that the petitioners shall, by a procedure to be prescribed by the department, petition to obtain the authority of the department under IC 8-6-7.7-3.4. The grant or refusal of authority therefor by the department shall be final and conclusive except as provided in this chapter.

(c) Whenever it shall be desired by any railroad company to construct a new railroad at grade over any public highway or highways in this state, it shall be necessary for a company, by a procedure to be prescribed by the department, to petition to obtain the authority of the department under IC 8-6-7.7-3.4, but it shall not be necessary to obtain such authority when such new railroad has secured its rights of way or is under construction. The grant or refusal of such authority shall be final and conclusive, except as provided in this chapter. Nothing herein shall prevent the department from subsequently altering or rescinding any grant or refusal of authority to construct such highway or railway, if, in its discretion, such alteration should be made.

(Formerly: Acts 1913, c.182, s.7.) As amended by P.L.62-1984,

SEC.97; P.L.384-1987(ss), SEC.61; P.L.81-1996, SEC.2.

IC 8-6-1-8
Number of crossings; determination

Sec. 8. In determining the number of grade crossings the separation of which may be required under the provisions of this chapter, the railroad companies, street railroad, interurban street railroad, or suburban street railroad companies operating the lines of railway shall alone be considered, whether such lines are operated under the ownership of such companies or by lease, operating contract or otherwise. The number of miles so operated shall be determined by the length of the occupied main track right of way, regardless of the number of tracks operated thereon.

(Formerly: Acts 1913, c.182, s.8.) As amended by P.L.62-1984, SEC.98.

IC 8-6-1-9
Consent to construction

Sec. 9. No railroad shall construct a railroad across a public highway at grade outside of the limits of any city or town without obtaining the written consent of the department required by section 7 of this chapter and by IC 8-6-7.7-3.4.

(Formerly: Acts 1913, c.182, s.10.) As amended by P.L.384-1987(ss), SEC.62; P.L.81-1996, SEC.3.

IC 8-6-2
Repealed

(Repealed by Acts 1978, P.L.62, SEC.2.)

IC 8-6-2.1

Chapter 2.1. Railroad Grade Crossing Separations

IC 8-6-2.1-1

Separation or alteration of grade levels of public highway

Sec. 1. The board of public works or board of public works and safety, referred to in this chapter as the board, of a city may, by resolution, require the separation or alteration of the grade levels of any public highway in the city and of any railroad crossing the public highway, either by carrying the public highway under or over the railroad, or by carrying the railroad under or over the public highway, or by any combination of these means.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-2

Agreements for removal of railroad facilities; relocation and reconstruction of facilities

Sec. 2. The board may enter into an agreement or agreements with any railroad company for the removal of any track, roadbed, yard, station or other railroad facilities, and provide for the relocation and reconstruction of those facilities or any part of them if the board determines it necessary in connection with an improvement to provide for the abandonment for railroad purposes of any right-of-way, land or other property owned and used or occupied for railroad purposes by any railroad company.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-3

State highway commission powers

Sec. 3. (a) The Indiana state highway commission shall participate in the proceedings and in the cost of any improvements made pursuant to the proceedings provided for by this chapter if any improvements involve a highway which is part of the state highway system or a street or highway selected by the Indiana state highway commission as a route of a highway in the state highway system.

(b) If the Indiana state highway commission participates in any proceedings as set out in this chapter and in the cost of improvements made pursuant to the proceedings, the county in which the city is located shall also participate in the proceedings and in the cost of any improvements that are made pursuant to the proceedings.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-4

Preparation of maps and plans

Sec. 4. (a) Whenever the board of any city determines that public necessity and convenience require the separation or alteration of the grade of any highway and any railroad at their intersection in the city, it shall order the preparation of general maps, and plans and

specifications comprehending all work and changes necessary or incidental to the improvement, including the opening, widening, change, vacation, elevation, depression or reconstruction of any highway, and the elevation, depression, removal, relocation, construction or reconstruction of the track, roadbed, yards, station, or other facilities of any railroad, and also a description of all lands, rights-of-way and other property necessary to be acquired in connection with the improvement, and the manner in which they are to be acquired, whether by purchase or by appropriation, together with an estimate of the total cost to be incurred in connection with the improvement, as the total cost is defined by this chapter.

(b) If the maps, plans and specifications provide for the abandonment for railroad purposes of any right-of-way, land or other property owned or used or occupied for railroad purposes by any railroad company, and the removal of any track, roadbed, yard, station or other facilities, requires the relocation and reconstruction of the facilities, or any part of them, the board, prior to the adoption of the resolution for the improvement, shall enter into an agreement or agreements with the railroad company affected, for adjustment of the costs and losses occasioned by the removal, relocation and reconstruction, and the value of all the property abandoned for railroad purposes and reclaimed for other uses, the apportionment of the adjusted costs, losses and values between the railroads affected and the city, and other matters necessarily related.

(c) Cost adjustments required by this chapter are governed by IC 8-6-3, the provisions of which are incorporated in this chapter by reference.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-5

Parties to agreements; submission of specifications, maps, and plans; approval

Sec. 5. (a) If the Indiana state highway commission and the county in which the city is located participate in the proceedings, the Indiana state highway commission and the county shall become parties to the agreement, and the agreement or agreements shall be included in and be a part of the resolution for the improvement and shall be subject to the final confirmation, or modification and confirmation, or rescission of the resolution, but no modification of the agreement or agreements shall be effective without the written consent of the railroad company affected; and the consent shall be filed with the board.

(b) The maps, plans and specifications shall be submitted by the engineer selected by the board to the Indiana state highway commission and to the board of commissioners of the county in which the city is located, and if the maps, plans and specifications meet the approval of the Indiana state highway commission and the board of commissioners, the approval shall be endorsed in writing on

the documents.

(c) No further proceedings may be had pursuant to this chapter until the general maps, plans and specifications have been approved by the Indiana state highway commission and the board of commissioners of the county.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-6

Filing of maps, plans, and specifications; resolution; inspection

Sec. 6. (a) After the general maps, plans and specifications are approved by the Indiana state highway commission and the board of commissioners of the county, they shall be filed with the board by the engineer. The board shall then adopt a resolution ordering the separation or alteration of grades or relocation and reconstruction of the facilities, or any part of them, as provided for in the maps, plans, specifications and agreements and ordering the acquisition of the property described within, and adopting all maps, plans, specifications, agreements, descriptions and the estimate of cost, allocating the portions of work to be done by the various parties, prescribing the time within which the several portions of the work shall be done, and declaring that the improvement provided for will be of public necessity and convenience.

(b) The resolution, including all maps, plans, specifications, agreements, descriptions and estimate, shall be open to inspection at the office of the board by all persons interested in or affected by them.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-7

Acquisition of property; cost agreements

Sec. 7. (a) For the purposes of this chapter, the board may acquire, or order to be acquired, lands, rights-of-way and other property within the city and within five (5) miles outside the corporate limits of the city. All lands, rights-of-way and other property necessary to be acquired in connection with the improvement may be acquired by the board in the name of the city, or the board may, in the resolution, order and require the railroad to acquire any portion of the same as will permanently be occupied or used by the railroad. In the latter event, the railroad shall acquire the lands, rights-of-way, or other property specified in the resolution, either by purchase or by appropriation in the manner prescribed by statute.

(b) If the work and changes provided for in the maps, plans and specifications adopted in the resolution affects the tracks or other facilities of more than one (1) railroad company, the railroad companies affected may, prior to the final confirmation of the resolution, file with the board their written agreement allocating between the companies the cost to be borne by each of them respectively.

(c) If the railroad companies fail to enter into a cost agreement, the board shall incorporate in the resolution, before final confirmation, a provision fixing the relative amount of costs to be borne as between the railroad companies.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-8
Clearance and grade

Sec. 8. Where the highway is carried over the railroad, or where one (1) railroad is carried over another railroad, the clearance from the top of the railroad track to the bottom of the superstructure over the track must be at least twenty-two (22) feet. The plans for the improvement shall not require a permanent grade of any main line railroad track to exceed three-tenths of one percent (.3%) unless a greater grade is agreed upon by the railroad company affected.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-9
Notice of adoption of resolution or alteration of grade; remonstrances

Sec. 9. (a) Upon the adoption of the resolution for separation or alteration of grades, the board shall cause notice of the adoption and intention, and of the fact that the maps, plans, specifications, agreements and estimates have been prepared and can be inspected, to be published in accordance with IC 5-3-1. The notice shall name a day not less than twenty (20) days after the date of the last publication on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings, and when it will determine the public necessity and convenience of the project.

(b) A like notice shall be sent by mail to the owners of all lands to be appropriated under and by the resolution, and in case any landowner is a nonresident and his place of residence is known, a like notice shall be mailed to him, but in event the nonresident owner's residence is unknown by the board, then he is considered to have been notified of the pendency of the proceedings by the publication of notice. A like notice shall also be served on a resident agent or officer of any railroad company or street railway company whose tracks are affected by the proceeding, but failure to serve the notice shall not invalidate the jurisdiction of the board in the premises.

(c) If the Indiana state highway commission and the county in which the city is located participate in the proceedings, then a like notice shall be served upon the state highway commission and upon the board of commissioners of the county.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-10
Parties aggrieved

Sec. 10. All persons affected in any manner by the proceedings, including all owners of real or personal property in the city, are considered to be notified of the pendency of the proceedings, and of all subsequent acts, hearings, adjournments, resolutions and orders of the board, by the original notice by publication. In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is sufficient to describe the property to be purchased or appropriated by giving a description of the entire track by metes and bounds, whether the track is composed of one (1) or more lots or parcels, and whether owned by one (1) or more persons.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-11
Options to purchase land; appraisals

Sec. 11. (a) When the land or any part of it is to be acquired by purchase, the resolution shall also state the maximum proposed cost, and the board may at any time prior to the adoption of the resolution obtain from the owner or owners of the land an option for its purchase, or the board may enter into a contract for the purchase of the land upon the terms and conditions the board considers best. The option or contract is subject to final confirmation or rescission of the resolution, and subject further to the condition that the land be paid for only out of the special fund resulting from the sale of grade separation district bonds and the collection of benefit assessments, or out of funds coming to the city from equitable settlements between the parties. If the board desires to acquire any lots or parcels of land by purchase, it shall appoint:

(1) one (1) freeholder residing in the city, or in the county in which the city is located; and

(2) two (2) appraisers licensed under IC 25-34.1;

who are residents of Indiana, who are not interested in any land to be acquired or in land which may incur local benefits under such resolution, to appraise the value of the land. One (1) of the appraisers appointed under subdivision (2) must reside not more than fifty (50) miles from the property. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall then proceed to view the land and consider and determine its true market value at that time.

(b) The appraisers shall submit a written report of their appraisement to the board and the report shall be filed with and become a part of the record of the proceeding. The board may not exercise any option on the land or enter into a contract to purchase the land at a higher price than the value named in the report.
As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.113-2006, SEC.6.

IC 8-6-2.1-12

Title to acquired property

Sec. 12. The title to any lands, rights-of-way or other property acquired under and pursuant to the resolution, whether by purchase or by appropriation, shall not vest in the city until they are paid for out of the special fund created by the sale of bonds and from benefit assessments, or out of funds coming to the city from equitable settlements between the parties. No indebtedness or obligation of any kind may be incurred by the city in its corporate capacity on account of the acquiring of any lands, rights-of-way or other property.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-13

Remonstrances; appeals

Sec. 13. (a) At the time fixed for the hearing, or at any time prior to that, any owner of land, right-of-way or other property to be appropriated under the resolution, and any railroad company or companies, any street railway company, and any person owning real or personal property situated within the city, may file a written remonstrance with the board.

(b) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and consider all remonstrances that have been filed, and after considering them, the board shall take final action and determine the public necessity and convenience of the proposed improvement, and confirm, or modify and confirm, or rescind the resolution. The final action shall be duly entered of record, and is conclusive upon all persons, except as provided in sections 4 through 8 of this chapter. Any person who has remonstrated in writing and who is aggrieved by the decision of the board may take an appeal to the circuit court, superior court, or probate court in the county in which the city is located.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.84-2016, SEC.42.

IC 8-6-2.1-14

Filing of order and bond; hearing

Sec. 14. Within twenty (20) days after the final action of the board, the remonstrator may file in the office of the clerk of the circuit court a copy of the order of the board, not including, unless he so desires, the maps, plans and specifications, and his remonstrance to them, together with his bond conditioned to pay the cost of the appeal if it is determined against him. All appeals shall be consolidated and heard as one (1) cause of action by the court, and the burden of proof is upon the remonstrators. The cause shall be tried and determined summarily by the court without the intervention of a jury, as other civil causes, and shall be given precedence over other matters pending in the court. Upon the trial of the cause, the court shall hear evidence upon the remonstrances and shall confirm

the final action of the board on the resolution, or sustain the remonstrance or remonstrances to them, and the court may remand the resolution for further proceedings. If the resolution is confirmed the judgment of the court is conclusive upon all parties, and no appeal lies from the judgment.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-15
Agreements concerning planning and completion of work projects

Sec. 15. The city, by its board of public works or board of public works and safety, the Indiana state highway commission, the county in which the city is located, by its board of commissioners, and the railroad company or companies whose track or tracks the improvement authorized in this chapter concern, may enter into a written agreement as to the plan of proceeding with the work, the allocation of the portions to be done by the respective parties, the division of cost between railroads, the amount of work to be done annually, the time within which the entire work is to be completed, the method and times of making equitable settlements of the cost between the parties, and any other matters tending to expedite the efficient and economical completion of the improvement. The agreement, however, may not have the effect of increasing the total cost of the improvement above the estimate. The agreement shall be filed with the board and considered a part of the resolution and constitutes the basis of all proceedings on the matters embraced in the agreement.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-16
Costs to be borne by parties in interest

Sec. 16. (a) The total cost of the improvement to be borne by all the parties in interest includes the following:

(1) The cost of constructing the grade elimination structure and the cost of raising or lowering the grade, or other alteration of any public highway, the construction or reconstruction of the pavement, including sidewalks and curbs, and the alteration, relocation and construction of drains or sewers required by the improvement.

(2) The cost of elevation, depression, alteration, removal, relocation, construction and reconstruction of any railroad track or tracks and other facilities within or without the city.

(3) The cost of any land, right-of-way, or other property required for the improvement.

(4) The amount of damages, if any, recoverable under law by any person due to the improvement.

(5) The compensation for services of the special engineer and additional engineering force, and of special counsel, if any, employed by the board, all of whom the board may employ.

(6) The cost of supervision and inspection, the giving of notices, and all other expense necessarily incurred by the board in connection with the proceedings and improvement.

(b) The total cost to be borne by all the parties in interest does not include the expense of opening new or additional highways, or the expense of establishing additional lanes of traffic to any highways, or the expense of providing rights-of-way or other facilities which represent an enlargement of or betterments to the facilities of any railroad affected by the improvement.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-17

Agreements fixing cost of improvements borne by parties in interest

Sec. 17. (a) The total cost of the improvement shall be borne by all of the parties in interest, in accordance with a written agreement or written agreements to be entered into by all the parties, fixing the portion of the total cost to be borne by each party subject, however, to the cost formula requirements set forth in section 4 of this chapter. The total cost shall be divided among and paid by the parties in accordance with the agreement or agreements. The portion of the total cost to be borne by the city does not constitute an indebtedness or obligation of the city in its corporate capacity, but shall be payable only out of special taxes and benefit assessments as provided by this chapter.

(b) The Indiana state highway commission, any city affected by this chapter and the county in which the city is located, may each respectively enter into a written agreement or written agreements.

(c) The agreement or agreements shall be executed on behalf of the Indiana state highway commission by the members of it and shall be binding upon the Indiana state highway commission. The agreement or agreements shall be executed on behalf of the city by the board and shall be binding on the city. The agreement or agreements shall be executed on behalf of the county by the board of county commissioners and shall be binding on the county.

(d) To the extent that funds of any federal agency may be available to the Indiana state highway commission for use in paying any portion of the total cost which may be chargeable to or assumed by the Indiana state highway commission, the Indiana state highway commission may use the federal funds, if permitted by applicable federal laws, for the payment of the cost or any portion of it, or for the payment of all or any portion of either the city's or county's share of the cost; or the Indiana state highway commission may use the federal funds for any combination of these purposes. The board may apply for, accept, and use grants, loans or other financial assistance from any municipal, county, state, or federal government agency. To the extent any funds of any federal agency may be available to the city or the county for use in paying the costs, the city and county may

use the federal funds, if permitted by applicable federal laws, for the payment of any portion of the cost which is chargeable to or assumed by the city and county.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-18
Contracts; bidding; validity of proceedings and orders of board and contract

Sec. 18. Any portion or portions of the work of improvement under the resolution which is allotted to the city shall be done by contract or contracts, and all contracts shall be let under statutes governing the letting of contracts by the city. In event of the execution of a contract for the work, the validity of the contract may not subsequently be questioned by any person, except in a suit to enjoin the performance of the contract instituted within ten (10) days after its execution. All proceedings and orders of the board preliminary and prior to the contract, and the contract, are considered valid, conclusive and binding upon all persons and are not subject to attack for any cause after the ten (10) day period after its execution has expired.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-19
Warrants

Sec. 19. Any part of the city's portion of the total cost of the improvement which is necessary for the city to pay prior to the collection of benefit assessments under this chapter and prior to the issue and sale of bonds under this chapter, shall be paid as follows: the board shall, from time to time, certify the items of expense to the controller or clerk-treasurer, directing him to pay those amounts, and the controller or clerk-treasurer shall draw his warrant or warrants, and the warrant or warrants shall be paid out of the general fund of the city without appropriation being made by the common council; or, in case there is no money in the general fund of the city not otherwise appropriated, the city controller or clerk-treasurer shall recommend to the common council the temporary transfer from other funds of the city a sufficient amount to meet the items of expense, or the making of a temporary loan for this purpose, and the common council shall at once make the transfer of funds, or authorize the temporary loan in the same manner that other temporary loans are made by the city. The fund or funds of the city from which the payments are made shall be fully reimbursed and repaid by the board out of the special fund created by the sale of bonds and from benefit assessments or out of funds coming to the city from equitable settlements between the parties. The board may cause the amount for the temporary advancements on work to be provided for in the budget and tax levy of the city for the year when the funds are anticipated to be needed.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-20
Accounting of improvement costs and disbursements; payments and adjustments

Sec. 20. (a) The board, through its engineer, shall keep an account of the total cost of the improvement, of all disbursements made during the course of the work, and of all equitable settlements between the parties contributing to the cost; but the total cost may not exceed the estimate adopted in the resolution.

(b) From time to time during the progress of the work, and upon completion of the improvement, the board shall make and adjust equitable settlements and payments between the parties contributing to the cost of the improvement so that the total cost of the improvement is apportioned between the parties as determined by the board consistent with this chapter.

(c) The equitable settlements and payments shall be made by the board, either on its own initiative or on petition of any railroad company charged with the work or any part of the work, or on petition of either the Indiana state highway commission or of the county in which the city is located, if the Indiana state highway commission and the county participate in the cost of the improvement.

(d) Any adjustment or adjustments are binding on all of the parties unless any aggrieved party, within sixty (60) days after the entry of an order of equitable settlement made by the board, files the aggrieved party's complaint to review the adjustment in the circuit court, superior court, or probate court of the county in which the city is located. The decree of the court is final. The railroad company or companies, shall, upon the adjustment or decree, pay their portions of the cost as directed. The Indiana state highway commission shall, upon the adjustment or decree, pay its portion of the costs as directed, and the payment shall be made out of the funds of the commission or funds appropriated for the use of the commission. The county council of the county in which the city is located shall provide sufficient funds to pay the county's share of the cost of the improvement, either by appropriating the necessary amount of money from available funds on hand, or by the sale of bonds. Upon each adjustment or decree, the county in which the city is located shall pay the county's portion of the cost as directed by the adjustment or decree out of the funds provided by the county council. Upon each adjustment or decree, the city controller or clerk-treasurer shall draw the city controller's or clerk-treasurer's warrant or warrants in payment of the city's portion of the cost.

(e) All warrants may be drawn only against the special fund arising from the special tax and special assessments provided for in this chapter and from equitable settlements.

(f) The board may adopt supplemental resolutions and enter

orders from time to time as necessary to carry out the purpose of the resolution.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.84-2016, SEC.43.

IC 8-6-2.1-21

Special tax; taxing district

Sec. 21. (a) Upon final action of the board or the circuit court, superior court, or probate court confirming the resolution, all territory lying within the corporate limits of the city shall become a special taxing district for grade separation and railroad relocation and reconstruction purposes, and all property, real and personal, located within the territorial limits of the district shall be subject to a special tax for the purpose of providing funds to pay the city's portion of the total cost of the improvement.

(b) The special tax shall constitute the amount of benefits resulting to all of the property from the proceedings, and shall be levied in the manner provided for by this chapter. If the board determines that any lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet of any grade crossing eliminated or altered by the improvement, or within two thousand (2,000) feet of any lands or rights-of-way abandoned for railroad use or from which railroad facilities are to be removed, will incur a particular benefit by reason of their proximity in addition to the benefits received by them in common with all other property located in the district, those lots and parcels of land which lie within the corporate limits of the city shall be subject to a special assessment for the benefits.

(c) The special assessment shall be determined in accordance with this chapter, but the total amount of the additional benefits assessed shall not in any case exceed forty percent (40%) of the city's share of the total cost of the improvement; and the total amount of the additional benefits assessed and finally confirmed or adjudged against lots and parcels of land exclusive of improvements lying within two thousand (2,000) feet shall be deducted from the city's share of the total cost and the balance of the city's share of the total cost, is the amount of the benefits resulting to all property in the special taxing district, and the special tax shall be levied only for this balance. Any lot or parcel of land owned and used or occupied for railroad purposes at the time of the adoption of any resolution by any railroad company whose tracks are affected by the resolution, or any lot or parcel of land devoted to railroad purposes in connection with and because of the improvement, is not subject to any special assessment for the particular benefits.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.84-2016, SEC.44.

IC 8-6-2.1-22

Roll of owners of property sought to be taken

Sec. 22. When the resolution is finally confirmed by the board, the board shall require the preparation of a roll of all the owners or holders of property sought to be taken, or who have incurred damages, and also of all of the owners or holders of lots or parcels of land lying within two thousand (2,000) feet of any grade crossing eliminated or altered by the improvement or within two thousand (2,000) feet of any lands or rights-of-way abandoned in whole or in part for railroad use or from which railroad facilities are to be removed, which will incur a particular benefit, as provided in section 21 of this chapter, from the grade separation or alteration and railroad relocation as provided for in the resolution. In addition to the list of names, the roll should show with reasonable certainty a description of the property to be appropriated, or affected either injuriously or beneficially, belonging to that person, and no greater certainty in names and description is necessary to the validity of any award or assessment than is required in the assessment of taxes.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-23
Determination of damages; publication of notice of land appropriated, character of improvement, and preliminary awards; remonstrances; irregularities in proceedings

Sec. 23. (a) Upon the completion of the roll, the board shall consider, determine and award the amount of damages sustained by the owners of the several parcels of land required to be appropriated, if any, as provided for in the resolution, or which will incur damages, and, then the board shall consider, determine and assess the amount of particular benefits which will accrue to the several lots or parcels of land, exclusive of improvements, lying within two thousand (2,000) feet of any grade crossing eliminated or altered by the improvement, or within two thousand (2,000) feet of any lands or rights-of-way abandoned in whole or in part for railroad use or from which railroad facilities are to be removed, as provided for in the resolution, by reason of their proximity, in addition to the benefits received by the lots or parcels of land in common with all property, real and personal, located in the district. The total amount of the particular benefits assessed against the lots and parcels of land, exclusive of improvements, located within the two thousand (2,000) feet, may not in any case exceed forty percent (40%) of the city's share of the total cost of the grade separation improvement.

(b) When the roll is completed, the board shall publish, in accordance with IC 5-3-1, a notice describing the location of the land appropriated and the general character of the improvement, and stating whether assessments have been made against lands within the two thousand (2,000) foot distance. The notice shall also state that the assessment roll, with the names of the owners in favor of whom damages have been awarded and against whom assessments have

been made, and descriptions of property affected, with the amounts of preliminary awards or assessments as to each piece or parcel of property affected, is on file and can be seen in the office of the board. The board shall also send by United States mail a notice to the place of residence, if known, of persons owning lands to be taken, or incurring damages, or against which special assessments have been made, showing each item of the determination as to those persons. In case any person affected is a nonresident, or his residence is unknown, he is considered to have been notified by the publication. The notices shall name a day not earlier than ten (10) days after the last date of publication, or after the date of mailing, as above provided, on which the board will receive and hear remonstrances from persons with regard to the amount of their respective awards or assessments. Persons not included in the roll of awards or damages and claiming to be entitled to the same are considered to have been notified of the pendency of the proceedings by the original notice of the resolution of the board and by the publication required by this section.

(c) If there are defects or irregularities of any kind in the proceedings with respect to one (1) or more interested persons, they do not affect the proceedings, except so far as they may affect the interest or property of the person or persons, and do not avail any other person. In case of any defect, supplementary proceedings of the same general character as those otherwise prescribed by this chapter may be instituted in order to correct the defect.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-24

Interests of mentally incompetent persons or infants; guardianship

Sec. 24. If any person having an interest in land affected by the proceedings is mentally incompetent or under the age of eighteen (18) years, the board shall certify that fact to its attorney. The attorney shall apply to the proper court and secure the appointment of a guardian for the person under eighteen (18) years of age or mentally incompetent person. The board shall give notice to the guardian, who shall appear and protect the interest of the protected person. If the person under eighteen (18) years of age or mentally incompetent person already has a guardian, the notice shall be served upon the guardian. The requisites of notice to the guardian shall be the same as for other notices.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.33-1989, SEC.8.

IC 8-6-2.1-25

Appearance by remonstrators; appeals

Sec. 25. Any person notified or considered to be notified under this chapter may appear before the board on the day fixed for hearing the remonstrances with regard to awards and assessments, and

remonstrate in writing against them. All persons appearing before the board having an interest in the proceedings shall be given a hearing. After the remonstrances have been received and the hearings had, the board shall either sustain or modify, by increasing or decreasing, the awards or assessments. Any person remonstrating in writing who is aggrieved by the decision of the board may, within ten (10) days after the decision is made, take an appeal to the circuit court, superior court, or probate court of the county in which the city is located. The appeal affects only the amount of the assessment or award of the person appealing.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.84-2016, SEC.45.

IC 8-6-2.1-26

Procedure on appeal

Sec. 26. (a) The appeal shall be taken by filing an original complaint in the circuit court, superior court, or probate court of the county in which the city is located against the board within the time named, setting forth the action of the board in respect to the assessment or award, and stating the facts relied upon as showing an error of the board. The court shall rehear the matter of the assessment or award de novo, and confirm, lower or increase the amount. The cause shall be summarily tried by the court without the intervention of a jury, as in other civil cases. A change of venue from the county may not be taken.

(b) All remonstrances upon which an appeal is taken may be consolidated and heard as one (1) cause of action, and all the appeals shall be heard and determined by the court within thirty (30) days after the time of filing of the appeal. If the court reduces the amount of benefit assessed against the land of the property owner by ten percent (10%) or more of the assessment by the board, or increases the amount of the damages awarded in the property owner's favor by ten percent (10%) or more of the amount awarded by the board, the plaintiff in the appeal shall recover costs, otherwise not.

(c) The amount of the judgment in the court shall be final, and no appeal may be taken. However, any party in interest may take an appeal from the judgment to the supreme court of Indiana, upon the sole ground that the property in question has or has not incurred damages recoverable under law.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.84-2016, SEC.46.

IC 8-6-2.1-27

Assessment liens; payment; tax exemption

Sec. 27. (a) The assessment roll, upon final confirmation by the board, shall be delivered to the controller or clerk-treasurer, and from that time the respective amounts of benefits assessed shall severally be liens, superior to all other liens except taxes, against the

respective lots or parcels of land upon which they are assessed. The duties of the controller or clerk-treasurer are those prescribed by statute in cities with regard to assessments for street improvements.

(b) The assessments of benefits are due and payable to the controller or clerk-treasurer from the time of the delivery of the assessment roll to him. If not paid within thirty (30) days, the board's attorney shall proceed to foreclose the liens in a court as mortgages are foreclosed with similar rights of redemption, and have them sold to pay the assessments. The board shall recover costs with reasonable attorney's fees and interest at the rate of six percent (6%) per annum.

(c) In all cases where the party against whom the assessment is made is a resident of the city, a notice of the assessment and demand for payment shall be delivered to him personally or mailed to his last usual place of residence. All persons assessed for local benefits may, within thirty (30) days after the confirmation of the assessments, avail themselves of the right to pay the assessment installments in the same manner as provided for the payment of assessments for street improvements in cities, except that the board may provide that the installments may be extended over a period of twenty (20) years, which privilege shall also be stated in the notice.

(d) Statutes relating to the payment of street improvement assessments by installments, the issuance of bonds and coupons to anticipate assessments, and the rights of bondholders and landowners, when not inconsistent with this chapter, shall apply and be extended to assessments made under this chapter. When assessment bonds are issued, the city controller or clerk-treasurer shall sell the bonds promptly in the same manner and upon the same notice conditions as grade separation district bonds are authorized to be sold as provided in section 29 of this chapter, and the proceeds shall be kept in a separate fund as provided for in section 30 of this chapter. The assessment bonds shall be exempt from taxation for all purposes. All interest and penalties on delinquencies shall go into the special fund.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-28

Payment of damages

Sec. 28. (a) The board, upon the completion of the award of damages, if any, or upon the determination of the appeals taken, shall make out certificates for the proper amounts and in favor of the proper persons. Presentation of the certificates to the city controller or clerk-treasurer of the city entitles those persons to a warrant drawn on the city treasury. The controller or clerk-treasurer shall pay the persons named the amounts due them respectively, as shown by the certificates, out of the separate and specific funds derived from the sale of bonds and from benefit assessments provided for in section 30 of this chapter, or out of funds coming from equitable settlements between the parties, and these payments may not be made from any

other source or funds.

(b) The certificates or vouchers shall, whenever practical, be tendered actually to the person entitled to them, but where this is impractical, they shall be kept for the persons in the office of the board, and the making and filing of the certificates, in all cases, is considered to be valid tender to the person entitled to them at the time or as soon as there are sufficient funds to pay them. They shall be delivered to the person on request. In case of dispute or doubt as to which of various persons the money shall be paid, the board shall make out the certificates in favor of the attorney appointed by the board for the use of the persons entitled to them, and the attorney shall draw the money and pay it into court, requiring the various claimants to interplead and have their respective rights determined.

(c) If an injunction is obtained because damages have not been paid or tendered, the board shall tender the amount of damages with interest from the time of the entry of the property, if any has been made, and all accrued costs. If there are sufficient funds to pay the certificate, the injunction shall be removed. The pendency of an appeal to the circuit court, superior court, or probate court of a county does not affect the validity of a tender made under this section, but the board may proceed with its appropriation of the property in question.

As added by Acts 1980, P.L.8, SEC.70. Amended by P.L.84-2016, SEC.47.

IC 8-6-2.1-29

Bonds

Sec. 29. (a) In order to raise money to pay the city's portion of the total cost of an improvement and in anticipation of the special benefit tax to be levied, the board shall issue, in the name of the city, at one (1) time, or from time to time as the proceeds are needed, the bonds of the grade separation or railroad relocation and reconstruction district not to exceed in aggregate amount the balance of the city's portion of the total cost after deducting from the city's portion the total amount of benefits, if any, which have been assessed by the board and finally confirmed or adjudged against lots and parcels of land exclusive of improvements lying within two thousand (2,000) feet of any grade crossing eliminated or altered by the improvement, or within two thousand (2,000) feet of any lands or rights-of-way abandoned in whole or in part for railroad use or from which railroad facilities are to be removed.

(b) The bonds may be issued in any denomination not exceeding one thousand dollars ($1,000) each in not less than forty (40) nor more than sixty (60) equal series, as the board determines, and shall be payable one (1) series each six (6) months beginning on the first day of July of the first year following the date of their issue. If the bond issue is ordered in any calendar year after the date of the annual tax levy, then the first series shall mature on the first day of July of

the second year and the balance of the bonds at the designated regular intervals. The bonds shall be negotiable as inland bills of exchange and shall bear interest payable on the first days of January and July of each year, the first interest to be payable on the first maturity date of the bonds.

(c) Upon adoption of a resolution ordering bonds, the board shall certify a copy of the resolution to the controller or clerk-treasurer of the city in which the grade separation district is located; that officer shall prepare the bonds, and the mayor of the city shall execute the bonds and the city controller or clerk-treasurer shall attest the execution. The bonds shall be exempt from taxation for all purposes. All bonds issued by the board shall be sold by the city controller or clerk-treasurer to the highest bidder, but not at less than par and accrued interest to date of delivery, after giving notice of sale of the bonds by publication in accordance with IC 5-3-1. The publication shall be made not less than fifteen (15) days prior to the date fixed for the sale of the bonds.

(d) The bonds are not a corporate obligation or indebtedness of the city, but constitute an indebtedness of the district as a special taxing district, and the bonds and interest shall be payable only out of a special tax levied upon all property of the special taxing district, as in this chapter provided, and the bonds shall recite the terms upon their face, together with the purposes for which they are issued.

(e) No suit to question the validity of the bonds issued for the special taxing district, or to prevent their issue, may be maintained after the date set for the sale of the bonds, and all bonds after that date are incontestable for any cause.

As added by Acts 1980, P.L.8, SEC.70. Amended by Acts 1980, P.L.73, SEC.1.

IC 8-6-2.1-30
Proceeds from sale of bonds

Sec. 30. All proceeds from the sale of bonds issued under section 29 of this chapter, together with all money collected from benefit assessments, or from the sale of assessment bonds, shall be kept as a separate and specific fund, entitled grade separation or railroad relocation and reconstruction fund, to pay the city's portion of the total cost of the grade separation improvement, and no part of the fund may be used for any other purpose. The fund shall be deposited with the depository or depositories of other public funds of the city. Any surplus remaining in the fund, after all the city's portion of the total cost is fully paid, shall be paid into and become a part of the grade separation or railroad relocation and reconstruction bond fund as referred to in section 31 of this chapter.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-31
Special tax levy

Sec. 31. (a) In order to raise money to pay all bonds issued under section 29 of this chapter, including interest, the common council of the city shall levy each year a special tax upon all of the taxable property, both real and personal, located within the territorial limits of the special taxing district, in such manner as to pay the principal of the bonds as they severally mature, together with all accruing interest.

(b) The tax levied shall be collected by the county treasurer in the same manner as other taxes are collected. As the tax is distributed to the controller or clerk-treasurer it shall be deposited in a separate fund, to be known as the grade separation or railroad relocation and reconstruction bond fund, and shall be applied to the payment of the special taxing district bonds and interest as they severally mature, and to no other purposes. All accumulation of the fund prior to its use for the payment of the bonds and interest shall be deposited in the depository or depositories of other public funds in the city.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-32

Payment for lands acquired by purchase, contract, or eminent domain; title to lands

Sec. 32. If the lands acquired for the improvement or any part of it are secured by purchase or contract, the payment shall be made according to the terms of the contract. If lands are taken by condemnation, the amount of damages assessed shall be paid or tendered within ninety (90) days after the final determination of the condemnation proceedings, or as soon thereafter as the funds arising from the bonds and the assessment of benefits are available. The title to the lands, or that portion paid for or otherwise acquired for these purposes, then vests in the city.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-33

Filing of description of acquired lands

Sec. 33. Within sixty (60) days after any land or right in it is paid for and acquired under this chapter, the board shall file and have recorded in the recorder's office in the county in which the land is situated a description of it sufficiently accurate for its identification, with a statement of the purpose for which it is acquired or taken. The description shall be signed by a majority of the board. The board may transfer to any railroad company or companies any property acquired in connection with the improvement, but intended for the permanent occupation or use of the railroad or railroads, after proper adjustment in the equitable settlements between the parties.

As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-34

Limitations upon expenditures and appropriations

Sec. 34. No part of any of the funds raised by the city or received by the city under this chapter may be expended, except upon warrants drawn by the city controller or clerk-treasurer upon vouchers of the board. No appropriation in any form is necessary, but all funds arising under this chapter are appropriated to the respective purposes named in this chapter, and are under the control of the board, and the board may expend the funds for the purposes stated in this chapter.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-35
Application of IC 8-6-3 to maintenance costs

Sec. 35. Maintenance costs requirements are governed, to the extent applicable, by IC 8-6-3.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-2.1-36
Jurisdiction and authority of board of each city

Sec. 36. (a) The jurisdiction and authority of the board of each city are complete in relation to all matters provided for in this chapter, except in the levying of taxes. In carrying out this chapter it is not necessary to comply with any other statute, except as specifically provided.

(b) If no procedure is provided for by this chapter for doing anything authorized or contemplated by it, the procedure provided by other statutes in similar cases may be followed.
As added by Acts 1980, P.L.8, SEC.70.

IC 8-6-3

Chapter 3. Division of Costs of Improvements to Railroad Grade Separations

IC 8-6-3-1

Percentage allocation; railroads and public entities

Sec. 1. (a) Whenever the separation of grades at the intersection of a railroad or railroads (as defined in IC 8-3-1-2) and a public street or highway is constructed, the railroad or railroads shall pay five (5) percent of the cost of the grade separation as provided in this chapter.

(b) This chapter shall apply to an existing crossing, a new crossing, or the reconstruction of an existing grade separation.

(c) If more than one (1) railroad (as defined in IC 8-3-1-2) is involved in a separation, the railroads involved shall divide the amount to be paid by the railroads by agreement between the railroads. If the railroads fail to agree, the circuit court, superior court, or probate court of the county in which the crossing is located shall have jurisdiction, upon the application of a party, to determine the division of the amount to be paid by the railroads. The decision of the court is final, unless one (1) or more parties deeming themselves aggrieved by the decision of the court shall appeal therefrom to the court of appeals of Indiana within thirty (30) days, or within additional time not exceeding ninety (90) days, as may be granted by the court. The appeal shall be taken in substantially the same manner as an appeal in a civil case from the circuit court, superior court, or probate court.

(d) If a grade separation shall involve a state highway that is a part of the state highway system of Indiana, or a street or highway selected by the Indiana department of transportation as a route of a highway in the state highway system, the state, out of the funds of the Indiana department of transportation or funds appropriated for the use of the Indiana department of transportation, shall pay ninety-five percent (95%) of the cost of the grade separation.

(e) Before the Indiana department of transportation shall proceed with a grade separation within a city or town, the Indiana department of transportation shall first obtain the consent of the city, by a resolution adopted by the board or officials of the city having jurisdiction over improvement of the streets of the city, and any material modification of the plans upon which the consent was granted shall first be approved by the city by a similar resolution.

(f) If such grade separation is on a highway or street not a part of the highways under the jurisdiction of the Indiana department of transportation, or a part of a route selected by it, but is within any city or town of the state, the city or town shall pay one-half (1/2) of ninety-five percent (95%) of the total of such cost and the county in which the crossing is located shall be liable for and pay one-half (1/2) of the ninety-five percent (95%).

(g) If a grade separation that involves a state highway that is a part

of the state highway system of Indiana, or a street or highway selected by the Indiana department of transportation as a route of a highway in the state highway system, necessitates the grade separation on other highways or streets, not a part of the highways under the jurisdiction of the Indiana department of transportation but within any city of the state of Indiana, then of the total cost of the grade separation on a highway or street not under the jurisdiction of the Indiana department of transportation but necessitated by the grade separation involving a highway or street which is a part of the state highway system, the city shall pay one-fourth (1/4) of ninety-five percent (95%) and the county in which the crossing is located shall be liable for and pay one-fourth (1/4) of the ninety-five percent (95%) of the total of the costs and the state out of the funds of the Indiana department of transportation or funds appropriated for the use of the Indiana department of transportation, shall be liable for and pay one-half (1/2) of the remaining portion.

(h) If a crossing is not within any city or town and does not involve a highway under the jurisdiction of the Indiana department of transportation, then the county in which the crossing is located shall pay the ninety-five percent (95%) of the total cost which is not paid by the railroad or railroads.

(i) The division of the cost of grade separation applies when the grade separation replaces and eliminates an existing grade crossing at which active warning devices are in place or ordered to be installed by a state regulatory agency, but when the grade separation does not replace nor eliminate an existing grade crossing the state, county or municipality, as the case may be, shall bear and pay one hundred percent (100%) of the cost of the grade separation.

(j) In estimating and computing the cost of the grade separation, there shall be considered as a part of costs all expenses reasonably necessary for preliminary engineering, rights-of-way and all work required to comply with the plans and specifications for the work, including all changes in the highway and the grade thereof and the approaches to the grade separation, as well as all changes in the roadbed, grade, rails, ties, bridges, buildings, and other structural changes in a railroad as may be necessary to effect the grade separation and to restore the railroad facilities aforesaid to substantially the same condition as before the separation.

(k) The required railroad share of the cost shall be based on the costs for preliminary engineering, right-of-way, and construction within the limits described below:

(1) Where a grade crossing is eliminated by grade separation, the structure and approaches for the number of lanes on the existing highway and in accordance with the current design standards of the governmental entity having jurisdiction over the highway involved.

(2) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a

grade separation project, the estimated cost of a theoretical structure and approaches as described under subdivision (1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.

(3) Where a grade crossing is eliminated by railroad or highway relocation, the actual cost of the relocation project, or the estimated cost of a structure and approaches as described under subdivision (1), whichever is less.

(l) If the Indiana department of transportation or any city, town, or county is unable to reach an agreement with a railroad company after determining that construction or reconstruction of a grade separation, which replaces or eliminates the need for a grade crossing, is necessary to protect travelers on the roads and streets of the state, the appropriate unit or combination of units of government shall give a written notice of its intention to proceed with the construction or reconstruction of a grade separation to the superintendent or regional engineer of the railroad company. The notice of intention shall be made by the adoption of a resolution stating the need for the grade separation. If, after thirty (30) days, the railroad has not agreed to a division of inspections, plans and specifications, the number and type of jobs to be completed by each agency, a division of costs, and other necessary conditions, the Indiana department of transportation, city, town, or county may proceed with the grade separation exercising any and all of its powers to construct or reconstruct a bridge and, notwithstanding other provisions of this chapter, may pay for up to one hundred percent (100%) of the cost of the project. If the railroad is unable, for good cause, to pay the share of the cost required by this section, the city, town, or county may certify the amount owed by the railroad to the county auditor who shall prepare a special tax duplicate to be collected and settled for by the county treasurer in the same manner and at the same time as property taxes are collected. However, before the Indiana department of transportation, city, town, or county undertakes to do the work themselves they shall notify an agent of the railroad as to the time and place of the work.

(Formerly: Acts 1939, c.41, s.1; Acts 1975, P.L.82, SEC.1.) As amended by Acts 1976, P.L.27, SEC.1; Acts 1980, P.L.74, SEC.63; P.L.18-1990, SEC.71; P.L.146-2008, SEC.361; P.L.84-2016, SEC.48.

IC 8-6-3-2

Application of other laws; maintenance after construction

Sec. 2. (a) This chapter shall not authorize the separation of grade crossings of railroads and highways where not authorized by other laws, but shall be considered as supplemental to other laws, and all division of costs as provided for in this chapter, and all provisions for the payment and collection of such costs and expenses and other provisions of other laws relating to the subject matter shall continue

in effect, except as inconsistent with this chapter.

(b) Provided, however, that any such railroad or railroads shall be authorized to make all changes in the roadbed, grade, rails, ties, bridges, buildings, and other structural changes as may be necessary to effect such grade separation, and to restore such railroad facilities aforesaid to substantially the same condition as before said separation and the costs and expenses incurred by said railroad or railroads, and in excess of the amount, if any, to be borne by the railroad or railroads, as in this chapter provided, shall be paid by the state, county, or municipality, as the case may be, to such railroad or railroads making such changes.

(c) After the construction of any such grade separation, the public authority or municipality having jurisdiction over such street or highway shall maintain the street or highway, and structures supporting it, and the drainage thereof, where the street or highway is carried over the railroad or railroads, and the railroad or railroad companies shall maintain its or their railway tracks, and where the street or highway is carried under any such railroad or railroads, then the public authority or municipality having jurisdiction over such street or highway, shall maintain the street or highway, and the drainage thereof, and the railroad or railroads shall maintain its or their roadbed and tracks and structures supporting the same.

(Formerly: Acts 1939, c.41, s.2.) As amended by P.L.62-1984, SEC.99.

IC 8-6-3-3

Order or consent by department

Sec. 3. Notwithstanding any other provisions of this chapter or existing laws in regard to which this chapter is supplemental, the Indiana department of transportation shall not be chargeable with any costs or expenses contemplated by this chapter unless the Indiana department of transportation shall either order or consent to a proposed grade separation or elevation contemplated by this chapter.

(Formerly: Acts 1939, c.41, s.3.) As amended by Acts 1980, P.L.74, SEC.64; P.L.18-1990, SEC.72.

IC 8-6-3-4

Railroad relocation projects; allocation of cost; local government powers

Sec. 4. (a) Where a grade separation results from a railroad relocation project funded in substantial part by the federal government, the shares of the cost of the grade separation shall be allocated among all the participating governmental units and affected railroads as they may agree.

(b) A county, city, or town, in connection with any railroad relocation project funded in substantial part by the federal government, may:

(1) purchase, lease, or sell real or personal property;

(2) design and construct any pedestrian, motor vehicle, or railroad transportation facilities;

(3) enter into any contracts with federal, state, or local governmental agencies or the owner or operator of any railroad transportation system;

(4) convey by deed or lease, pursuant to written agreement, any pedestrian, motor vehicle, or railroad transportation facilities for any federal, state, or local governmental agency or the owner or operator of any railroad transportation system;

(5) issue any bonds, notes, or warrants for financing its share of the cost of the project; and

(6) perform all incidental and necessary acts in connection with the railroad relocation project.

(c) A city or town may exercise powers granted by this section within four (4) miles outside its corporate boundaries.

As added by P.L.65-1984, SEC.1.

IC 8-6-4
Chapter 4. Signals at Railroad Grade Crossings

IC 8-6-4-0.3
Legalization of certain ordinances; review of crossing safety levels; program to increase crossing safety; development of crossing safety program; consultation with railroads, municipalities

Sec. 0.3. (a) An ordinance that would be permitted under section 1(e) of this chapter, as added by P.L.101-1993, that was adopted before April 27, 1993:

(1) is legalized; and

(2) may be enforced after May 11, 1993.

(b) The Indiana department of transportation shall conduct a review of crossing safety levels at all crossings to which an ordinance legalized under this section applies. The department shall complete a study required by this subsection not later than one (1) year after April 27, 1993.

(c) If the Indiana department of transportation finds, based upon the results of the department's review under subsection (b), that the crossing safety level at a crossing to which an ordinance legalized under this section applies creates an undue risk of harm to the public, the department shall, after consulting with the railroad and the municipality, develop a program to increase crossing safety at the crossing to an acceptable level, as determined by the department.

(d) A program to increase crossing safety under subsection (c) must be decided after an evaluation of all remedies available to the Indiana department of transportation and the costs and benefits of each remedy. The department must consider the following in an evaluation of the costs and benefits of each remedy upon the municipality:

(1) The degree to which the remedy is likely to increase safety at the crossing.

(2) The economic impact of the cost of the remedy, including possible cost-sharing mechanisms.

(3) The impact of the remedy upon the environment in the municipality.

As added by P.L.220-2011, SEC.193. Amended by P.L.69-2013, SEC.1.

IC 8-6-4-1
Bell and whistle required equipment; duty to sound warning; inoperable bell on locomotive; sign in vicinity of crossing

Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection (e) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the

engine approaches the crossing of a turnpike, public highway, or street in this state:

(1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and

(2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) A railroad company shall erect a sign that is:

(1) not more than one-fourth (1/4) mile in advance of a crossing or multiple consecutive crossings; and

(2) visible from an approaching train;

to notify the engineer or other person in charge of or operating an engine to sound the engine's whistle in accordance with federal law. The railroad company shall maintain the sign in good repair or replace the sign. However, this subsection does not apply to a crossing to which an ordinance adopted under subsection (e) applies. The locomotive engineer or other person in charge of the train shall notify, in writing, the appropriate maintenance of way supervisor of the railroad of any missing or damaged whistle post, and the railroad shall, within thirty (30) days after the maintenance of way supervisor is notified under this subsection, repair or replace the missing or damaged whistle post.

(c) Except as provided in subsection (d), it is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle is not in good working order. Except as provided in subsection (d), it is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle is not in good working order. When a whistle is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

(d) If the bell of a locomotive becomes inoperable after the daily inspection required under 49 CFR 229.21, the locomotive may be operated until the next daily inspection required under 49 CFR 229.21.

(e) A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train-activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes

into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

(1) school bus routes;
(2) emergency service routes;
(3) hazardous materials routes;
(4) pedestrian traffic;
(5) trespassers;
(6) recreational facilities;
(7) trails; and
(8) measures to increase safety in the corridor, including:
  (A) four (4) quadrant gates;
  (B) median barriers;
  (C) crossing closures;
  (D) law enforcement programs; and
  (E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.

(f) Notwithstanding a contrary provision in an ordinance adopted under subsection (e), an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.

(g) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection (e) applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

(h) The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection (e) applies not less than one (1) time in a five (5) year period.

(i) The Indiana department of transportation may not revoke the

permission granted under subsection (e) for an ordinance.

(j) The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety. *(Formerly: Acts 1879(ss), c.77, s.1; Acts 1881(ss), c.85, s.1; Acts 1943, c.208, s.1; Acts 1972, P.L.63, SEC.1.) As amended by P.L.62-1984, SEC.100; P.L.384-1987(ss), SEC.63; P.L.18-1990, SEC.73; P.L.59-1992, SEC.1; P.L.101-1993, SEC.1; P.L.199-1999, SEC.1; P.L.137-2003, SEC.1; P.L.182-2009(ss), SEC.507; P.L.69-2013, SEC.2.*

IC 8-6-4-1.3

Legalization of certain ordinances; review of crossing safety levels; program to increase crossing safety

Sec. 1.3. (a) An ordinance that would be permitted under section 1(e) of this chapter, as added by P.L.101-1993, that was adopted before April 27, 1993:

(1) is legalized; and

(2) may be enforced on May 12, 1993.

(b) The Indiana department of transportation shall conduct a review of crossing safety levels at all crossings to which an ordinance legalized under this section applies.

(c) If the Indiana department of transportation finds, based upon the results of the department's review under subsection (b), that the crossing safety level at a crossing to which an ordinance legalized under this section applies creates an undue risk of harm to the public, the department shall, after consulting with the railroad and the municipality, develop a program to increase crossing safety to an acceptable level, as determined by the department, at the crossing.

(d) A program to increase crossing safety under subsection (c) must be decided after an evaluation of all remedies available to the Indiana department of transportation and the costs and benefits of each remedy. The department must consider the following in an evaluation of the costs and benefits of each remedy upon the municipality:

(1) The degree to which the remedy is likely to increase safety at the crossing.

(2) The economic impact of the cost of the remedy, including possible cost-sharing mechanisms.

(3) The impact of the remedy upon the environment in the municipality.

As added by P.L.220-2011, SEC.194. Amended by P.L.69-2013, SEC.3.

IC 8-6-4-2

Violations; penalties; damages for personal injuries or property damage

Sec. 2. (a) Every engineer or other person in charge of or operating an engine, who shall fail or neglect to comply with the

provisions of section 1 of this chapter, shall be held personally liable to the state, in a penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is located.

(b) A railroad company that violates section 1(c) of this chapter shall be held liable therefor to the state for a penalty of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is located. The railroad company in whose employ such engineer or person may be, as well as the engineer or person in charge of or operating the engine, shall be liable in damages to any person, or the person's representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid.

(c) A railroad company that violates section 1(b) of this chapter may be held liable to the state for a penalty of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is located.
(Formerly: Acts 1879(ss), c.77, s.2; Acts 1972, P.L.63, SEC.2.) As amended by P.L.1-2009, SEC.69; P.L.182-2009(ss), SEC.508.

IC 8-6-4-3
Actions to recover penalties; venue

Sec. 3. All actions for the recovery of the penalties prescribed in section 2 of this chapter shall be prosecuted in the name of the state by the prosecuting attorney of any county where the failure or neglect occurs.
(Formerly: Acts 1879(ss), c.77, s.3.) As amended by P.L.62-1984, SEC.101; P.L.192-1986, SEC.7.

IC 8-6-4-4
Repealed

(Repealed by Acts 1972, P.L.63, SEC.3.)

IC 8-6-4-5
Fines and penalties; disposition

Sec. 5. All fines and penalties collected under the provisions of this chapter shall be appropriated to the benefit of the common school fund of the state, and the clerk of the court wherein such fines and penalties may be assessed and recovered shall, upon receipt thereof, pay the same over to the treasurer of said county, for the purpose aforesaid.
(Formerly: Acts 1879(ss), c.77, s.5.) As amended by P.L.62-1984, SEC.102.

IC 8-6-5

Chapter 5. Flagmen at Railroad Grade Crossings

IC 8-6-5-1

Duty to employ; hours for duty

Sec. 1. All railroads owned or operated in the state having more than two (2) tracks across any public highway or road, and used for switching purposes exclusively or regularly, or if only one (1) track and used for switching purposes, said railroad corporation shall, upon the order of the county commissioners in which said railroad is located, place a flagman at said crossing and maintain the same at their expense from six o'clock a.m. to eight o'clock p.m. of each day and every day, or so long as said commissioners deem it necessary.
(Formerly: Acts 1891, c.150, s.1.)

IC 8-6-5-2

Failure to employ; forfeiture

Sec. 2. Should said railroad corporation neglect or refuse to comply with said order, they shall forfeit and pay to the state of Indiana not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).
(Formerly: Acts 1891, c.150, s.2.)

IC 8-6-6

Chapter 6. Traffic Protection at Railroad Grade Crossings

IC 8-6-6-1

Specifications and requirements; violations

Sec. 1. It is a Class C infraction for a person, or the lessee or receiver of any person, who owns or operates any line of steam or interurban railroad to run trains without installing and maintaining, at each grade crossing of its railroad with any public highway, railroad crossing signs (crossbucks) and number of tracks signs if required, placed at right angles with the highway, where possible. The construction of the signs and warning notice must be in conformance with the manual on uniform traffic control devices adopted under IC 9-21-2-1.

(Formerly: Acts 1911, c.224, s.1; Acts 1913, c.242, s.1.) As amended by Acts 1978, P.L.2, SEC.824; Acts 1982, P.L.76, SEC.1; P.L.2-1991, SEC.58.

IC 8-6-6-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-6-7

Chapter 7. Extra Hazardous Grade Crossings

IC 8-6-7-1

Petition for installation; hearings

Sec. 1. The Indiana department of transportation shall, upon proper petition by:

(1) five (5) or more citizens of this state; or

(2) a board of county commissioners;

conduct a hearing to declare as dangerous or extra hazardous any grade crossing in this state that the department finds to be of such a character as that the safety of the users of the highway requires the installation of automatic train-activated warning signals or other crossing safety devices. The petition, hearing, and all proceedings must conform with IC 4-21.5.

(Formerly: Acts 1931, c.89, s.1; Acts 1933, c.61, s.1; Acts 1935, c.234, s.1; Acts 1965, c.200, s.1.) As amended by P.L.384-1987(ss), SEC.64; P.L.18-1990, SEC.74.

IC 8-6-7-2

Repealed

(Repealed by Acts 1973, P.L.66, SEC.2.)

IC 8-6-7-3

Repealed

(Repealed by Acts 1973, P.L.66, SEC.2.)

IC 8-6-7-4

Repealed

(Repealed by Acts 1973, P.L.66, SEC.2.)

IC 8-6-7.5

Chapter 7.5. Blocking Railroad Grade Crossings

IC 8-6-7.5-1

Time limit

Sec. 1. It shall be unlawful for a railroad corporation to permit any train, railroad car or engine to obstruct public travel at a railroad-highway grade crossing for a period in excess of ten (10) minutes, except where such train, railroad car or engine cannot be moved by reason of circumstances over which the railroad corporation has no control.

(Formerly: Acts 1972, P.L.63, SEC.4.)

IC 8-6-7.5-2

Successive train movements

Sec. 2. It shall be unlawful for a railroad corporation to permit successive train movements to obstruct vehicular traffic at a railroad-highway grade crossing until all vehicular traffic previously delayed by such train movements has been cleared or a period of five (5) minutes has elapsed between train movements.

(Formerly: Acts 1972, P.L.63, SEC.4.)

IC 8-6-7.5-3

Violations; minimum judgment; funds deposited in industrial rail service fund

Sec. 3. (a) A railroad corporation that violates this chapter commits a Class C infraction. The minimum judgment that may be entered for a Class C infraction under this section is two hundred dollars ($200).

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations of this section must be deposited in the industrial rail service fund established by IC 8-3-1.7-2.

(Formerly: Acts 1972, P.L.63, SEC.4.) As amended by Acts 1978, P.L.2, SEC.825; P.L.162-2015, SEC.1.

IC 8-6-7.5-4

Expired

(As added by P.L.162-2015, SEC.2. Expired 12-31-2015 by P.L.162-2015, SEC.2.)

IC 8-6-7.6

Chapter 7.6. Unobstructed View at Crossings

IC 8-6-7.6-1

Repealed

(Formerly: Acts 1972, P.L.64, SEC.1.) As amended by P.L.103-2001, SEC.1; P.L.2-2013, SEC.1. Repealed by P.L.198-2016, SEC.63.)

IC 8-6-7.6-1.1

Repealed

(As added by P.L.2-2013, SEC.2. Amended by P.L.205-2014, SEC.1. Repealed by P.L.198-2016, SEC.64.)

IC 8-6-7.6-1.5

Definitions

Sec. 1.5. The following definitions apply throughout this chapter:

(1) "Field side" means the side of a rail pointing away from a track.

(2) "Maximum authorized speed limit" means the maximum speed limit authorized under Federal Railroad Administration track classifications and safety standards.

(3) "Passive warning device" means a crossbuck assembly with a yield or stop sign installed in accordance with the Indiana Manual on Uniform Traffic Control Devices.

(4) "Public rail-highway grade crossing" means any location where a public highway, street, or road crosses one (1) or more railroad tracks at grade.

(5) "Right-of-way" means the right-of-way at a public rail-highway grade crossing that is controlled by a railroad.

(6) "Train-activated warning device" means a train-activated warning device or other active traffic control device installed in accordance with the Indiana Manual on Uniform Traffic Control Devices.

As added by P.L.198-2016, SEC.65.

IC 8-6-7.6-2

Repealed

(Formerly: Acts 1972, P.L.64, SEC.1.) As amended by P.L.103-2001, SEC.2; P.L.2-2013, SEC.3. Repealed by P.L.198-2016, SEC.66.)

IC 8-6-7.6-2.1

Violation; civil penalty; action to recover

Sec. 2.1. A railroad that violates section 3 or 4 of this chapter is subject to a civil penalty of one hundred dollars ($100) for each day the violation continues. The maximum penalty under this section is five thousand dollars ($5,000). The Indiana department of

transportation may bring an action to recover a civil penalty under this section in the circuit or superior court of the county in which the crossing that is the subject of the violation is located.
As added by P.L.2-2013, SEC.4. Amended by P.L.198-2016, SEC.67.

IC 8-6-7.6-3
Unobstructed views at grade crossings

Sec. 3. (a) A railroad shall provide and maintain within the railroad's right-of-way an unobstructed view in each quadrant of a public rail-highway grade crossing that is under the control of the railroad to the following specifications:

(1) From the centerline of the highway, street, or road:

(A) forty-two (42) inches above the highway, street, or road; and

(B) twenty (20) feet from the field side of the nearest rail or, if the railroad's right-of-way is less than twenty (20) feet from the field side of the nearest rail, to the limit of the railroad's right-of-way.

(2) From the centerline of the track:

(A) forty-two (42) inches above the track; and

(B) to the appropriate distance determined under section 4 of this chapter.

If the public rail-highway grade crossing includes multiple tracks, the measurements are taken at a ninety (90) degree angle from the top of the field side of the rail nearest the highway, street, or road.

(b) This chapter does not require a railroad to enter onto property not owned by the railroad to meet the requirements under this chapter.

(c) This section replaces any common law duties imposed on a railroad with respect to sight distances, including methods to verify sight distances.
As added by P.L.198-2016, SEC.68.

IC 8-6-7.6-4
Unobstructed views at other crossings

Sec. 4. (a) A railroad shall provide and maintain within the railroad's right-of-way an unobstructed view in each quadrant of a public rail-highway crossing that is under the control of the railroad as follows:

(1) If the crossing is equipped with a passive warning device, as follows:

(A) For tracks with a maximum authorized speed limit of not more than thirty (30) miles per hour, an unobstructed view of three hundred fifty (350) feet.

(B) For tracks with a maximum authorized speed limit of more than thirty (30) miles per hour and not more than sixty (60) miles per hour, an unobstructed view of six hundred fifty (650) feet.

(C) For tracks with a maximum authorized speed limit of more than sixty (60) miles per hour, an unobstructed view of nine hundred (900) feet.

If the crossing includes multiple tracks with different maximum authorized speed limits, the track with the highest authorized maximum speed limit shall be used to determine the unobstructed view under this subdivision.

(2) If the crossing is equipped with a train-activated warning device, two hundred fifty (250) feet.

(b) If a railroad is unable to provide or maintain an unobstructed view under subsection (a) due to a variance in terrain, elevation, track curvature, rolling stock, or permanent improvements at or near the public rail-highway grade crossing, the railroad shall provide and maintain an unobstructed view in each quadrant of the public rail-highway grade crossing to the furthest achievable unobstructed view.

As added by P.L.198-2016, SEC.69.

IC 8-6-7.7

Chapter 7.7. Railroad Grade Crossings Fund

IC 8-6-7.7-1

"Grade crossing"

Sec. 1. The term "grade crossing" as used in this chapter means a crossing of any railroad and any public highway, street or roadway, at grade.

(Formerly: Acts 1973, P.L.66, SEC.1.)

IC 8-6-7.7-1.1

"Person"

Sec. 1.1. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, an association, a fiduciary, or a governmental entity.

As added by P.L.198-2016, SEC.70.

IC 8-6-7.7-2

Automatic train-activated warning signal

Sec. 2. The Indiana department of transportation, in authorizing the construction of any new grade crossing under IC 8-6-1-7 and section 3.4 of this chapter, may order the installation of automatic train-activated warning signals at the crossing. The department may order the installation, replacement, relocation, modernization, or improvement of automatic train-activated warning signals at any grade crossing in the state in existence at the time the department issues such an order. The authority of the department to require the installation of the signals is exclusive and supersedes the power of any other state or local governmental agency.

(Formerly: Acts 1973, P.L.66, SEC.1.) As amended by P.L.384-1987(ss), SEC.65; P.L.18-1990, SEC.75; P.L.81-1996, SEC.4.

IC 8-6-7.7-3

Closing or abolishing grade crossing

Sec. 3. The Indiana department of transportation may order legally closed and abolished as a public way, within the limits of a railroad right-of-way, any grade crossing then in existence at the time the department assumes jurisdiction of the matter:

(1) upon a finding that the enhancement of public safety resulting from the closing will outweigh any inconvenience caused by increased circuitry of highway routes; or

(2) based upon criteria specified in rules adopted by the department under section 3.1 of this chapter.

The order by the department may be issued either in connection with, or independent of, an order relating to automatic train-activated warning signals. The authority of the department to legally close and abolish grade crossings is in addition to any authority by law granted

to other state agencies or to local units of government to close and abolish grade crossings. Upon the issuance of an order by the department, the railroad or railroads involved shall physically remove the crossing from the tracks, and the governmental unit maintaining the highway shall remove or barricade the approaches to the crossing.

(Formerly: Acts 1973, P.L.66, SEC.1.) As amended by P.L.384-1987(ss), SEC.66; P.L.18-1990, SEC.76; P.L.81-1996, SEC.5.

IC 8-6-7.7-3.1

Duty of department to specify criteria; considerations in applying criteria

Sec. 3.1. (a) The Indiana department of transportation shall adopt rules under IC 4-22-2 specifying criteria for:

(1) the department to use in determining whether to open a new public railroad grade crossing; and

(2) the department or a unit (as defined in IC 36-1-2-23) to use in determining whether to abolish a public railroad grade crossing.

(b) In applying criteria required by subsection (a) to determine whether to open a new public railroad grade crossing, deny a public grade crossing closure, or abolish a public railroad grade crossing, the department or unit shall consider the following:

(1) Timetable speed of passenger trains operated through the crossing.

(2) Distance to an alternate crossing.

(3) Accident history of the crossing for the five (5) years preceding the department's or the unit's consideration.

(4) Amount of vehicular traffic and posted speed limits for the crossing.

(5) Amount of freight trains and their timetable speeds operated through the crossing.

(6) Type of warning device present at the crossing, if any.

(7) Alignment of the roadway and the railroad, and the angle of the intersection of an alignment at the crossing.

(8) Use of the crossing by:

(A) trucks carrying hazardous materials;

(B) vehicles carrying passengers for hire;

(C) school buses; and

(D) emergency vehicles.

(9) Other appropriate criteria as determined by the department.

As added by P.L.81-1996, SEC.6.

IC 8-6-7.7-3.2

Petition for closure; public hearing; determination and findings by unit

Sec. 3.2. (a) A person may petition a unit (as defined in

IC 36-1-2-23) under whose jurisdiction a public railroad crossing lies for the closure of a public railroad crossing. The unit shall conduct a public hearing on the petition not more than sixty (60) days after the date on which the unit receives the petition.

(b) Except as provided in subsection (c), if the unit determines that the crossing meets the criteria adopted by the Indiana department of transportation under section 3.1 of this chapter for closing a crossing, the unit shall approve the petition described in subsection (a) and issue an order to close the crossing. The unit shall provide a copy of the unit's findings to the Indiana department of transportation.

(c) If the unit determines that:

(1) the crossing meets the criteria for closure adopted by the Indiana department of transportation under section 3.1 of this chapter; and

(2) a compelling reason has been shown to exist for the crossing to remain open;

the unit may deny a petition to close the crossing. The unit shall provide a copy of the unit's findings to the Indiana department of transportation.

(d) If the unit determines that the crossing does not meet the criteria for closure adopted by the Indiana department of transportation and section 3.1 of this chapter, the unit may deny a petition to close the crossing.

(e) Notwithstanding subsections (a) through (d), a unit and a railroad may agree to close a crossing within the jurisdiction of the unit.

As added by P.L.81-1996, SEC.7. Amended by P.L.198-2016, SEC.71.

IC 8-6-7.7-3.3

Appeal

Sec. 3.3. (a) If a unit denies a petition to close a crossing under section 3.2 of this chapter, the Indiana department of transportation may schedule an appeal on the denial of the petition as set forth in this section. If the Indiana department of transportation does not schedule an appeal on the denial of a petition within sixty (60) days after the petition is denied, the Indiana department of transportation is considered to have decided not to schedule an appeal on the denial of the petition. The decision to schedule or not schedule an appeal is subject to review under IC 4-21.5.

(b) If the Indiana department of transportation after reviewing the findings of the local unit on the petition determines that:

(1) the crossing meets the criteria for closure, opening, or denial of a closure, adopted by the Indiana department of transportation under section 3.1 of this chapter; and

(2) a compelling reason has been shown for the crossing to remain open;

the Indiana department of transportation shall issue written findings that the crossing may remain open.

(c) If the Indiana department of transportation after reviewing the findings of the local unit on the petition determines that:

(1) the crossing meets the criteria for closure adopted by the Indiana department of transportation under section 3.1 of this chapter; and

(2) a compelling reason has not been shown for the crossing to remain open;

the Indiana department of transportation shall issue an order abolishing the crossing under section 3 of this chapter.

As added by P.L.81-1996, SEC.8. Amended by P.L.198-2016, SEC.72.

IC 8-6-7.7-3.4

Order approving petition to open crossing

Sec. 3.4. If the Indiana department of transportation, upon receiving a petition to open a crossing, finds:

(1) that the proposed crossing meets the criteria required to open a new grade crossing adopted by the department under section 3.1 of this chapter; or

(2) that a compelling reason has been shown for the crossing to exist;

the department shall issue an order approving the petition.

As added by P.L.81-1996, SEC.9.

IC 8-6-7.7-4

Warning signals; costs; installation; time; civil penalties

Sec. 4. (a) The Indiana department of transportation, whenever it orders the construction, installation, replacement, relocation, modernization, or improvement of automatic train-activated warning signals, may prescribe the division of the costs of the equipment, the installation of the equipment, the construction, and the operation and maintenance of the equipment between the railroad and the public. The share of the costs allocated to the public shall be paid with funds appropriated to the department for such purpose. In allotting the costs, IC 8-23-5-2 applies except as provided in subsections (b) through (c).

(b) Whenever a grade crossing not protected by automatic warning signals is ordered so protected, the department shall prescribe the division of the cost of the equipment, its installation, its operation and maintenance, and its construction between the railroad involved and the public, giving due regard to the net benefits received by the parties, and the causes creating the need for signals at the crossing.

(c) The physical work of constructing, installing, replacing, relocating, modernizing, or improving, and thereafter operating and maintaining automatic warning signals under order of the department

shall be performed by the railroad involved. All orders of the department relating to the signals shall provide for allocation among the parties involved for the extraordinary costs of signal repair or replacement if they are damaged or destroyed by accident or external causes.

(d) When the department orders the railroad to proceed with the construction, installation, relocation, modernization, or replacement of automatic signals at a grade crossing, the department shall order the railroad involved to complete the construction, installation, relocation, modernization, or replacement of signals not later than twelve (12) months after the date of the order.

(e) A railroad may request the department for additional time to complete the construction, installation, relocation, modernization, or replacement of signals specified in the department's order under subsection (d). The railroad shall submit the request for additional time in writing to the department. The request shall specifically set forth the basis for the railroad's need for additional time to complete the work. The department's decision to grant or deny a request for additional time is not subject to review under IC 4-21.5.

(f) If the railroad fails to complete the construction, installation, relocation, modernization, or replacement of signals by the date specified:

(1) in the department's order under subsection (d); or

(2) by the department if a request for additional time is granted by the department under subsection (e);

the department may assess a civil penalty against the railroad of not more than one thousand dollars ($1000) for each day the construction, installation, relocation, modernization, or replacement of signals is late.

(g) All civil penalties collected under this section shall be deposited with the treasurer of state to be deposited by the treasurer of state in the railroad grade crossing fund created under IC 8-6-7.7-6.1.

(Formerly: Acts 1973, P.L.66, SEC.1.) As amended by P.L.384-1987(ss), SEC.67; P.L.18-1990, SEC.77; P.L.87-1997, SEC.3.

IC 8-6-7.7-5

Orders and procedures of department; federal funds; contracts for work

Sec. 5. (a) Orders of the Indiana department of transportation relating to automatic train-activated warning signals and to the closing of grade crossings may be issued:

(1) on the department's own initiative;

(2) upon petition of a governing body or authorized official administering a public highway or street; or

(3) upon petition of a person or entity operating a railroad.

All procedures shall be prescribed by rules established by the

department, which must give regard to the requirements of notice and opportunity to be heard.

(b) Whenever any grade crossing is under consideration by the department for the installation of automatic warning signals, the department shall, in cooperation with other governmental agencies of the state, determine if the installation of signals can be made with the use of federal aid funds. If funds are available, the department's order may provide for the use of the funds and for all necessary compliance with applicable federal statutes and regulations.

(c) The authority vested in the department to order the installation, replacement, relocation, modernization, or improvement of automatic warning signals and the closing of grade crossings does not preclude the signal work or closing being performed by contract between a railroad and the governmental agency controlling the public way. If a mutually agreed upon contract for action has been made, no petition to the department is required, and if a contract is agreed upon after the department has assumed jurisdiction, the department may dismiss the proceeding upon the motion of a party.

(d) For the purpose of expediting railroad grade crossing protection projects that require the obligation of local funds to supplement federal aid funds available for railroad grade crossing protection, the department may make loans or grants to local units from the railroad grade crossing fund created under section 6.1 of this chapter to provide the money necessary to supplement those federal aid funds. The loans or grants shall be made under terms and conditions established by the department under rules adopted under IC 4-22-2. A local unit may contract with a railroad concerning payment of the money necessary to supplement federal aid funds upon terms and conditions as they may agree.

(Formerly: Acts 1973, P.L.66, SEC.1.) As amended by P.L.97-1985, SEC.1; P.L.384-1987(ss), SEC.68; P.L.18-1990, SEC.78.

IC 8-6-7.7-6
Repealed

(Repealed by Acts 1979, P.L.88, SEC.2.)

IC 8-6-7.7-6.1
Railroad grade crossing fund

Sec. 6.1. (a) The railroad grade crossing fund is created.

(b) The railroad grade crossing fund may be used by the Indiana department of transportation for the following purposes:

(1) To carry out the provisions of this chapter.

(2) For passive railroad crossing safety improvement projects by a unit of government, including:

(i) illumination;

(ii) pavement markings;

(iii) median barriers;

(iv) signage; and

(v) other safety improvement measures.

(3) For passive railroad crossing safety projects submitted by railroad companies, including:

(i) illumination;

(ii) sight obstruction removal;

(iii) signage;

(iv) reflectorized taping; and

(v) other safety improvement measures.

(c) Notwithstanding subsection (b), an entity undertaking a passive railroad crossing safety project under this section shall pay the cost of acquiring any easements required by the passive railroad crossing safety project and shall be responsible for the maintenance and operation of the completed project.

(d) The balance of money in the railroad grade crossing fund does not revert to the state general fund at the close of any fiscal year but remains available to the Indiana department of transportation.

As added by Acts 1979, P.L.88, SEC.1. Amended by P.L.384-1987(ss), SEC.69; P.L.18-1990, SEC.79; P.L.82-1996, SEC.1; P.L.121-2001, SEC.2.

IC 8-6-7.7-7

Repealed

(Repealed by Acts 1981, P.L.41, SEC.75.)

IC 8-6-8
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-6-9
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-6-10
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-6-11
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-6-12

Chapter 12. Repair of Railroad Grade Crossings by Local Government

IC 8-6-12-1

Suit to collect municipal expenses; collection by special tax duplicate

Sec. 1. (a) Each railroad company whose road or tracks lie in any public street, road, or alley in any city, town, or county shall properly grade, plank, gravel, or asphalt the road and tracks in accordance with the grade and surfacing material of the public street, road, or alley in such a manner as to afford security for life and property of persons and vehicles using the public streets, roads, or alleys.

(b) If a railroad company fails to comply with the provisions of this section, the city, town, or county in which the public street, road, or alley is located may, after thirty (30) days written notice to the superintendent or regional engineer of railroad company, do the work and either:

(1) recover the amount of the cost thereof from the railroad company by suit filed in any court of competent jurisdiction, in which case the city, town or county may collect reasonable attorney fees; or

(2) certify the amount owed to the county auditor who shall prepare a special tax duplicate to be collected and settled for by the county treasurer in the same manner and at the same time as property taxes are collected;

provided, that before the municipal corporation, city, town, or county shall undertake to do the work themselves they shall notify an agent of the railroad as to the time and place.

(Formerly: Acts 1969, c.174, s.1.) As amended by P.L.62-1984, SEC.103.

IC 8-6-12-2

Improvement order; repair of street occupied by rails of railroad or street railroad; failure to comply; assessment of costs; collection

Sec. 2. The board of public works or board of public works and safety of a city or town legislative body may issue a written improvement order requiring that any railroad, interurban, or interurban street railroad undertake to repair or improve that portion of the street occupied by its track, including the space between the rails, the space between the tracks if there is more than one (1) track, and the space to the end of its ties in width on the outside of said rails. The written improvement order shall be given by the board or body to the railroad, interurban, or interurban street railroad company and must allow the railroad company thirty (30) days in which to commence the repairs or improvement. If the railroad company fails to commence the work within the thirty (30) day period, then the board or body may have the repairs or improvements

made and shall assess the cost against the railroad company, to be collected in the same manner as assessments for other public improvements are collected. The board or body may certify the amount owed to the clerk of the circuit court, where the amount certified shall be entered by the clerk upon the judgment docket in the clerk's office, whereupon it has the same force as a judgment pronounced in the circuit court of the county and is subject to execution in the same manner as any other judgment for money.
As added by Acts 1981, P.L.11, SEC.49. Amended by P.L.8-1989, SEC.51.

IC 8-6-13
Repealed

(Repealed by Acts 1973, P.L.66, SEC.2.)

IC 8-6-14
Chapter 14. Farm Crossings of Railroad Tracks

IC 8-6-14-1
Authority for establishment; plans and specifications

Sec. 1. Owners of tracts of land separated by the right of way of a railway company, or owner of a tract or tracts of land separated by the right of way of a railway company from a public highway or road, lying and situated immediately contiguous to and adjoining said right of way, may, if such right of way has been or shall hereafter be acquired by condemnation and appropriation, or by purchase or donation, construct and maintain wagon and driveways over and across such right of way leading from one of such tracts to another on the opposite side of such right of way, or leading from such tract or tracts of land on one (1) side to the highway on the other side of the right of way, at any point most convenient to such owner. For this purpose, such owner may enter upon such right of way and construct such embankment, or make such excavation, on one (1) or both sides of the track of such railway as may be necessary to establish easy grades from one (1) tract of land to the opposite tract or highway, and may spike planks on the ties of such railway on the line of such way for the space of the width of such way, of such thickness as not to be elevated above the top of the rails of such railway, and may also bridge the gutters at the sides of such railway track in such manner as not to obstruct the flow of water therein: Provided, The railroad company shall make the crossing.

(Formerly: Acts 1885(ss), c.44, s.1; Acts 1899, c.212, s.1.)

IC 8-6-14-2
Fences; gates

Sec. 2. When such railroad is fenced on one (1) or both sides at the point where such way is constructed, such owner shall erect and maintain substantial gates in the line of such fence or fences across such way, and keep the same securely locked when not in use by himself or employees.

(Formerly: Acts 1885(ss), c.44, s.2.)

IC 8-6-14-3
Killing or injuring livestock

Sec. 3. If animals are killed or injured on the track of such railroad by the cars or locomotives thereof, the company owning or operating such railroad, shall not be liable to pay damages therefor if such animal entered upon the track of such railroad through such gates, unless it shall be proved that such killing or injury was caused by the negligence of the servants of the company owning or operating such railroad.

(Formerly: Acts 1885(ss), c.44, s.3.)

IC 8-6-15

Chapter 15. Abandoned and Unused Crossings

IC 8-6-15-1

Requests to determine abandoned or unused crossings

Sec. 1. The department shall determine whether a railroad grade crossing is abandoned or unused after receiving a request for the determination from:

(1) the railroad; or

(2) the state highway district or local road authority that has jurisdiction over the roadway.

As added by P.L.87-2003, SEC.1.

IC 8-6-15-2

Designation of abandoned or unused crossings

Sec. 2. The department shall designate an abandoned or unused railroad grade crossing as abandoned or unused.

As added by P.L.87-2003, SEC.1. Amended by P.L.97-2004, SEC.35.

IC 8-6-15-3

Marking of designated crossings

Sec. 3. An abandoned or unused railroad grade crossing designated under section 2 of this chapter must be marked with signs reading "tracks out of service". The signs must:

(1) be posted and maintained by the department or the local road authority having jurisdiction over the roadway; and

(2) be in conformance with the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as adopted under IC 9-21-2-1.

As added by P.L.87-2003, SEC.1.

IC 8-6-15-4

Notice of intent to resume operations; marking

Sec. 4. (a) The railroad shall provide the department and the local road authority having jurisdiction over a roadway with written notice at least thirty (30) days prior to resuming operation over an abandoned or unused railroad crossing. The notice must include a request that the signs posted under section 3 of this chapter be removed from the crossing.

(b) After removal of the signs under subsection (a), the railroad shall mark the railroad grade crossing for six (6) months with signs reading "train traffic resumed -- tracks in service".

As added by P.L.87-2003, SEC.1.

IC 8-7

ARTICLE 7. REPEALED

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-8

ARTICLE 8. RAILROAD EQUIPMENT

IC 8-8-1

Chapter 1. General Provisions

IC 8-8-1-1

Power driving wheel brakes; connections

Sec. 1. It shall be unlawful for any common carrier engaged in moving traffic by railroad between points within this state to use on its line any locomotive in moving such traffic not equipped with power driving wheel brakes and appliances for operating the train brake system, or to run any train in such traffic that has not seventy-five (75) per cent of the cars in such train equipped with power or train brakes, and having the brakes used and operated by the engineer of the locomotive drawing such train, and all power brake cars in such train shall be associated together and have their brakes used and operated: Provided, That this section shall not apply to the handling of trains or cars in yard service, or to a local train while engaged in performing switching service.

(Formerly: Acts 1907, c.118, s.1.)

IC 8-8-1-2

Automatic couplers

Sec. 2. It shall be unlawful for any such common carrier to haul, or permit to be hauled, or used, on its line, any locomotive, car, tender or similar vehicle used in moving state traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of persons going between the ends of the cars.

(Formerly: Acts 1907, c.118, s.2; Acts 1975, P.L.76, SEC.4.)

IC 8-8-1-3

Grab-irons or handholds

Sec. 3. It shall be unlawful for any such common carrier to haul, or permit to be hauled, or used, on its line, any locomotive, car, tender, or similar vehicle used in moving of state traffic not provided with secure grab-irons or handholds in the sides or ends thereof.

(Formerly: Acts 1907, c.118, s.3.)

IC 8-8-1-4

Draw bars; standard height

Sec. 4. It shall be unlawful for any such common carrier to use any locomotive, tender, car or similar vehicle used in the movement of state traffic, that is not provided with draw bars of standard height; to wit, standard gauge cars thirty-four and one-half (34 1/2) inches; narrow gauge cars twenty-six (26) inches; measured perpendicularly from the level of the tops of the rails to the centers of the draw bars;

the maximum variation from such standard heights between draw bars of empty and loaded cars shall be three (3) inches.
(Formerly: Acts 1907, c.118, s.4.)

IC 8-8-1-5
Application of law

Sec. 5. The provisions of sections 1, 2, and 4 of this chapter shall also apply to locomotives, cars, and trains used in passenger traffic between points within this state, in so far as the same are applicable to the vehicles used in passenger train traffic; provided, that none of the provisions of sections 1, 2, 3, and 4 of this chapter shall apply to any street railroad, interurban, or suburban street railroad.
(Formerly: Acts 1907, c.118, s.5.) As amended by P.L.62-1984, SEC.104.

IC 8-8-1-6
Interurban railways; track motorcars; brakes; hand brakes

Sec. 6. It shall be unlawful for any common carrier in this state operating an interurban railway by electric power to operate or run upon any railroad in this state any motorcar used in regular interurban passenger traffic which is not equipped with an approved power air brake, in good condition, and subject to the control, and operation of the motorman in charge of such car, and of sufficient capacity to control the speed of the car. It shall also be unlawful for any common carrier, operating a steam or electric railway, and engaged in moving traffic between points in this state, to operate or run upon any railroad in this state any freight or passenger train which is not equipped, as to, at least, as to a steam railroad seventy-five percent (75%), and as to an interurban street railroad fifty percent (50%) of the cars in said train, with an approved system of hand brakes in addition to the power or train brakes required by section 1 of this chapter, which hand brakes shall be kept at all times in proper working condition and of sufficient capacity to control the speed of such train. Provided, that the hand brakes upon every passenger coach, both steam and electric, shall be so constructed that they can be operated in connection with the air or power brakes upon such coach; provided, however, that whenever such power air brakes become disabled from any cause while such car is in service on any such railroad, then, if such car is equipped with a hand brake sufficient therefor, it may complete its run; and, provided further, that this chapter shall not make it unlawful to run such disabled car to the most convenient repair shop upon the road upon which it is then being operated; provided, that this chapter shall not apply to city street railway cars, or cars engaged in suburban traffic.
(Formerly: Acts 1907, c.118, s.6; Acts 1911, c.169, s.1.) As amended by P.L.62-1984, SEC.105.

IC 8-8-1-7

Brakes; minimum percentage of cars in trains

Sec. 7. The Indiana department of transportation may, after full hearing and for good cause shown, increase the minimum percentage of cars in any train required to be operated by power or train brakes. A failure to comply with a requirement of the department is subject to a like penalty as a failure to comply with any requirement of this chapter. The department may grant to any common carrier subject to this chapter, upon full hearing and for good cause shown, a reasonable extension of time in which to comply with this chapter. The extension or extensions may not exceed eighteen (18) months.
(Formerly: Acts 1907, c.118, s.7.) As amended by P.L.62-1984, SEC.106; P.L.384-1987(ss), SEC.70; P.L.18-1990, SEC.80.

IC 8-8-1-8
Improperly equipped cars; refusal to accept from connecting lines

Sec. 8. Any such common carrier may refuse to receive from its connecting lines, or from any shipper, any car not equipped in accordance with the provisions of this chapter.
(Formerly: Acts 1907, c.118, s.8.) As amended by P.L.62-1984, SEC.107.

IC 8-8-1-9
Inspection

Sec. 9. The Indiana department of transportation shall enforce this chapter. The department may, with the consent and approval of the governor, appoint and pay an inspector, or inspectors, to assist in so doing and in collecting the necessary information required for that purpose. The department may adopt rules, not inconsistent with this chapter, to control the conduct of its inspectors and such carriers in reference to this chapter and such inspection. All carriers subject to this chapter shall provide free transportation in Indiana for the inspectors employed by the department, to be used only while traveling on the business of the department.
(Formerly: Acts 1907, c.118, s.9.) As amended by P.L.62-1984, SEC.108; P.L.384-1987(ss), SEC.71; P.L.18-1990, SEC.81.

IC 8-8-1-10
Violation; penalty; action to recover; exceptions

Sec. 10. Every common carrier, or the receiver thereof, using or permitting to be used or hauled on its line a locomotive, tender, car, or similar vehicle or train in violation of the provisions of this chapter is liable to a penalty of one hundred dollars ($100) for each violation, to be recovered in a suit or suits to be brought by and in the name of the Indiana department of transportation in a circuit or superior court of this state having jurisdiction over the offending carrier. This chapter does not apply to locomotives, tenders, cars, or trains exclusively used in the movement of logs when the height of the draw bars on the locomotives, tenders, and cars does not exceed

twenty-five (25) inches or to locomotives, tenders, cars, similar vehicles, or trains while any are in actual use in interstate commerce.
(Formerly: Acts 1907, c.118, s.10.) As amended by P.L.62-1984, SEC.109; P.L.384-1987(ss), SEC.72; P.L.18-1990, SEC.82.

IC 8-8-1-11
Bridges; vertical clearances

Sec. 11. (a) It is unlawful for a railroad carrier in Indiana that operates freight trains over its lines in the state to maintain over or across its line in this state an overhead bridge, viaduct, or other structure, the lowest point of which is less than twenty-one (21) feet above the level of the top of the rails in the track of the carrier, without obtaining the permission of the Indiana department of transportation so to do.

(b) It is unlawful for a party, person, association, limited liability company, or municipal or private corporation to construct or maintain, across the track of a steam railroad carrier an overhead bridge, viaduct, or other structure the lowest point of which is less than twenty-one (21) feet above the level of the top of the rails in the track without obtaining the permission of the Indiana department of transportation to do so. This section does not apply to bridges or viaducts within the limits of a city or incorporated town in the state. This chapter does not modify the statutes concerning the location of wires across railroads, street railroads, interurban, or suburban railroads. No new structure or new railway bridge shall be built in which the lowest point is less than twenty-two (22) feet above the level of the top of the rails in the track of the carrier, without obtaining permission of the Indiana department of transportation so to do.
(Formerly: Acts 1907, c.118, s.11; Acts 1911, c.123, s.1; Acts 1949, c.107, s.1; Acts 1951, c.23, s.1.) As amended by P.L.62-1984, SEC.110; P.L.384-1987(ss), SEC.73; P.L.18-1990, SEC.83; P.L.8-1993, SEC.141.

IC 8-8-1-12
Bridges and other structures; lateral clearance

Sec. 12. (a) It is unlawful for a railroad carrier in this state engaged in operating a line of standard gauge railroad, or a person or persons, association, municipal, or private corporation, to build or maintain a structure or alter or rebuild a structure or railway bridge along the line of the railroad in Indiana, in which that part of the structure or bridge nearest to the track is less than seven (7) feet from the center of the track, without first obtaining permission of the Indiana department of transportation so to do.

(b) No new structure or new railway bridge shall be built in which that part of the structure or bridge nearest to the track is less than eight (8) feet from the center of the track without first obtaining permission from the Indiana department of transportation. However:

(1) the clearance referred to in this section does not apply to signal fixtures governing train operations within interlocking limits; and

(2) the term "structures" as used in this section does not include parallel or adjacent tracks, railroad crossings, crossovers, turn-outs, or switches.

(Formerly: Acts 1907, c.118, s.12; Acts 1911, c.169, s.2; Acts 1949, c.45, s.1.) As amended by P.L.62-1984, SEC.111; P.L.384-1987(ss), SEC.74; P.L.18-1990, SEC.84.

IC 8-8-1-13
Violation of IC 8-8-1-12; penalty

Sec. 13. A person who violates section 12 of this chapter, after receiving sixty (60) days notice from the Indiana department of transportation that a provision of that section is being violated, is subject to a penalty of five hundred dollars ($500) for each violation to be recovered in an action to be brought by and in the name of the department on behalf of the state in any circuit or superior court having jurisdiction.

(Formerly: Acts 1907, c.118, s.13; Acts 1911, c.169, s.3.) As amended by Acts 1978, P.L.2, SEC.826; P.L.384-1987(ss), SEC.75; P.L.18-1990, SEC.85.

IC 8-8-1-14
Employees; death or personal injury; assumption of risk; contributory negligence

Sec. 14. Any employee of any such common carrier who may be killed or injured by any locomotive, tender, car, similar vehicle, or train in use contrary to the provisions of this chapter, or who shall be killed or injured on account of any of the structures forbidden in sections 11 and 12 of this chapter, shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, tender, car, similar vehicle, or train, or the maintenance of such unlawful structures named in sections 11 and 12 of this chapter had been brought to his knowledge, nor shall any such employee be held as having contributed to his injury in any case where the carrier shall have violated any of the provisions of this chapter when such violation contributed to the death or injury of any such employee.

(Formerly: Acts 1907, c.118, s.14.) As amended by P.L.62-1984, SEC.112.

IC 8-8-2
Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-8-3

Chapter 3. Railroad Locomotives

IC 8-8-3-1

Construction; unobstructed view between fireman and engineer

Sec. 1. In addition to the powers granted the Indiana department of transportation in other statutes, the department shall investigate whether or not locomotive engines are constructed and built so that the engineer and fireman employed and working thereon and operating the locomotive engine are, at all times when operating the locomotive engine, in plain view and sight of each other and so situated and located in the performance of their duties that when so at work, engaged in operating and running the locomotive engines, there are no walls, partitions, machinery, parts, or appliances of the engine or other obstructions to prevent the fireman and engineer from readily, quickly, and easily seeing and communicating with each other.

(Formerly: Acts 1913, c.291, s.1.) As amended by P.L.62-1984, SEC.115; P.L.384-1987(ss), SEC.76; P.L.18-1990, SEC.86.

IC 8-8-3-2

Enforcement orders

Sec. 2. If, after investigation, it is found that the engines are not constructed and operated as set out in section 1 of this chapter, the Indiana department of transportation may make and enforce against the railroad companies an order or orders as necessary to require the equipment of the locomotive engines to comply with section 1 of this chapter.

(Formerly: Acts 1913, c.291, s.2.) As amended by P.L.62-1984, SEC.116; P.L.384-1987(ss), SEC.77; P.L.18-1990, SEC.87.

IC 8-8-3-3

Front cab windows; unobstructed view; switch engines; unobstructed view

Sec. 3. The Indiana department of transportation may require locomotive engines to be so constructed that the engineer and fireman's view ahead from the front cab windows is clear and unobstructed by any part of the engine, equipment, or appliances used or operated, and constructed that the cab deck shall be of the same height, and shall give the fireman and engineer operating the locomotive engine an even surface to stand and work upon, and constructed that the switch engines have the tank and tender built so that the engineer and fireman operating and controlling the locomotive engine can have a clear view along the track, both front and rear, without the view being obstructed by part of the engine, tank, or tender.

(Formerly: Acts 1913, c.291, s.3.) As amended by P.L.384-1987(ss), SEC.78; P.L.18-1990, SEC.88.

IC 8-8-3-4
Rebuilding or reconstruction

Sec. 4. Whenever a locomotive engine is sent to the shops of the railroad company operating the locomotive engine to be rebuilt or reconstructed, the locomotive engine shall be rebuilt or reconstructed so as to comply with this chapter. The Indiana department of transportation may exempt a company from complying with this chapter.

(Formerly: Acts 1913, c.291, s.4.) As amended by P.L.62-1984, SEC.117; P.L.384-1987(ss), SEC.79; P.L.18-1990, SEC.89.

IC 8-8-3-5
Violations

Sec. 5. A person who violates an order of the Indiana department of transportation made under this chapter commits a Class C infraction.

(Formerly: Acts 1913, c.291, s.5.) As amended by Acts 1978, P.L.2, SEC.827; P.L.384-1987(ss), SEC.80; P.L.18-1990, SEC.90.

IC 8-8-4

Chapter 4. Storm Windows on Locomotives

IC 8-8-4-1

Unobstructed view; violation

Sec. 1. It is a Class C infraction for a person owning or operating locomotive road engines to fail to provide and equip the locomotive road engines with storm-windows in both front windows in the cabs of the engines. The storm-windows shall be so equipped and adjusted as to permit persons in charge to have an unobstructed view through them, when open, under all climatic conditions and to prevent the view being obstructed by rain, snow, or ice adhering thereto.
(Formerly: Acts 1911, c.80, s.1.) As amended by Acts 1978, P.L.2, SEC.828.

IC 8-8-4-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-8-5
Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-8-6
Repealed

(Repealed by Acts 1971, P.L.87, SEC.1.)

IC 8-8-7

Chapter 7. Caboose Cars

IC 8-8-7-1

Scope of law

Sec. 1. The provisions of this chapter apply to any corporation or to any person or persons while engaged as common carriers in the transportation by railroad of passengers or property within this state to which the regulative power of this state extends.

(Formerly: Acts 1911, c.60, s.1.) As amended by P.L.384-1987(ss), SEC.81.

IC 8-8-7-2

Plans and specifications; equipment

Sec. 2. From and after June 1, 1914, it shall be unlawful, except as otherwise provided in this chapter, for any such common carrier by railroad to use on its line any caboose car, or other car used for like purposes, unless such caboose or other car shall be at least twenty-four (24) feet in length exclusive of the platform and equipped with two (2) four-wheel trucks and said caboose car or other car shall be of constructive strength equal to that of sixty thousand (60,000) pounds capacity freight cars, and shall be provided with a door in each end thereof and an outside platform across each end of said car. Each platform shall not be less than twenty-four (24) inches in width and shall be equipped with proper guard rails and with grab-irons and steps for the safety of persons getting on and off said car. Said steps shall be equipped with a suitable rod, board, or other guard at each end and at the back thereof properly designed to prevent slipping from said step. Said caboose shall have necessary cupola or bay window, closets, and windows.

(Formerly: Acts 1911, c.60, s.2; Acts 1939, c.129, s.1.) As amended by P.L.62-1984, SEC.119.

IC 8-8-7-3

Repairs; return to service

Sec. 3. Whenever any such caboose cars or other cars in use on April 21, 1911, by such common carriers as provided by section 1 of this chapter shall, after April 21, 1911, be brought into any shop for general repairs, it shall be unlawful to again put the same into the service of such common carrier within this state unless it be equipped as provided in section 2 of this chapter.

(Formerly: Acts 1911, c.60, s.3.) As amended by P.L.62-1984, SEC.120.

IC 8-8-7-4

Operations excepted from law

Sec. 4. This chapter does not apply to the use of caboose cars operated in yards and in transfer service. In case of unusual and

unforeseen demands of traffic, caboose cars not constructed in compliance with this chapter may be used temporarily, provided that the railroad company desiring to use the caboose cars apply to and obtain an order from the Indiana department of transportation granting the privilege to temporarily use the same.
(Formerly: Acts 1911, c.60, s.4.) As amended by P.L.62-1984, SEC.121; P.L.384-1987(ss), SEC.82; P.L.18-1990, SEC.91.

IC 8-8-7-5
Maximum height

Sec. 5. The Indiana department of transportation may limit or prescribe the maximum height of a caboose to be used upon any railroad operating in or through the state, and the department may grant to a common carrier, upon full hearing and for good cause shown, a reasonable extension of time in which to comply with this chapter. An extension may not exceed a period of one (1) year from the time for compliance with this chapter.
(Formerly: Acts 1911, c.60, s.5.) As amended by P.L.62-1984, SEC.122; P.L.384-1987(ss), SEC.83; P.L.18-1990, SEC.92.

IC 8-8-7-6
Violations

Sec. 6. A common carrier that violates this chapter commits a Class C infraction.
(Formerly: Acts 1911, c.60, s.6.) As amended by Acts 1978, P.L.2, SEC.829.

IC 8-8-7-7
Investigation, safety, and efficiency factors

Sec. 7. The Indiana department of transportation shall investigate the conditions and efficiency of cabooses in use on the railroads in this state, and, if found upon investigation, that it is impossible for a railroad company to comply with sections 2 through 6 of this chapter, the department may grant to the company the right to construct a caboose which, in their judgment, will be safe and convenient for the employees and traveling public. The department may not grant the permission of any railroad company for constructing a caboose that has less than two (2) four-wheel trucks.
(Formerly: Acts 1911, c.60, s.7.) As amended by P.L.384-1987(ss), SEC.84; P.L.18-1990, SEC.93.

IC 8-8-8

Chapter 8. Railroad Track Motor Cars

IC 8-8-8-1

Headlights and red rear electric lights; violation; offense

Sec. 1. A person operating or controlling any railroad shall equip each of its track motor cars used, during the period from thirty (30) minutes before sunset to thirty (30) minutes after sunrise, with an electric head-light of such construction and with sufficient candlepower to render plainly visible, at a distance of not less than three hundred (300) feet in advance of the track motor car, any track obstruction, landmark, warning sign, or grade crossing, and also shall equip each track motor car with a red rear electric light of such construction and with sufficient candlepower as to be plainly visible at a distance of three hundred (300) feet. It is a Class C infraction for such a person to operate or use any track motor car from thirty (30) minutes before sunset to thirty (30) minutes after sunrise if it is not equipped with lights of the candlepower, construction, and utility described in this section. Each day of operation or use in violation of this section constitutes a separate offense.

(Formerly: Acts 1955, c.141, s.1.) As amended by Acts 1978, P.L.2, SEC.830.

IC 8-8-8-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-8-8-3

Investigations and enforcement

Sec. 3. The Indiana department of transportation shall make the necessary investigations concerning compliance with this chapter, and shall cause to be filed by the proper enforcing agencies, affidavits for the enforcement of this chapter.

(Formerly: Acts 1955, c.141, s.3.) As amended by P.L.62-1984, SEC.123; P.L.384-1987(ss), SEC.85; P.L.18-1990, SEC.94.

IC 8-8-9

Chapter 9. Track Motor Car's Windshields

IC 8-8-9-1

Equipment; requirements; violation

Sec. 1. A person operating or controlling any railroad shall equip each of its track motor cars with:

(1) a windshield and a device for cleaning rain, snow, and other moisture from the windshield, which device shall be maintained in good order and so constructed as to be controlled or operated by the operator of the track motor car; and

(2) a canopy or top of such construction as to adequately protect the occupants from the rain, snow, or other inclement weather.

It is a Class C infraction for such a person to operate or use any track motor car not equipped with a windshield and canopy or top as required in this section. Each day of operation or use in violation of this section constitutes a separate offense.

(Formerly: Acts 1959, c.35, s.1.) As amended by Acts 1978, P.L.2, SEC.831.

IC 8-8-9-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-8-9-3

Investigations and enforcement

Sec. 3. The Indiana department of transportation shall make the necessary investigations concerning compliance with the provisions of this chapter and cause to be filed by the proper enforcing agencies affidavits for the enforcement of this chapter.

(Formerly: Acts 1959, c.35, s.3.) As amended by P.L.62-1984, SEC.124; P.L.384-1987(ss), SEC.86; P.L.18-1990, SEC.95.

IC 8-8-10

Chapter 10. Railroad Switch Lights

IC 8-8-10-1

Light or reflectorized target required

Sec. 1. Every railroad operating wholly or partly in Indiana must place and maintain a signal light or a reflectorized switch target upon each switch and each derail switch which is connected with the main track of the railroad. The signal light or the reflectorized switch target must indicate the position of the switch and be clearly visible at all times. Every switch position indicator must indicate safety when the switch is set to the main track and must indicate danger when the switch is not set to the main track.

(Formerly: Acts 1901, c.99, s.1.) As amended by Acts 1977, P.L.106, SEC.2.

IC 8-8-10-2

Repealed

(Repealed by Acts 1977, P.L.106, SEC.3.)

IC 8-8-10-3

Repealed

(Repealed by Acts 1977, P.L.106, SEC.3.)

IC 8-8-10-4

Repealed

(Repealed by Acts 1977, P.L.106, SEC.3.)

IC 8-8-11
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-9

ARTICLE 9. RAILROAD LABOR

IC 8-9-1

Chapter 1. Railroad Employee Rules

IC 8-9-1-1

Publication and distribution; violation

Sec. 1. (a) A person operating trains by steam power on railroads shall:

(1) publish printed rules for the control and operation of those trains;

(2) deliver copies of the rules to all persons engaged in the operation of those trains;

(3) file a copy of the rules with the Indiana department of transportation;

(4) instruct employees in the application of those rules; and

(5) examine employees about the rules at least once each six (6) months after employment until the service has continued for eighteen (18) months and at least once every two (2) years thereafter.

(b) A person who fails to comply with this section commits a Class C infraction.

(Formerly: Acts 1907, c.272, s.1; Acts 1933, c.209, s.1.) As amended by Acts 1978, P.L.2, SEC.832; P.L.384-1987(ss), SEC.87; P.L.18-1990, SEC.96.

IC 8-9-1-2

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-9-1-3

Intoxication while on duty

Sec. 3. It is a Class C infraction for an agent, officer, or employee of any person engaged in the operation of railroad trains by steam power to be or become intoxicated while in the performance of his duties or to operate any such train or give orders or directions for the operation of any such train contrary to the printed rules of his company required by section 1 of this chapter.

(Formerly: Acts 1907, c.272, s.3.) As amended by Acts 1978, P.L.2, SEC.833.

IC 8-9-1-4

Fatal accidents; rules violations; reports to prosecuting attorney

Sec. 4. Whenever the Indiana department of transportation, in the investigation of an accident involving loss of life, concludes that the accident occurred on account of the violation of the printed rules for the operation of trains, as required by section 1 of this chapter, by an

officer or employee of a railroad company in this state, the department may, if the neglect of duty or violation of the rules is flagrant or has been brought about by the intoxication of a person while on duty, report the person to the prosecuting attorney of the county wherein the accident occurred for prosecution.
(Formerly: Acts 1907, c.272, s.4.) As amended by P.L.62-1984, SEC.125; P.L.384-1987(ss), SEC.88; P.L.18-1990, SEC.97.

IC 8-9-1-5
Repealed
(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-9-2
Repealed

(Repealed by P.L.50-2011, SEC.5.)

IC 8-9-3
Repealed

(Repealed by P.L.384-1987(ss), SEC.95.)

IC 8-9-4
Repealed

(Repealed by Acts 1979, P.L.87, SEC.15.)

IC 8-9-5

Chapter 5. Railroad Conductor's and Engineer's Qualifications

IC 8-9-5-1

Engineers; violation; exception

Sec. 1. A person who operates a locomotive engine, upon any railroad in Indiana more than twenty-five (25) miles in length, without having worked or served for the preceding six (6) months as a fireman or engineer on a locomotive engine, commits a Class C infraction. Each day he so operates such an engine constitutes a separate offense. A person who for part of the six (6) months has worked or served as a fireman on a locomotive engine and for the remainder of the period has worked or served as an engineer on such a locomotive engine is considered to have the qualifications required by this chapter to operate a locomotive engine.

(Formerly: Acts 1913, c.43, s.1; Acts 1974, P.L.30, SEC.1.) As amended by Acts 1978, P.L.2, SEC.836.

IC 8-9-5-2

Violation; brakemen or conductors; penalty; exception

Sec. 2. If any person shall act or serve as a conductor on a railroad train upon any railroad in the state of Indiana which is more than twenty-five (25) miles in length without, for one (1) year prior thereto, having worked or served as a brakeman or conductor on a railroad train, he commits a Class C infraction, and each day he so acts or serves shall constitute a separate offense: Provided, That any person who for part of said period of one (1) year has worked or served as a brakeman on a railroad train and for the remainder of such period has worked or served as a conductor on such a train shall be deemed to possess the qualifications required by this chapter to serve or act as such a conductor.

(Formerly: Acts 1913, c.43, s.2.) As amended by Acts 1978, P.L.57, SEC.2.

IC 8-9-5-3

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-9-5-4

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-9-5-5

Exempt operations; negligence of employees; tort liability

Sec. 5. Nothing in this chapter shall be construed as applying to the running or operating of engines in taking engines to or from trains at division terminals by engine hostlers, or the shifting of cars

or making up trains, or doing any work appurtenant thereto to any engine-houses, train or freight yards by switchman or yardman, or in the case of the disability of a qualified engineer or conductor while out on the road between division terminals, or in case of strike, where such companies can not obtain employees mentioned in this chapter who have the qualifications prescribed by the provisions thereof, than such companies may employ temporary firemen, engineers and conductors who have not the qualifications prescribed by this chapter, but no such employment shall continue longer than such companies can supply their respective places with employees who have the qualifications prescribed by this chapter. And, provided further, That nothing herein contained shall relieve any such companies from the negligence of any of its employees.
(Formerly: Acts 1913, c.43, s.5; Acts 1975, P.L.34, SEC.4.)

IC 8-9-5-6
Scope of chapter

Sec. 6. The provisions of this chapter shall apply to any person, firm, corporation, lessee, or receiver who or which operates in the state of Indiana a steam railroad more than twenty-five (25) miles in length.
(Formerly: Acts 1913, c.43, s.6.) As amended by P.L.62-1984, SEC.131.

IC 8-9-5-7
Enforcement by department

Sec. 7. The Indiana department of transportation shall enforce this chapter.
(Formerly: Acts 1913, c.43, s.7.) As amended by P.L.62-1984, SEC.132; P.L.384-1987(ss), SEC.91; P.L.18-1990, SEC.100.

IC 8-9-6

Chapter 6. Substituting for Railroad Operating Employees

IC 8-9-6-1

Violation; injury or sickness exception

Sec. 1. It is a Class C infraction for a railroad company to allow any person to fill the position of an engineer, fireman, conductor, baggagemaster, brakeman, or flagman unless regularly employed as such. This section does not prevent any railroad company using any person in case of injury or sickness occurring between terminals to any engineer, fireman, conductor, baggagemaster, brakeman, or flagman.

(Formerly: Acts 1913, c.232, s.1.) As amended by Acts 1978, P.L.2, SEC.837.

IC 8-9-6-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-9-6-3

Enforcement by department

Sec. 3. The Indiana department of transportation shall enforce this chapter.

(Formerly: Acts 1913, c.232, s.3.) As amended by P.L.62-1984, SEC.133; P.L.384-1987(ss), SEC.92; P.L.18-1990, SEC.101.

IC 8-9-7

Chapter 7. Pilot Engineers on Detoured Trains

IC 8-9-7-1

Duty to provide pilot engineer, conductor, or motorman

Sec. 1. In all cases which may arise from and after March 6, 1913, where it shall be necessary or convenient for any person, firm, or corporation, or the lessee or receiver of any person, firm, or corporation, owning, or operating any line or lines of steam or interurban railroad in this state to detour any train or trains or car or cars owned or operated by them from their own track or tracks to the track or tracks of any other person, firm, or corporation, or the lessee or receiver of any person, firm, or corporation, owning or operating any similar line or lines of steam or interurban railroad in this state, and to obtain and procure the temporary use of the track or tracks, such person, firm, or corporation, or the lessee or receiver of any such person, firm, or corporation shall be required to secure and provide a pilot engineer, conductor, or motorman or other person of equal responsibility who is familiar with the road or roads over which it is necessary or convenient to run such train or trains or car or cars to reach the point or points which constitute the destination of such train or trains or car or cars, or the point at which such road or roads communicate or connect with such other road or roads over which it is likewise necessary or convenient to run such train or trains or car or cars, or the point or points at which such or any such road or roads communicate or connect with the road or roads from which such train or trains or car or cars were originally detoured. And the person, firm, or corporation, or the lessee or receiver of any person, firm, or corporation owning such railroad or railroads over which it is necessary or convenient for such train or trains or car or cars to pass, as provided in this chapter, shall provide and place at the disposal of such person, firm, or corporation, or the lessee or receiver of any person, firm, or corporation, a capable pilot engineer or engineers, or motorman, conductor, or other person of equal responsibility who is or are familiar with any or all of the road or roads over which it is necessary or convenient for such train or trains or car or cars to pass to reach their destination.

(Formerly: Acts 1913, c.100, s.1.) As amended by P.L.62-1984, SEC.134.

IC 8-9-7-2

Violation; penalty

Sec. 2. Any person, firm, or corporation, or lessee or receiver of any person, firm, or corporation, owning or operating any line or lines of steam railroad in this state who shall violate any of the provisions of this chapter by failing or refusing to provide such pilot engineer or other person as provided in section 1 of this chapter shall forfeit and pay to the state of Indiana the sum of fifty dollars ($50)

for each and every offense, and each and every day that the violation of any of the provisions of this chapter shall continue shall be deemed to constitute a separate and distinct offense.
(Formerly: Acts 1913, c.100, s.2.) As amended by P.L.62-1984, SEC.135.

IC 8-9-8

Chapter 8. Railroad Flagman's Qualifications

IC 8-9-8-1

Passing examination of flagging rules; violation

Sec. 1. It is a Class C infraction for a steam railroad company to permit any foreman or person having charge of sectionmen employed for the purpose of building, constructing, and repairing railroad tracks to operate with the sectionmen outside of yard limits without the foreman or person having two (2) persons in the section who are capable of passing the examination of flagging rules of the company. *(Formerly: Acts 1911, c.233, s.1; Acts 1975, P.L.34, SEC.5.) As amended by Acts 1977, P.L.2, SEC.42; Acts 1978, P.L.2, SEC.838.*

IC 8-9-8-2

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)

IC 8-9-9

Chapter 9. Placement of Locomotives Within Trains

IC 8-9-9-1

Unlawful acts; exceptions

Sec. 1. On and after March 8, 1913, it shall be unlawful for any person, firm, or corporation, or lessee or receiver of any person, firm, or corporation, owning or operating any line or lines of steam railroad in this state to place, attach, couple, or otherwise connect any car or cars between any two (2) or more locomotive engines in such manner that one (1) or more such locomotive engines shall precede, and one (1) or more such locomotive engines shall succeed, such car or cars, and, in such case, and in such cases only, when such locomotive engines, having such car or cars placed, attached, coupled, or otherwise connected between them shall be used or employed, or shall be intended to be used or employed to haul, push, draw, switch, shunt, or otherwise move or transport such car or cars over or along the track or tracks of such railroad or railroads, or any part or parts thereof lying within this state. And it shall likewise be unlawful to haul, push, draw, switch, shunt, or otherwise move or transport such car or cars when placed, attached, coupled, or otherwise connected between such locomotive engines in the manner described in this section, over or along any sidetrack, spur, turn-out, or switch located in any yard or yards or elsewhere when used, owned, operated, or leased by any such railroad or railroads, and in any and all other cases when the hauling, pushing, drawing, switching, shunting, or otherwise moving or transporting such car or cars when placed, attached, coupled, or otherwise connected between such locomotive engines in the manner described in this section would imperil or endanger the life or lives of any person or persons engaged or employed on or in such car or cars and engines, or who have a lawful right to be or ride therein or thereon; provided, that none of the provisions of the section shall be construed to apply to cases where it is necessary or imperative to use or employ a switch or other engine to assist in starting or overcoming the inertia of a standing train, or in pushing or moving such train over steep or heavy grades, or around sharp curves, for short distances, and when it is customary to detach such engine or engines when the bend of such curve shall have been passed, or when the summit of such grade or acclivity shall have been reached.

(Formerly: Acts 1913, c.130, s.1.) As amended by P.L.62-1984, SEC.136.

IC 8-9-9-2

Violation; forfeiture

Sec. 2. Any person, firm, or corporation, or lessee or receiver of any person, firm, or corporation owning or operating any line or lines of steam railroad in this state who shall violate any of the provisions

of this chapter shall forfeit and pay to the state of Indiana the sum of five hundred dollars ($500) for each and every offense, and each and every day that the violation of any of the provisions of this chapter shall continue shall be deemed to constitute a separate and distinct offense.

(Formerly: Acts 1913, c.130, s.2.) As amended by P.L.62-1984, SEC.137.

IC 8-9-10

Chapter 10. Railroad Employee Sanitary Facilities

IC 8-9-10-1

Duty to provide; terminals; mobile camps for maintenance of way employees

Sec. 1. (a) As used in this section, "mobile camp" means a temporary location where at least two (2) railroad maintenance of way employees are housed.

(b) Every railroad company within the state of Indiana shall provide and adequately maintain a heated room or rooms at all terminals, headquarters, and mobile camps in the operation of the railroad company, for the use of its employees.

(c) Each room required by subsection (b) must contain adequate wash basins, shower-baths, inside toilets, and sufficient lockers for checking employees' clothing.

(d) Every railroad shall maintain at all permanent assembly points and mobile camps a supply of drinking water dispensed in a sanitary manner. A permanent assembly point under this chapter is a location where a minimum of two (2) maintenance of way employees meet for not less than six (6) months of each year.

(e) A railroad company that houses maintenance of way employees in a mobile camp shall provide and adequately maintain for the employees' use outfit cars, camp cars, or trailers in compliance with the rules adopted under IC 16-19-3-4.4.

(f) A railroad company that houses maintenance of way employees in a mobile camp shall:

(1) not later than two (2) business days after employees arrive at that location, notify the local health department with jurisdiction in the area in which the mobile camp is located of the existence of the mobile camp; and

(2) request and permit inspection by an authorized representative of the local health department to ensure the conditions of the outfit cars, camp cars, or trailers are sanitary and healthful for the:

(A) maintenance of way employees; and

(B) local community.

(g) A railroad company shall locate and maintain a mobile camp described in subsection (e) in a safe and healthy environment.

(Formerly: Acts 1965, c.154, s.1.) As amended by P.L.62-1984, SEC.138; P.L.83-2007, SEC.1.

IC 8-9-10-2

Hearings; investigations; mandamus; preference to cases

Sec. 2. (a) Whenever the Indiana department of transportation secures reliable information, receives a complaint, or, because of reports made by the department's inspectors, has reason to believe that a railroad company in this state does not provide and adequately

maintain the sanitary facilities provided for in section 1(b) through 1(e) of this chapter, the department shall make an investigation as necessary. The department shall conduct a hearing at which both the railroad company and the employees affected will be given a full opportunity to present evidence as to the necessity and reasonableness of the proposed changes or improvements.

(b) When the investigation required under subsection (a) is made, the Indiana department of transportation shall report to the manager or superintendent of the railroad company. In the report and recommendations, the department shall make an accurate statement of the time the examination was made, of the exact location, character, and extent of defects or omissions, if any have been found, and shall recommend reasonable changes and improvements, additions, buildings, and accommodations, as are, in the opinion of the department, necessary to remedy the faults, neglect, requirements, or defects. The recommendations must set out specifically a reasonable time within which such improvements or changes or additions shall be made by the railroad company.

(c) If the recommendations under subsection (b) are not carried out within the time specified, then the Indiana department of transportation may commence proceedings by mandamus or other remedy in a circuit or superior court having jurisdiction to enforce compliance with its order. All courts having jurisdiction in these cases shall give preference to the cases and shall hear and determine the case speedily to the end that the employees' interests and the public interests may not suffer.

(Formerly: Acts 1965, c.154, s.2.) As amended by P.L.62-1984, SEC.139; P.L.384-1987(ss), SEC.93; P.L.18-1990, SEC.102; P.L.83-2007, SEC.2.

IC 8-9-10-3

Railroad company also subject to health rules

Sec. 3. In addition to this chapter, the railroad company is subject to a rule adopted under IC 16-19-3-4.4.

As added by P.L.83-2007, SEC.3.

IC 8-9-11

Chapter 11. Contract Carriers Transporting Railroad Employees

IC 8-9-11-1

Applicability of chapter

Sec. 1. This chapter applies to a contract carrier that transports an employee of a railroad under the terms of a contractual agreement with the railroad.

As added by P.L.109-2000, SEC.1.

IC 8-9-11-2

"Contract carrier" defined

Sec. 2. As used in this chapter, "contract carrier" has the meaning set forth in IC 8-2.1-17-5.

As added by P.L.109-2000, SEC.1.

IC 8-9-11-3

Duties of contract carriers

Sec. 3. A contract carrier shall do the following:

(1) Limit the hours of service by a driver who transports a railroad employee to:

(A) twelve (12) hours of vehicle operation per day;

(B) fifteen (15) hours of on duty service per day; and

(C) seventy (70) hours of on duty service in seven (7) consecutive days.

(2) Require a driver who has:

(A) twelve (12) hours of vehicle operation per day; or

(B) fifteen (15) hours of on duty service per day;

to have at least eight (8) consecutive hours off duty before operating a vehicle again.

As added by P.L.109-2000, SEC.1.

IC 8-9-11-4

Adoption of rules

Sec. 4. The motor carrier services division of the department of state revenue may adopt rules under IC 4-22-2 to implement and administer this chapter.

As added by P.L.128-2003, SEC.1.

IC 8-9-11-5

Violation; Class C infraction

Sec. 5. A person who violates this chapter commits a Class C infraction.

As added by P.L.128-2003, SEC.2.

IC 8-9-12

Chapter 12. Railroad Employee Counseling and Assistance

IC 8-9-12-1

Applicability of chapter

Sec. 1. This chapter does not apply to a Class II or Class III railroad as established by the Interstate Commerce Commission.

As added by P.L.21-2001, SEC.1.

IC 8-9-12-2

"Operating crew member"

Sec. 2. (a) As used in this chapter, "operating crew member" means a railroad employee who is able to:

(1) read and understand the timetables of the carrier that employs the railroad employee;

(2) read ordinary handwriting in the English language;

(3) speak, hear, and understand the English language; and

(4) see, distinguish, and understand the signals required by the book of rules of the carrier governing the operation of the locomotives and trains of the carrier.

(b) In addition to satisfying the requirements of subsection (a), the following railroad employees must pass the regular examination prescribed by the carrier concerning the rules and regulations governing their particular position:

(1) Engineers.

(2) Conductors.

(3) Flagmen.

(4) Firemen, brakemen, or yard brakemen or helpers.

(5) Yard conductors or foremen.

As added by P.L.21-2001, SEC.1. Amended by P.L.50-2011, SEC.3.

IC 8-9-12-3

"Railroad"

Sec. 3. As used in this chapter, "railroad" has the meaning set forth in IC 8-3-1-2. However, the term does not include a Class II or Class III railroad as established by the Interstate Commerce Commission.

As added by P.L.21-2001, SEC.1.

IC 8-9-12-4

Counseling or trauma program

Sec. 4. (a) A railroad company operating in Indiana shall establish a counseling or trauma program and provide or make available counseling or critical incident stress debriefing services to each operating crew member of a train that is:

(1) operated by the railroad company in passenger, freight, or yard service; and

(2) involved in an accident that results in death or serious

bodily injury.

(b) A railroad company operating in Indiana shall file a description of the railroad company's counseling or trauma program required under subsection (a) with the Indiana department of transportation, whose sole responsibility under this section is to receive the descriptions and make the descriptions available to the public in accordance with IC 5-14-3.

(c) Before a railroad company implements one (1) or more changes to the railroad company's counseling or trauma program required under subsection (a), the railroad company must file with the Indiana department of transportation a revised description of the program that includes the changes.

As added by P.L.21-2001, SEC.1.

IC 8-9-12-5

Civil penalties

Sec. 5. (a) A railroad that violates this chapter is liable to the state for a penalty of not:

(1) less than one hundred dollars ($100); or

(2) more than five hundred dollars ($500);

for each violation.

(b) A suit to recover the penalty set forth in subsection (a) may be brought by the attorney general in the name of the state on relation of the Indiana department of transportation in the circuit or superior court of a county through which the railroad runs or is operated.

As added by P.L.128-2003, SEC.3.

IC 8-9.5

ARTICLE 9.5. TRANSPORTATION AGENCIES

IC 8-9.5-1

Repealed

(Repealed by P.L.112-1989, SEC.6.)

IC 8-9.5-2
Repealed

(Repealed by P.L.112-1989, SEC.6.)

IC 8-9.5-3
Repealed

(Repealed by P.L.112-1989, SEC.6.)

IC 8-9.5-4
Repealed

(Repealed by P.L.112-1989, SEC.6.)

IC 8-9.5-5
Repealed

(Repealed by P.L.112-1989, SEC.6.)

IC 8-9.5-6
Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-9.5-7

Chapter 7. Automated Transit Districts

IC 8-9.5-7-1

Creation by legislative body

Sec. 1. (a) The following may create, by an ordinance adopted by its legislative body, an automated transit district:

(1) A consolidated city.

(2) A city having a population of more than one hundred thousand (100,000) but less than one hundred ten thousand (110,000).

The ordinance creating an automated transit district must specify the territory to be included initially in the district.

(b) An automated transit district may also be created by the procedures provided in sections 2 and 3 of this chapter.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.84-1988, SEC.7; P.L.12-1992, SEC.60; P.L.170-2002, SEC.62; P.L.119-2012, SEC.86.

IC 8-9.5-7-1.1

Dissolution by ordinance or resolution; obligations of dissolved districts

Sec. 1.1. (a) An automated transit district may be dissolved by an ordinance adopted by the legislative body on a date that is at least three (3) years later than the date the ordinance was adopted.

(b) An automated transit district may dissolve itself by resolution on a date that is at least two (2) years later than the date of adoption of the resolution creating the district.

(c) A dissolution of a district under this section requires the city to assume the obligations incurred by the district.

As added by P.L.343-1989(ss), SEC.5.

IC 8-9.5-7-2

Association of landowners

Sec. 2. (a) Any number of persons, not less than fifteen (15), who are the owners of fifteen (15) separate parcels of real estate in the same city may associate themselves together by written articles of association signed and acknowledged by each person, specifying:

(1) the name of the association;

(2) the purposes of the association, which shall be limited to the accomplishment of automated transit objectives authorized under this chapter;

(3) the names and addresses of the initial members;

(4) the principal office of the association and the name of the agent for purpose of communications and service of process;

(5) the term of existence, which may be perpetual;

(6) the number of directors, which may not be less than three (3), nor more than eleven (11);

(7) the amount of membership fee, if any, and annual dues, if any;

(8) the area affected by any proposed automated transit system falling within the objects of the association; and

(9) such other provisions as the initial members may deem desirable, not inconsistent with the provisions of this chapter.

(b) A copy of the articles of association, signed and acknowledged by all of the initial members, shall be filed with the board of public works or board of transportation of the city in which the area affected is located, and another copy shall be recorded in the office of the recorder of the county within which such area is located.

(c) Such association shall be a not-for-profit body corporate and by its name shall have power to contract, hold, convey and transfer property, sue and be sued.

(d) Within ninety (90) days after the filing and recording of such articles of association, a meeting of all owners of real estate in the area described in the articles of association shall be held for the purpose of electing directors of the association. Notice of such meeting shall be mailed, first class postage prepaid, not less than twenty (20) days prior to the meeting to all owners of real estate in the area described in the articles of association. Such notice shall be sufficient if it sets forth the time and place of the meeting, the purpose of the meeting, and a general description of the nature and object of the association, together with the amount of the membership fee, if any, and the annual dues, if any. The notice shall also state that any owner of real estate may become a member and be eligible to vote in such meeting, either in person or by a duly authorized agent or attorney, upon the signing of a counterpart of the articles of association at any time prior to the commencement of the meeting and upon payment of the membership fee, if any, and the dues for the first year, if any. It shall be sufficient if the notice is addressed, and mailed, to all owners of real estate as their addresses appear upon the tax duplicates in the records of the county auditor.

(e) All directors elected shall be owners of real estate in the area affected and members of the association, and shall serve until the next annual meeting and until their successors are elected and qualified. The directors shall approve bylaws which may be amended from time to time and which may provide for officers of the association to be elected annually by the directors, and such other provisions as may be desirable for the conduct of the affairs of the association.

(f) The articles of association may be amended from time to time upon recommendations of the directors, and the approval of two-thirds (2/3) of all members of the association at a meeting called for the purpose. Any amended articles shall be signed and acknowledged by a majority of the directors. A copy of all amendments shall be filed with the board of public works or board of transportation and recorded in the office of the county recorder.

(g) At all times during regular business hours a counterpart of the articles of association, with all amendments, if any, shall be available at the office of the agent of the association for signature by any owner who may desire to become a member by signature of such counterpart and the payment of the membership fee, if any, and the annual dues, if any.
As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-3
Establishment petition; notice; resolution

Sec. 3. (a) An association, or if an association has not been formed under section 2 of this chapter owners of twenty-five percent (25%) of the parcels of real estate in any proposed automated transit district, may file a petition with the board of public works or board of transportation. A petition of an association shall be signed by a majority of its directors. A petition shall be sufficient if it sets forth:

(1) the boundaries of the proposed automated transit district which shall include all property which petitioners believe will be specially benefited or damaged by the proposed automated transit system;

(2) the location and a general description of the proposed automated transit system;

(3) the estimated cost of the proposed automated transit system; and

(4) as a part of the petition, or as an exhibit thereto, the names and addresses of all owners within the boundaries of the proposed district, as the same appear upon the tax duplicates in the records of the auditor of the county.

(b) The board of public works or board of transportation, upon the filing of such petition, shall fix a date for a hearing on the establishment of the proposed district. The association or petitioners, as the case may be, shall cause a notice to be mailed, at least twenty-one (21) days prior to the date fixed for hearing, by United States mail, first class postage prepaid, to all owners of real estate within the proposed district. It shall be sufficient if the notices to the owners are addressed as the names and addresses appear upon the tax duplicates in the records of the county auditor. Also, the association or petitioners shall cause a notice of the hearing and the date, place and hour thereof, to be published in accordance with IC 5-3-1.

(c) The notice to be published and mailed shall also contain a general description of the contents of the petition, specifically setting forth the boundaries of the proposed district, and shall state that all of the property in the proposed district will be assessed benefits or damages under this chapter for the proposed automated transit system, and that at the hearing all owners of real estate within the proposed district, or their representatives, may be heard upon the question of the establishment of the district. Proof of service shall be made by affidavit of the person, or persons, causing such service to

be made.

(d) On the date fixed for hearing the board of public works or board of transportation shall hear all owners in the proposed district, who appear and request to be heard, upon the question of the sufficiency of the petition and notice, whether the proposed automated transit system is of public utility and benefit, whether all of the probable benefits of the proposed improvement will be equal to or exceed the estimated cost thereof, and whether the district contains all, or more or less than all, of the property specially benefited or damaged by the proposed system. After the hearing, which may be adjourned from time to time without further notice, the board of public works or board of transportation shall adopt a resolution containing the following determinations:

(1) Whether the petition is sufficient.

(2) Whether the required notice was given.

(3) Whether the proposed automated transit system is of public utility and benefit.

(4) Whether all of the probable benefits of the proposed system will equal or exceed the estimated cost thereof.

(5) Whether the proposed automated transit district contains all, or more, or less than all, of the property specially benefited or damaged by the proposed system.

(e) If the board of public works or board of transportation resolves affirmatively on the first four (4) questions and determines that the proposed district contains all of the property specially benefited or damaged, then it shall establish the district with the boundaries described in such petition. If it resolves negatively on any of the first four (4) questions, it may allow amendments, the issuance of additional notice, and hold such further proceedings as it deems proper, or the petition may be dismissed without prejudice to the right to file a new petition.

(f) In the event the board of public works or board of transportation determines that property not specially benefited or damaged has been included within boundaries described in the petition, then it shall redefine the boundaries of the district and in its resolution include only that property within the petition which is specially benefited or damaged and shall establish the district with the boundaries as redefined.

(g) In the event the board of public works or board of transportation determines that either:

(1) all of the property specially benefited or damaged has not been included within the boundaries described in the petition; or

(2) all of the property specially benefited or damaged has not been included within the boundaries described in the petition and some property has been included which is not specially benefited or damaged;

then in either event it shall fix a date for a further hearing. Notice

shall be given of the further hearing, describing the proposed revised boundaries as provided in this section, except that notice by mail shall be given only to the owners in any area proposed to be added to the district which was not included in the initial petition. At such further hearing all owners of real estate or their representatives within the proposed district boundaries, as revised shall be entitled to be heard, and the board of public works or board of transportation shall then adopt its resolution on establishment of the automated transit district.

(h) Any resolution entered establishing an automated transit district shall also recite that all property within the district will be subject to assessment of special benefits and damages in the manner provided in this chapter.

(i) The resolution shall be deemed notice to all owners who have appeared, or who have been notified of the proceedings, as provided in this section, that their property will be subject to an assessment of special benefits and damages as provided in this chapter and that no further notice of such assessments, or of the hearing thereon, shall be required except the notice by publication provided for in this chapter.

(j) The resolution of the board of public works or board of transportation that establishes the automated transit district must be approved by the legislative body of the city. Thereafter, the resolution shall be final and conclusive and no attack may be made challenging the resolution on the establishment of the automated transit district, the validity of the petition, the sufficiency of notice, the existence of the automated transit district, the public utility and benefit of the proposed automated transit system, that the benefits equal or exceed the estimated cost, the boundaries of the district, or any other matters before the board of public works or board of transportation, unless an appeal is taken as provided in this section.

(k) A copy of the resolution establishing an automated transit district, certified by the clerk, shall be recorded in the miscellaneous records in the office of the recorder of the county in which the city is located.

(l) Any party aggrieved by a resolution made under the provisions of this section may appeal. Such appeal shall be taken as provided in IC 34-13-6. However, in the event that fifty-one percent (51%) of the owners of property located in such automated transit district remonstrate by petition to the board of public works or board of transportation, signatures on such petition shall be verified by the auditor of such county, and if found to be valid shall cause further actions on the establishment of an automated transit district to cease.
As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.1-1998, SEC.88.

IC 8-9.5-7-4
Commission; appointments; terms; salary; meetings; officers; quorum; record of proceedings; bylaws; powers

Sec. 4. (a) The district created under this chapter shall be governed by and under control of a commission having five (5) members, two (2) of whom shall be appointed by the executive of the city, two (2) of whom shall be appointed by the city legislative body, and one (1) of whom shall be the head of the city's department of public works or department of transportation. The term of office for a commission member for a district created by the legislative body is one (1) year after the member's appointment, except that the member shall serve until a successor has qualified for the office. Thereafter, the landowners, including corporate landowners, shall elect five (5) members to succeed the original members of the commission under the bylaws of the commission for a term of one (1) year. Each member, otherwise qualified, is eligible for reappointment to successive terms.

(b) The commission members shall not receive a salary for serving but shall receive a per diem payment and expenses similar to those paid members of other special taxing district boards.

(c) The commission shall elect, at its first regular meeting and annually thereafter, one (1) of its members president, and another of its members vice president, who shall perform the duties of the president during the absence or disability of the president. Such commission shall have a suitable office where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at all reasonable times.

(d) The commission shall by rule provide for regular meetings to be held not less than at semimonthly intervals throughout the year. The commission shall keep its meetings open to the public.

(e) The commission shall convene in a special meeting when such a meeting is called. The chairman or a majority of the members of the commission may call a special meeting. The commission shall establish a procedure for calling special meetings.

(f) Three (3) members of the commission constitute a quorum for a meeting. The commission may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(g) The commission shall cause a written record of its proceedings to be kept which shall be available for public inspection in the office of the commission. The commission shall record in the record the aye and nay vote on the passage of each item of business.

(h) The commission shall adopt bylaws under which its meetings are to be held. The bylaws must provide that the vote of each member shall be in the same proportion that the assessed value of all of the members' land sites are to the assessed value of all the land sites within the district. The commission may suspend the bylaws by unanimous vote of the members of the commission who are present at the meeting. The commission shall not suspend the bylaws beyond the duration of the meeting at which the suspension of rules occurs.

(i) The commission may exercise the powers to supervise its

internal affairs which are common to municipal legislative and administrative bodies.
As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.343-1989(ss), SEC.6.

IC 8-9.5-7-5
Ordinances; introduction of proposed draft; notice

Sec. 5. (a) A member of the commission may introduce a proposed draft of an ordinance at a meeting of the commission. A person who introduces a proposed draft of an ordinance shall provide at the time of introduction a written copy of the proposed draft. The commission shall assign to each proposed draft of an ordinance a distinguishing number, and the date when introduced.

(b) Not more than seven (7) days after the introduction of a proposed draft of an ordinance nor less than seven (7) days before the final passage of a proposed draft of an ordinance, the commission shall publish a notice that the proposed ordinance is pending final action by the commission. The notice shall be published one (1) time in each of two (2) daily newspapers which have a general circulation in the jurisdiction of the commission.

(c) The commission shall include in the notice reference to the subject matter of the proposed ordinance and the time and place hearing will be held thereon and shall indicate that the proposed draft of an ordinance is available for public inspection at the office of the commission. The commission may include in one (1) notice a reference to the subject matter of each draft of an ordinance which is pending and for which notice has not been given.

(d) An ordinance shall not be invalid because the reference to the subject matter of the draft of an ordinance was inadequate if sufficient to advise the public of the general subject matter of the proposed ordinance.

(e) The commission shall not later than the date of notice of the introduction of a proposed ordinance place five (5) copies of the proposed draft on file in the office of the commission for public inspection.

(f) At a meeting for which notice has been given as required by this section, the commission may take final action on the proposed ordinance or may postpone final consideration thereof to a designated meeting in the future without giving additional notice.
As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-6
Adoption of ordinance; effective date

Sec. 6. (a) The commission may adopt a draft of an ordinance only at a meeting which is open to the public. Before adopting an ordinance, the commission shall give opportunity to any person present at the meeting to give testimony, evidence or argument for or against the proposed ordinance in person or by counsel, under such

rules as to the number of persons who may be heard and time limits as may be adopted by the commission.

(b) When an ordinance is adopted, the commission shall at the same meeting designate the effective date of the ordinance. If the commission fails so to designate the effective date of the ordinance in the record of the proceedings of the commission, the ordinance shall be effective on the fourteenth day after its passage.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-7

Additional powers and duties

Sec. 7. In addition to the powers and duties conferred upon it elsewhere in this chapter, the commission shall have full power and authority to do all acts necessary or reasonably incident to carrying out the purposes of this chapter including, but not in limitation thereof, the following:

(1) To sue and be sued collectively in the name of the "_____ Automated Transit District".

(2) To adopt ordinances to protect all property owned, operated, or managed by the commission.

(3) To incur indebtedness in the name of the district in accordance with the provisions of this chapter.

(4) To adopt administrative procedures and regulations.

(5) To acquire property, real, personal or mixed by deed, purchase, lease, condemnation or otherwise and dispose of the same for automated transit purposes, and to receive gifts, donations, bequests and public trusts and to agree to conditions and terms accompanying the same and bind the district to carry them out.

(6) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(7) To accept assistance from state or federal agencies for the purposes of this chapter.

(8) To negotiate and execute contracts required to accomplish the purposes of this chapter.

(9) To enter into agreements with any other agency of the state or any of its political subdivisions or any private company for the rendition of any services, the rental or use of any equipment or facilities or the joint purchase and use of any equipment or facilities which are deemed proper by the contracting parties for use in the operation, maintenance or construction of an automated transit system.

(10) To purchase supplies, materials and equipment to carry out the duties and functions of the commission, in accordance with procedures adopted by the commission and in accordance with the general law of the state.

(11) To employ such personnel as may be necessary for the

proper carrying out of the duties, functions and powers of the commission.

(12) To sell any surplus or unneeded property in accordance with such procedure as may be prescribed by the commission.

(13) To adopt administrative regulations to carry out its powers and duties, governing the duties of its officers, employees and personnel and the internal management of the affairs of the commission.

(14) To fix the salaries or compensation of the various officers and employees of such district except where a different provision is made by this chapter.

(15) To carry out the purposes and objects of the district.

(16) To acquire land, easements and rights-of-way, and to establish, construct, improve, equip, maintain, control, lease and regulate an automated transit system within the jurisdictional limits of the district.

(17) To acquire property within the jurisdiction of the district for the purpose of establishing parking facilities for the purpose of increasing the usefulness of the automated transit system and to charge a parking fee to be established by ordinance.

(18) To provide parking facilities and services related to the provision of automated transit.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.343-1989(ss), SEC.7.

IC 8-9.5-7-8

Actions by the commission; publication of regulations

Sec. 8. The commission may take any action which it deems proper to recover damages for the breach of any agreement, express or implied, relating to or growing out of the operation, control, leasing, management, or improvement of the property under its control, and for the penalties for the violation of any ordinances or of any of its regulations and for injury to the personal or real property under its control and to recover possession of any such property. All regulations which said commission shall at any time adopt under and in pursuance of the provisions of this chapter shall be published for at least ten (10) days in a newspaper of general circulation printed in such city.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-9

Eminent domain

Sec. 9. (a) The commission may exercise the power of eminent domain for the purpose of carrying out this chapter and to award damages to landowners for real estate and property rights appropriated and taken. If the commission cannot agree with the owners, lessees, or occupants of any real estate selected by the board for the purpose set forth in this chapter, the board may proceed to

procure the condemnation of the property under IC 32-24.

(b) Relocation assistance under IC 8-23-17 shall be provided to any person displaced under this section.

(c) If the property over and across which the automated transit system must be constructed and operate is already in use or acquired for use for a public purpose, the public use or acquisition of the property shall not be a bar to the right of the commission to condemn the property for purposes of this chapter.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.18-1990, SEC.103; P.L.2-2002, SEC.43.

IC 8-9.5-7-10

Agreement with public transportation corporation

Sec. 10. In any district served by a public transportation corporation, created under IC 36-9-4, the commission may enter into an agreement with the corporation to operate and maintain the automated transmit system and to provide connecting service to, from, and between the areas served by the district and the corporation for the purpose of providing improved public transportation facilities and service to the community.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-11

Treasurer; appointment; bond; term; powers and duties

Sec. 11. (a) The commission shall appoint a person to act as treasurer of the district; he shall give bond in such sum and with any condition prescribed by the commission and with surety to the approval of the commission. The treasurer shall be appointed to serve for a term of one (1) year unless sooner removed for cause. All money payable to the district shall be paid to the treasurer and he shall deposit the same under the provisions of the general laws of the state relating to the deposit of public funds by municipal corporations. He shall keep an accurate account of all appropriations made and all taxes levied by the district, of all money owing or due to the district and of all money received and disbursed. He shall preserve all vouchers for payments and disbursements made.

(b) The treasurer shall issue all warrants for the payment of money from the funds of the district, but no warrant shall be issued for the payment of any claim until such claim has been allowed in accordance with the procedure prescribed by the regulations of the commission. All warrants shall be countersigned by the president. Whenever the treasurer is called upon to issue any warrant, he shall have the power to require evidence that the amount claimed is justly due and in conformity with law and for that purpose may summon before him any officer, agent or employee of the district, or other person, and examine him on oath or affirmation relating thereto, which oath or affirmation the treasurer may administer.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-12
Report of accounts by treasurer

Sec. 12. The treasurer shall submit to the commission annually, and more often if required by the commission, a report of the accounts, exhibiting the revenues, receipts and disbursements and the sources from which the revenues and funds are derived and in what manner the same have been disbursed.
As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-13
Audit of records of account

Sec. 13. The treasurer shall annually, and more often if required by the commission, submit his records of account as treasurer of the district to such person or firm, being a certified public accountant or firm of certified public accountants, as designated or selected by the commission, for audit. Such person or firm shall prepare and submit a certified report of such records of accounts to the board exhibiting the revenues, receipts and disbursements and the sources from which the revenues and funds are derived and in what manner the same have been disbursed.
As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-14
Annual budget

Sec. 14. The commission shall annually prepare a budget for the operation and capital expenditures of the district.
As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-15
Loans; warrants; advancements from within district

Sec. 15. (a) To facilitate the carrying out of the preliminary proceedings and provide funds for the payment of expenses prior to the issuance of bonds, the commission may by resolution authorize the making of loans. Such loans shall be evidenced by callable warrants payable out of the proceeds of bonds, when available. The same shall be sold at public sale pursuant to notice given in accordance with IC 5-3-1. Such warrants shall be sold to the bidder offering to purchase said warrants at the lowest actual interest cost to the district, and shall be executed in the name of the district by the president or vice president of the commission.

(b) Any city, town, township, or county, any part of the territory of which is included within said district, shall have authority to advance funds to the district upon being authorized so to do by its fiscal body. Such advancements may be made without appropriation, and warrants evidencing the same shall be issued by the district, bearing such rate of interest as shall be provided for in the resolution or other action authorizing the making of such advancements.
As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-7-16
Bonds

Sec. 16. (a) For the purpose of procuring funds to pay the cost of acquisition of property or the cost of construction or installation of an automated transit system, or both, and in anticipation of the receipt of revenues under sections 17 and 18 of this chapter, the commission may by resolution direct that bonds be issued in the name of the district. The amount of such bonds shall not exceed:

(1) the total cost of property to be acquired and the total amount of damages to be awarded on account of property injuriously affected but not acquired;

(2) the price of the automated transit system;

(3) an amount sufficient to pay the cost of supervision and inspection during the period of construction;

(4) all general, administrative, legal, engineering and incidental expense not otherwise provided for and incurred on account of or in connection with the establishment of the district, the administration of its affairs, the acquisition of property, and the construction of the automated transit system; and

(5) the expenses to be incurred in connection with the issuance and sale of bonds.

Such bond issue shall also include an amount sufficient to pay any outstanding warrants issued for the purpose of obtaining funds with which to meet expenses prior to the issuance of bonds. Such bonds shall not, in any respect, be a corporate obligation or indebtedness of the city, the territory of which shall be included in whole or in part in said district, but shall be and constitute an indebtedness of the district, and shall be payable solely out of the funds of said district. The bonds shall recite such terms upon their face, together with the purpose for which they are issued.

(b) In the event the commission shall find it necessary to replace, enlarge or extend any part of the works, or construct additional works in conjunction with or separate and apart from the original works, in order to protect the district properly, and that the cost thereof will be in excess of the amount then available out of current maintenance and repair funds, the commission may issue bonds under the provisions of this section for that purpose.

(c) In the event the district shall be unable to pay any bonds or the interest thereon at the times fixed therefor, by reason of insufficiency of funds or other causes, refunding bonds may be issued and sold pursuant to the provisions of this section to obtain money for that purpose, and such refunding bonds shall be payable within such period, not exceeding ten (10) years, as the commission shall determine.

(d) All bonds issued hereunder, together with the interest thereon, shall be exempt from taxation. No suit to question the validity of any of the bonds issued under this chapter, or to prevent their issuance, shall be instituted after the time fixed in the bond sale notice for the

receiving of bids thereon, and all of said bonds from and after said time shall be incontestable for any cause whatsoever.

(e) All proceeds from the sale of such bonds shall be kept by the county treasurer as a separate and specific fund designated as the "_____ Automated Transit District Construction Fund." Out of said fund there shall be paid the cost of the automated transit system. No part of the same shall be used for any other purpose, and any surplus of funds remaining out of the proceeds of said bonds after all of said construction costs are paid shall become available for use by the board for expenses of maintaining the automated transit system. *As added by Acts 1982, P.L.77, SEC.1.*

IC 8-9.5-7-17
Assessment of benefits and damages

Sec. 17. (a) This section provides for the assessment of benefits and damages to property within the automated transit district. For the purpose of providing all or part of the cost of payment of principal and interest on bonded indebtedness, and expenses of planning, construction, operation, maintenance, and repair of the automated transit system and related parking facilities and services after the completion of the same, including as a part of such cost the general expenses of the commission, the commission may make an annual assessment of benefits and damages. The assessment shall be against the site value of the lands only.

(b) The commission shall annually prepare a schedule which describes each tract of land in the district that it determines to be benefited by the automated transit system, and states the percentage of the total benefit that is received by each tract of land. In order to prepare this schedule, the commission shall appoint three (3) disinterested persons, who are licensed real estate brokers or appraisers licensed under IC 25-34.1 who are residents of Indiana, as appraisers to make an examination of the property within the improvement district. One (1) of the persons appointed under this subsection must reside not more than fifty (50) miles from the property. Upon request from the appraisers, the commission may retain or employ qualified personnel to render any necessary technical or consulting assistance, and may supply the appraisers with any information available or obtainable which will assist in making the assessment. Upon such examination, such appraisers shall make an assessment of all special benefits and damages, if any, which will accrue from the construction and operation of the automated transit system, as to each parcel of real estate. All property within the district (or owned or operated by the district), except common green areas, shall be conclusively presumed to be benefited by the existence of the district to the extent determined under this section as its assessed benefit. A copy of the roll of all owners of real estate, signed by all three (3) appraisers, showing the assessment of benefits and damages, if any, shall be filed by the

appraisers with the commission not less than thirty (30) days after their appointment, unless the commission shall extend the time.

(c) Promptly after the filing of an assessment, the commission shall cause a notice to be mailed, by United States mail, first class postage prepaid, to each owner of real estate to be assessed. The notices shall be deposited in the mail twenty-one (21) days before the hearing date, shall set forth the amount of the proposed assessment, shall state that the proposed assessments on each parcel of real estate in the district are on file and can be seen in the office of the commission, and shall set forth the date when the commission will, at its office, receive written remonstrances against the assessment on the parcel and hear all owners of real estate assessed who have filed written remonstrances prior to the date fixed for the hearing. It shall be sufficient if the notices to the owners are addressed as the names and addresses appear upon the tax duplicates in the records of the county auditor.

(d) At the time so fixed in such notice, the commission shall hear all owners of real estate assessed who have filed written remonstrances prior to the date of the hearing. The hearing may be continued from time to time as long as may be necessary to hear such owners.

(e) The commission shall complete such assessment roll by rendering its decision by increasing, or decreasing, or by confirming each assessment by setting opposite each name, parcel and appraisers' assessment, the amount of the assessment as determined by the commission. If the total of the assessments exceeds the amount needed, the commission shall further make pro rata reduction in each assessment. The signing of such roll by a majority of the commission members, and the delivery thereof to the fiscal officer of the city shall constitute a final and conclusive determination of the benefits or damages, if any, assessed. However, any owner who had previously filed a written remonstrance as provided in this section with the board or any owner whose assessment was increased above the amount fixed by the appraisers, whether he filed such a written remonstrance or not, may appeal. Such appeal shall be taken as provided in IC 34-13-6, and shall proceed to trial, hearing, and final judgment in the manner and with the effect as provided in IC 34-13-6 as to all parties.

(f) If the final determination of the commission results in the total funds being inadequate to cover the cost of the improvement, the deficiency may be supplied by other sources as provided in this chapter.

(g) Each assessment shall be a lien on the real estate assessed, second only to taxes levied on such property.

(h) The commission shall annually transmit to the county auditor the schedule of assessment of benefits. The county auditor shall enter the assessment of benefits on the tax duplicates, and the county treasurer shall collect and enforce the amount of the assessed benefit

in the same manner as property taxes are entered, collected, and enforced.

(i) The county treasurer charged with the duty of collecting such taxes shall, between the first and tenth days of each month, notify the commission of the amount of such special taxes collected during the preceding month, and upon the date of notification above referred to such county treasurer shall credit the amount so collected to a fund of such district to be designated as the "_____ Automated Transit District Fund", and such fund shall be used and expended for no other purpose than as stated in this section. The commission shall have full, complete, and exclusive authority to expend for and on behalf of the district all sums of money thus realized. The commission may, by resolution, authorize and make temporary loans in anticipation of the collection of the special benefit taxes actually levied and in the course of collection under this section, which loans shall mature and be paid within the year in which made, and shall bear interest payable at the maturity of the loan. Such temporary loans shall be evidenced by warrants.

As added by Acts 1982, P.L.77, SEC.1. Amended by P.L.343-1989(ss), SEC.8; P.L.1-1998, SEC.89; P.L.113-2006, SEC.7.

IC 8-9.5-7-18

Formula for use of increased property tax revenues

Sec. 18. This section provides a formula for a portion of increased property tax revenues resulting from increases in assessed valuation to be used for the automated transit district. For the first ten (10) complete calendar years after the establishment of an automated transit district, any property taxes levied on the property geographically within the automated transit district, by another political subdivision, shall be divided each year as follows:

(1) That portion of the taxes which are produced by the rate at which the tax is levied by or for each of the political subdivisions upon the total sum of the assessed value of the taxable property in the district, as that assessed value stands on the date of the establishment of the automated transit district, is allocated to the respective political subdivisions for their usual purposes.

(2) Twenty-five percent (25%) of that portion of the property taxes collected each year in excess of the amount referred to in subdivision (1) is allocated to the respective taxing agencies for their usual purposes in proportion to the tax rate of each taxing agency.

(3) Seventy-five percent (75%) of that portion of the property taxes collected each year in excess of the amount referred to in subdivision (1) is allocated to, and when collected shall be paid into a special fund of the automated transit district to pay the principal and the interest on loans, to repay money advanced to,

or to repay indebtedness of the district. When such loans, advances, and indebtedness, if any, and the interest thereon has been paid in full, all money thereafter received from property taxes upon the taxable property in the district shall be paid solely into the funds of the respective political subdivisions.

(4) That portion of the taxes referred to in subdivision (3), and the special fund into which they shall be paid, may be irrevocably pledged by the automated transit district for the payment of the principal and interest on loans or for repayment of advances or indebtedness, of the district.

As added by Acts 1982, P.L.77, SEC.1.

IC 8-9.5-8

Chapter 8. Indiana Finance Authority: Additional Duties

IC 8-9.5-8-0.3

Transfer of powers, duties, liabilities, records, and property to Indiana transportation finance authority

Sec. 0.3. (a) On April 1, 1988, all powers, duties, and liabilities of the Indiana toll finance authority are transferred to the Indiana transportation finance authority, as the successor.

(b) On April 1, 1988, all records and property of the Indiana toll finance authority are transferred to the Indiana transportation finance authority, as the successor agency.

As added by P.L.220-2011, SEC.195.

IC 8-9.5-8-0.4

Transfer of revenue bonds to Indiana transportation finance authority; rights of trustee and bondholders

Sec. 0.4. (a) All powers, duties, and liabilities of the Indiana toll finance authority with respect to revenue bonds issued by that authority in connection with any trust agreement or indenture securing those bonds are transferred to the Indiana transportation finance authority as successor.

(b) The rights of the trustee under any trust agreement or indenture and the rights of the bondholders of the Indiana toll finance authority remain unchanged, although the powers, duties, and liabilities of the Indiana toll finance authority have been transferred to the Indiana transportation finance authority.

As added by P.L.220-2011, SEC.196.

IC 8-9.5-8-1

Definitions

Sec. 1. As used in this chapter:

"Authority" refers to the Indiana finance authority established under IC 4-4-11.

"Department" refers to the Indiana department of transportation established under IC 8-23-2.

"Toll bridge" means a bridge with approaches, avenues of access, fills, causeways, and connecting bridges or ferries under IC 8-16-1.

"Toll road project" has the meaning specified in IC 8-15-2-4(4).

As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.5; P.L.18-1990, SEC.104; P.L.235-2005, SEC.106.

IC 8-9.5-8-2

Repealed

(As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.6. Repealed by P.L.235-2005, SEC.212.)

IC 8-9.5-8-3

Repealed

(As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.7; P.L.112-1989, SEC.1. Repealed by P.L.235-2005, SEC.212.)

IC 8-9.5-8-4

Duties

Sec. 4. (a) The authority is responsible for the construction, reconstruction, improvement, maintenance, operation, and repair of toll roads under IC 8-15-2 and toll bridges under IC 8-16-1.

(b) The authority shall classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a contract is awarded for the work.

As added by P.L.109-1983, SEC.3. Amended by P.L.12-1984, SEC.4.

IC 8-9.5-8-4.1

Repealed

(As added by P.L.5-1996, SEC.9. Repealed by P.L.235-2005, SEC.212.)

IC 8-9.5-8-5

Feasibility studies

Sec. 5. (a) The authority shall study the need for and feasibility of constructing a new toll road under IC 8-15-2 or a new toll bridge under IC 8-16-1 only after receiving the approval of the commissioner of the Indiana department of transportation.

(b) If a study conducted under IC 8-15-2-20 indicates that a toll road project would have a substantial and positive impact, the authority shall recommend to the commissioner of the Indiana department of transportation that the toll road project be initiated.

As added by P.L.109-1983, SEC.3. Amended by P.L.68-1988, SEC.8; P.L.112-1989, SEC.2.

IC 8-9.5-8-6

Contracts or leases; requisite provisions

Sec. 6. (a) With respect to each toll road project and each toll bridge, the authority may enter into:

(1) a contract with the department under section 7 of this chapter for any or all of the purposes enumerated in section 7(b) of this chapter; or

(2) a lease with the department under section 8 of this chapter for any or all of the purposes enumerated in section 8(b) of this chapter.

(b) If the authority determines that the department is not complying with a contract or lease:

(1) the authority shall reassume responsibility for the construction, reconstruction, improvement, operation, maintenance, and repair of the toll road project or toll bridge; and

(2) the contract or lease shall be terminated by the authority.

(c) If the authority enters into a contract or lease with the department as provided in subsection (a), the contract or lease must contain, in addition to the requirements of section 7 or 8 of this chapter, the following:

(1) A description of the toll road project or toll bridge setting forth in general terms its principal features, such as geographic location, terminal points, widths of rights-of-way, number of lanes in each direction, width of traffic lanes, widths of shoulders, location and nature of access points, tunnels, overpasses, underpasses, interchanges, bridges, entrance plazas, approaches, connecting highways, and tollhouses.

(2) Provisions for construction, reconstruction, or improvement of the toll road project or toll bridge.

(3) Provisions for operation, maintenance, and repair of the toll road project or toll bridge in accordance with any applicable trust agreement.

(4) Provisions requiring the toll road project or the toll bridge to be managed as a unit separate from any other district or division of the department.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-7

Contracts; purposes; requisite additional provisions

Sec. 7. (a) If the authority and the department decide to enter into a contract as authorized under section 6 of this chapter for the purposes enumerated in subsection (b), the authority and the department shall enter into a separate contract for each toll road project or toll bridge.

(b) The contract may be entered into for any or all of the following purposes:

(1) The construction of the toll road project or toll bridge.

(2) The reconstruction of the toll road project or toll bridge.

(3) Improvements to the toll road project or toll bridge.

(4) The maintenance of the toll road project or toll bridge.

(5) Repairs to the toll road project or toll bridge.

(6) The operation of the toll road project or toll bridge.

(c) In addition to the provisions required to be included under section 6 of this chapter, the contract must include the following:

(1) A provision for the collection of tolls and their deposit in a designated depository to the account of the authority or to the account of a trustee in accordance with any applicable trust agreement.

(2) A provision for the purchase by the department on behalf of the authority of property, machinery, and equipment required to carry out the contract, along with provision that such property, machines, and equipment:

(A) remain the property of the authority;

(B) shall be maintained by the department;
(C) shall be identified as the property of the authority;
(D) shall be used exclusively in connection with the performance of the contract; and
(E) shall be accounted for by the department to the authority at specified times.

(3) A provision authorizing the department to enter into contracts with third parties for carrying out the contract and requiring all such contracts to be in the name of the department but performed on behalf of the authority.

(4) A provision requiring the department to:
(A) maintain records and books of account reflecting the receipts and disbursements under the contract and the assets of the authority relating to the toll road project or toll bridge; and
(B) prepare or have prepared all books, records, and any reports required to be prepared, maintained, or delivered under any applicable trust agreement.

(5) Provisions for the payment by the authority to the department of:
(A) the cost of construction, reconstruction, or improvement undertaken under the contract; and
(B) the cost of maintenance, repair, and operation under the contract.

These costs include all costs incurred by the department in the performance of the contracts (such as salaries, wages, and associated costs of department personnel attributable to performance of the contract).

(6) Provisions for the payment to the department from time to time of funds necessary to maintain a revolving fund balance of not less than two hundred thousand dollars ($200,000) to be used in paying costs incurred under the contract so that the department is not required to advance funds for the cost of performance.

(7) A provision stating that the contract is for a term of not more than two (2) years and is extended for successive two (2) year periods, unless either party gives notice of its intention to terminate the contract not later than six (6) months before the end of a two (2) year term.

(8) Such other terms and conditions as the authority and the department consider appropriate.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-8
Leases; purposes; requisite additional provisions

Sec. 8. (a) If the authority and the department decide to enter into a lease as authorized under section 6 of this chapter for the purposes enumerated in subsection (b), the authority and the department shall

enter into a separate lease for each toll road project or each toll bridge.

(b) The lease may be entered into for any or all of the following purposes:

(1) The construction of the toll road project or toll bridge.

(2) The reconstruction of the toll road project or toll bridge.

(3) Improvements to the toll road project or toll bridge.

(4) The maintenance of the toll road project or toll bridge.

(5) Repairs to the toll road project or toll bridge.

(6) The operation of the toll road project or toll bridge.

(7) The conversion to a toll road project of a state highway transferred to the authority under IC 8-23-7-23.

(c) In addition to the provisions required to be included under section 6 of this chapter, the lease must include the following:

(1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes, with a fractional period when the lease begins if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, unless either the authority or the department gives notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A statement of all toll road bonds or toll bridge bonds of the authority that are outstanding or that are to be issued by the authority related to the toll road project or toll bridge for which the lease is entered.

(4) Provisions requiring the department to pay the costs of operating, maintaining, and repairing the toll road project or toll bridge, including major repairs, replacements, and improvements.

(5) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full the debt service payable under the terms of the toll road bonds or toll bridge bonds issued and outstanding with respect to the toll road project or toll bridge, including any required additions to reserves maintained by the authority, and to pay additional rent as provided by the lease.

(6) Provisions requiring the department to fix, impose, and collect tolls on the toll road project or toll bridge that are at least sufficient, together with other money available to the department, to pay:

(A) the cost of operation, maintenance, and repair, including major repairs, replacements, and improvements; and

(B) the rent to be paid under the lease.

However, the obligation of the department to pay the costs of operation, maintenance, and repair of a toll road project or toll bridge and to pay rent during the term is not limited to the tolls

collected or that should be collected by the department but is subject only to the appropriation of funds therefore by an act of the general assembly.

(7) Provisions requiring:

(A) tolls and other revenues collected by the department to be segregated from all other funds under the control of the department; and

(B) the department to make a separate accounting of all receipts and disbursements under the lease.

(8) Provisions requiring the department to maintain all books and records and to prepare and deliver all reports required of the authority under the terms of any applicable trust agreement.

(9) Such other terms and conditions as the authority and the department consider appropriate.

As added by P.L.109-1983, SEC.3. Amended by P.L.386-1987(ss), SEC.1; P.L.18-1990, SEC.105.

IC 8-9.5-8-9

Tolls; imposition and collection

Sec. 9. The authority shall fix, impose, and collect tolls for the use of a toll road in the manner prescribed in IC 8-15-2 and for the use of a toll bridge in the manner prescribed by IC 8-16-1, except when the toll road project or toll bridge is leased to the department under section 8 of this chapter.

As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-10

Toll road or toll bridge bonds authorized; limitations

Sec. 10. (a) Except as provided in section 11 of this chapter, the authority may issue toll road bonds under IC 8-15-2 or toll bridge bonds under IC 8-16-1 only:

(1) after obtaining the approval of the commissioner of the Indiana department of transportation;

(2) after the general assembly has, based on the recommendations of the commissioner of the Indiana department of transportation, provided for the issuance of the bonds by establishing in an act the maximum aggregate principal amount of bonds that the authority may issue;

(3) after the authority has delivered to the budget agency a written guarantee that the aggregate amount of attorney's fees for the particular proposed bond issue will not exceed two-tenths of one percent (0.2%) of the principal amount of the proposed issue of toll road and toll bridge bonds; and

(4) with the approval of the budget committee, the budget agency, and the governor.

(b) The authority may include money from the rural transportation road fund as a source of revenue in the performance of contracts and leases with the Indiana department of transportation under

IC 8-23-2-6(a)(3). Revenues from that allocation may be used in the determination of the feasibility of a toll road or toll bridge project.
As added by P.L.109-1983, SEC.3. Amended by P.L.386-1987(ss), SEC.2; P.L.112-1989, SEC.3.

IC 8-9.5-8-11
Issuance of additional bonds

Sec. 11. Notwithstanding section 10 of this chapter, if:

(1) a bond issue of the authority provides an amount less than the amount necessary to complete the toll road project or the toll bridge project for which the bonds were issued; and

(2) the trust agreement securing the bond issue provides that additional bonds may be issued to secure additional funds to provide the amount necessary to complete the project;

the authority may, without the approval of the parties listed in section 10 of this chapter, issue additional bonds to provide the funds necessary to complete the project.
As added by P.L.109-1983, SEC.3.

IC 8-9.5-8-12
Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-13
Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-14
Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-15
Repealed

(Repealed by P.L.68-1988, SEC.17.)

IC 8-9.5-8-16
Rural transportation road fund

Sec. 16. (a) The rural transportation road fund is established as a special revenue fund to be administered by the Indiana finance authority.

(b) The money in the rural transportation road fund at the end of any state fiscal year does not revert to any other fund.

(c) The treasurer of state may invest the money in the rural transportation road fund in the manner provided by law for investing money in the state general fund.

(d) The rural transportation road fund is to be used only for the purpose of supplementing the revenues received by the Indiana finance authority as tolls imposed for the use of any toll road or toll

bridge project.
As added by P.L.386-1987(ss), SEC.3. Amended by P.L.68-1988, SEC.9; P.L.235-2005, SEC.107.

IC 8-9.5-8-17
Toll road assistance programs

Sec. 17. The authority shall study and implement programs to assist in the transportation of military veterans or individuals with a disability (as defined in IC 6-1.1-12-11) who travel on a toll road to or from a hospital for treatment. However, a program may not be inconsistent with the trust indenture securing the bonds of the toll road.
As added by P.L.83-1996, SEC.1. Amended by P.L.99-2007, SEC.34.

IC 8-9.5-9

Chapter 9. Powers and Duties of Authorities Related to Swap Agreements

IC 8-9.5-9-1

Construction and application of chapter

Sec. 1. This chapter applies notwithstanding any other law and shall be liberally construed.

As added by P.L.55-1994, SEC.1.

IC 8-9.5-9-2

"Authority" defined

Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) when acting under an affected statute (as defined in IC 4-4-10.9-1.2), the Indiana finance authority established by IC 4-4-11;

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

(5) the Indiana housing and community development authority established by IC 5-20-1;

(6) the authority established under IC 4-4-11; or

(7) the authority established under IC 5-1-17.

As added by P.L.55-1994, SEC.1. Amended by P.L.273-1999, SEC.45; P.L.235-2005, SEC.108; P.L.214-2005, SEC.50; P.L.1-2006, SEC.153 and P.L.181-2006, SEC.49; P.L.162-2007, SEC.30.

IC 8-9.5-9-3

"Obligations" defined

Sec. 3. As used in this chapter, "obligations" means bonds, loan contracts, notes, bond anticipation notes, commercial paper, leases, lease-purchases, installment purchases, certificates of participation in agreements or programs, other evidences of indebtedness, or other agreements or purchasing programs, whether or not the obligations have been issued or entered into.

As added by P.L.55-1994, SEC.1. Amended by P.L.273-1999, SEC.46.

IC 8-9.5-9-4

"Swap agreement" defined

Sec. 4. As used in this chapter, "swap agreement" refers to:

(1) an agreement (including terms and conditions incorporated by reference in the agreement) that is a rate swap agreement,

basis swap, forward rate agreement, interest rate option, rate cap agreement, rate floor agreement, rate collar agreement, or any other similar agreement (including any option to enter into any of the agreements described in this subdivision);

(2) any combination of the agreements described in subdivision (1); or

(3) a master agreement for an agreement or a combination of agreements described in subdivision (1) or (2), together with all supplements to the agreement.

As added by P.L.55-1994, SEC.1.

IC 8-9.5-9-5

Powers and duties of authorities

Sec. 5. (a) Subject to subsections (b) through (d), an authority may enter into and modify, amend, or terminate one (1) or more swap agreements that the authority determines to be necessary or desirable in connection with or incidental to the issuance, carrying, or securing of obligations. Swap agreements entered into by an authority shall:

(1) contain the provisions (including payment, term, security, default, and remedy provisions); and

(2) be with the parties;

that the authority determines are necessary or desirable after due consideration is given to the creditworthiness of the parties.

(b) The authority may not:

(1) enter into any swap agreement under this section other than for the purpose of managing an interest rate or similar risk that arises in connection with or incidental to the issuance, carrying, or securing of obligations by the authority; or

(2) carry on a business of acting as a dealer in swap agreements.

(c) A swap agreement shall be considered as being entered into in connection with or incidental to the issuance, carrying, or securing of obligations if:

(1) the swap agreement is entered into not more than one hundred eighty (180) days after the issuance of the obligations and specifically indicates the agreement's relationship to the obligations;

(2) the authority designates the swap agreement as having a relationship to the obligations;

(3) the swap agreement amends, modifies, or reverses a swap agreement described in subdivision (1) or (2); or

(4) the terms of the swap agreement bear a reasonable relationship to the terms of the obligations.

(d) Payments to be made by the authority to any other party under a swap agreement may be payable from:

(1) the same source or sources of funds from which the obligations are, will be, or may be payable; or

(2) any other lawfully available source.

(e) This chapter does not create a debt or liability of the authority

or the state for purposes of any constitutional or statutory limitation.
As added by P.L.55-1994, SEC.1. Amended by P.L.273-1999, SEC.47.

IC 8-9.5-9-6
Investment powers

Sec. 6. The provisions of this chapter shall not be construed as limiting or restricting the investment powers otherwise provided to the authority.
As added by P.L.55-1994, SEC.1.

IC 8-9.5-9-7
Credit enhancement and liquidity agreements

Sec. 7. With regard to entering into any swap agreement, the authority may enter into credit enhancement or liquidity agreements with payment, security, default, remedy, and other terms and conditions as determined by the authority.
As added by P.L.55-1994, SEC.1.

IC 8-9.5-9-8
Payments under swap agreements

Sec. 8. (a) With respect to all leases and contracts entered into by the authority with the Indiana department of transportation, the Indiana department of administration, a fund or program established under IC 13-18-13 or IC 13-18-21, or any other entity to support obligations, the lease or contract may provide that payments under a swap agreement are treated as a debt service on the obligations or as additional rental or other payment due under the lease or contract as the authority may determine.

(b) The authority may determine that payments under a swap agreement may be integrated with payments on obligations for the purpose of meeting any statutory requirements related to the issuance of obligations.
As added by P.L.55-1994, SEC.1. Amended by P.L.273-1999, SEC.48.

IC 8-9.5-9-9
Enforcement of swap agreements

Sec. 9. (a) This section does not apply in cases of bad faith or actual knowledge to the contrary by a party.

(b) A party that enters into any swap agreement with an authority may rely on a representation by the authority that the authority is authorized or empowered to enter into the swap agreement, and notwithstanding the failure by the authority to comply with the provisions of this chapter, that party may enforce the swap agreement against the authority, subject to the terms of the swap agreement and subject to prior claims on sources from which the swap agreement may be payable.

As added by P.L.55-1994, SEC.1.

IC 8-10

ARTICLE 10. PORTS

IC 8-10-1

Chapter 1. Ports of Indiana–Organization

IC 8-10-1-0.3

Treatment of references to Indiana port commission

Sec. 0.3. (a) As used in this section, "Indiana port commission" means the Indiana port commission established by section 3 of this chapter, as in effect before March 19, 2008.

(b) As used in this section, "ports of Indiana" means the ports of Indiana established by section 3 of this chapter, as amended by P.L.98-2008.

(c) After June 30, 2008, a reference to the Indiana port commission in a statute, a rule, or another document is considered a reference to the ports of Indiana, as the successor entity.

As added by P.L.220-2011, SEC.197.

IC 8-10-1-1

Construction of ports and economic development projects authorized

Sec. 1. In order to promote the agricultural, industrial, and commercial development of the state and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port system with terminal facilities to accommodate water, rail, truck, air-borne, and other forms of transportation, the ports of Indiana is hereby authorized and empowered to construct, maintain, and operate, in cooperation with the federal government, or otherwise, at such locations as shall be approved by the governor, projects, including without limitation public ports with terminal facilities and traffic exchange points throughout Indiana for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from all forms of transportation, and issue revenue bonds of the state payable solely from revenues to pay the cost of such projects. The ports of Indiana's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(Formerly: Acts 1961, c.11, s.1; Acts 1963, c.395, s.1; Acts 1965, c.224, s.1; Acts 1969, c.387, s.1; Acts 1971, P.L.88, SEC.1.) As amended by P.L.224-2003, SEC.201 and P.L.271-2003, SEC.1; P.L.98-2008, SEC.9.

IC 8-10-1-2

Definitions

Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the commission created by section 3(b) of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include any combination of:

(1) any place or places on Lake Michigan, the Ohio River, the Wabash River, or other water bodies, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded, or accommodated; and

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The word "project" shall include:

(1) any facilities, adjuncts, and appurtenances necessary or useful to operate a modern port, whether or not permanently situated at the port, including:

(A) the dredging of approaches to a port; and

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the ports of Indiana and other buildings and facilities which the ports of Indiana may deem necessary for the operation of the port; and

(2) any other project located in Indiana, other than at a port, that the ports of Indiana finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or project means:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the ports of Indiana for construction;

(3) the cost of demolishing or removing any buildings or

structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved;

(4) the cost of relocating public roads;

(5) the cost of land or easements for roads;

(6) the cost of all machinery and equipment;

(7) financing charges;

(8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;

(9) the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;

(10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(11) administrative expense;

(12) other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of the acquisition or construction, and the placing of the project in operation, including the amount authorized in the resolution of the commission providing for the issuance of revenue bonds to be paid into any special funds from the proceeds of the bonds; and

(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements, and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys, and all other funds coming into the possession or under the control of the ports of Indiana by virtue of the terms and provisions of this article, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(h) "Ports of Indiana" means the ports of Indiana created by section 3(a) of this chapter.

(Formerly: Acts 1961, c.11, s.2; Acts 1965, c.224, s.2; Acts 1969, c.387, s.2; Acts 1971, P.L.88, SEC.2.) As amended by P.L.224-2003, SEC.202 and P.L.271-2003, SEC.2; P.L.98-2008, SEC.10.

IC 8-10-1-3

Ports of Indiana; commission membership; term of office; official bond; compensation

Sec. 3. (a) The ports of Indiana is created as a body both corporate and politic in the state of Indiana, and the exercise of the powers conferred by this article in the construction, operation, and maintenance of a port or project shall be deemed and held to be essential governmental functions of the state.

(b) The ports of Indiana shall be governed by a commission consisting of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965, and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977, for one (1) member and July 1, 1979, for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and until a successor is duly appointed and qualified, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of the commission. The commission shall elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum, and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. A vacancy in the membership of the commission does not impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any revenue bonds under the provisions of this article:

(1) each appointed member of the commission;

(2) the secretary-treasurer; and

(3) any other employee or agent of the ports of Indiana authorized by resolution of the commission to handle funds or sign checks;

shall give a surety bond to the state in the penal sum of fifty thousand dollars ($50,000). Each such surety bond must be conditioned upon the faithful performance of the individual's duties, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand five hundred dollars ($7,500), payable in monthly instalments.

(e) Each member shall be reimbursed for the member's actual expenses necessarily incurred in the performance of the member's duties.

(f) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation shall be incurred by the ports of Indiana hereunder beyond the extent to which moneys shall have been provided under the authority of this article.

(g) The commission:

(1) is responsible for implementing the powers and duties of the ports of Indiana under this article; and

(2) may adopt bylaws for the regulation of the affairs of the commission and the conduct of the business of the ports of Indiana.

The commission may delegate to staff, including the chief executive, such administrative functions as the commission deems necessary or desirable to accomplish the purposes of the ports of Indiana under this article. The chief executive may delegate the chief executive's authority to the appropriate staff.

(Formerly: Acts 1961, c.11, s.3; Acts 1975, P.L.84, SEC.1.) As amended by P.L.224-2003, SEC.203 and P.L.271-2003, SEC.3; P.L.235-2005, SEC.109; P.L.98-2008, SEC.11.

IC 8-10-1-4

Bonds; payment

Sec. 4. Revenue bonds issued under the provisions of this article:

(1) do not constitute a debt of the ports of Indiana, the state, or any political subdivision of the state, or a pledge of the faith and credit of the ports of Indiana, the state, or any political subdivision of the state;

(2) are payable solely from the funds pledged for their payment as authorized in this article, unless the bonds are refunded by refunding bonds issued under the provisions of this chapter, which shall be payable solely from funds pledged for their payment as authorized in this article; and

(3) must contain on their face a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the ports of Indiana, the state, or of any political subdivision of the state, but are payable solely from revenues pledged for their

payment.

All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under the authority of this article and nothing in this article shall be construed to authorize the ports of Indiana to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of the state.

(Formerly: Acts 1961, c.11, s.4.) As amended by P.L.66-1984, SEC.1; P.L.224-2003, SEC.204 and P.L.271-2003, SEC.4; P.L.232-2005, SEC.5; P.L.98-2008, SEC.12.

IC 8-10-1-4.5

Certain pledges prohibited

Sec. 4.5. Except as specifically authorized by the general assembly, the ports of Indiana may not pledge, in any form, to:

(1) seek funding from the state in the event of any default in the payment of revenue bonds; or

(2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

As added by P.L.224-2003, SEC.205 and P.L.271-2003, SEC.5. Amended by P.L.98-2008, SEC.13.

IC 8-10-1-5

Ports and projects; cooperation with other entities; title to property

Sec. 5. (a) The ports of Indiana may:

(1) prepare sketches, plans, and descriptive material relating to ports or projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote the ports or projects and deems to be in the public interest;

(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire suitable sites for ports or projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the ports of Indiana, best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to

accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port or project shall be taken in the name of, and shall be in, the state of Indiana.

(Formerly: Acts 1961, c.11, s.5; Acts 1963, c.395, s.2; Acts 1965, c.224, s.3; Acts 1969, c.387, s.3; Acts 1971, P.L.88, SEC.3.) As amended by P.L.346-1989(ss), SEC.5; P.L.224-2003, SEC.206 and P.L.271-2003, SEC.6; P.L.98-2008, SEC.14.

IC 8-10-1-6
Repealed

(Repealed by P.L.1-1989, SEC.75.)

IC 8-10-1-7
Powers and duties

Sec. 7. The ports of Indiana is authorized and empowered to do the following:

(1) To adopt an official seal which shall not be the seal of the state of Indiana.

(2) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(3) To sue and be sued, and to plead and be impleaded in the name of the ports of Indiana. However, actions at law against the ports of Indiana shall be brought in the circuit court, superior court, or probate court of the county in which the principal office of the ports of Indiana is located or in the circuit court, superior court, or probate court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the ports of Indiana by leaving a copy thereof at the principal office of the ports of Indiana with the person in charge thereof or with the secretary of the ports of Indiana. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(4) To acquire, lease, construct, maintain, repair, police, and operate a port or project as provided in this chapter, and to establish rules and regulations for the use of the port or project, and other property subject to the jurisdiction and control of the ports of Indiana.

(5) To issue both taxable and tax exempt revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or project.

(6) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or

appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or project.

(7) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or project.

(8) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(9) To designate the location and establish, limit, and control points of ingress to and egress from a port or project.

(10) To lease to others for development or operation such portions of any port or project, on such terms and conditions as the ports of Indiana shall deem advisable.

(11) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. Except as provided in section 29 of this chapter, when the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than one hundred fifty thousand dollars ($150,000), the ports of Indiana shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in the county where the construction will occur and in such other publications as the ports of Indiana shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The ports of Indiana may reject any and all bids. A bond with good and sufficient surety as shall be approved by the ports of Indiana shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract. A contract for construction or a contract for the purchase of materials or supplies requires only the approval of the commission. Upon the ports of Indiana's approval of a contract, the ports of Indiana may immediately proceed with the construction or purchase.

(12) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities

within Indiana.

(13) To employ a chief executive, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation and title, but no compensation of any employee of the ports of Indiana shall exceed the compensation of the highest paid officer or employee of the state.

(14) To receive and accept from any federal agency grants for or in aid of the construction of any port or project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(15) To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

(16) To do all acts and things necessary or proper to carry out the powers expressly granted in this article.

(17) To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the ports of Indiana.

(Formerly: Acts 1961, c.11, s.7; Acts 1963, c.395, s.3.) As amended by Acts 1977, P.L.108, SEC.1; P.L.18-1987, SEC.8; P.L.56-1994, SEC.1; P.L.224-2003, SEC.207 and P.L.271-2003, SEC.7; P.L.98-2008, SEC.15; P.L.156-2013, SEC.1; P.L.84-2016, SEC.49.

IC 8-10-1-7.1
Repealed

(As added by P.L.5-1996, SEC.10. Amended by P.L.98-2008, SEC.16. Repealed by P.L.177-2011, SEC.5.)

IC 8-10-1-7.5
Public fishing areas

Sec. 7.5. The department of natural resources may establish and maintain, within all ports created under this chapter and in operation on July 1, 1975, areas for the use of the citizens of this state for public fishing from the shore. The ports of Indiana shall cooperate fully with the department of natural resources in the implementation of this section. However, if the site of any public fishing area established under this section is subsequently leased to others for agricultural, industrial, or commercial purposes, or if required to maintain port security, the ports of Indiana may limit or halt public fishing in that area.

(Formerly: Acts 1975, P.L.85, SEC.1.) As amended by P.L.98-2008, SEC.17.

IC 8-10-1-8
Relocation, reconstruction, or removal of roads, railroads, or

public utility facilities; damages

Sec. 8. If the ports of Indiana shall find it necessary to change the location of any portion of any public road, highway, railroad, or public utility facility, the ports of Indiana shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the ports of Indiana as a part of the cost of the port or project. The ports of Indiana shall have authority to petition the circuit court, superior court, or probate court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the ports of Indiana and the authorized agents and employees of the ports of Indiana after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this article, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The ports of Indiana shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by the state of Indiana, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or project, provided adequate compensation is made for such use. The ports of Indiana shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this section as "public

utility facilities") of any public utility in, on, along, over, or under any port or project. Whenever the ports of Indiana shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any port or project should be relocated or should be removed from the port or project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the ports of Indiana. However, the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the ports of Indiana as a part of the cost of the port or project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as the public utility had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

(Formerly: Acts 1961, c.11, s.8.) As amended by P.L.66-1984, SEC.3; P.L.224-2003, SEC.208 and P.L.271-2003, SEC.8; P.L.98-2008, SEC.18; P.L.84-2016, SEC.50.

IC 8-10-1-9

Rules and regulations; adoption; publication; access by public officers; violation; offense

Sec. 9. (a) The ports of Indiana shall have power to adopt such by-laws, rules and regulations as the ports of Indiana may deem advisable for the control and regulation of any port or project or traffic on any port or project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the ports of Indiana shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the ports of Indiana without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the ports of Indiana commits a Class C infraction.

(Formerly: Acts 1961, c.11, s.9.) As amended by Acts 1976, P.L.28, SEC.2; Acts 1978, P.L.2, SEC.839; Acts 1980, P.L.75, SEC.1; P.L.224-2003, SEC.209 and P.L.271-2003, SEC.9; P.L.98-2008, SEC.19.

IC 8-10-1-10
Property acquisition, management, and disposition

Sec. 10. (a) The ports of Indiana is hereby authorized and empowered to acquire by purchase whenever the ports of Indiana shall deem such purchase expedient, any land, property, rights, rights of way, franchises, easements, and other interests in lands, including lands under water and riparian rights, as the ports of Indiana may deem necessary or convenient for the construction and operation of any port or project, upon such terms and at such price as may be considered by the ports of Indiana to be reasonable and can be agreed upon between the ports of Indiana and the owner thereof, and to take title thereto in the name of the state.

(b) The ports of Indiana is hereby further authorized and empowered to sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. The ports of Indiana is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or project, or as otherwise required under the provisions of this article. However, no such sale shall be made without first obtaining the approval of the governor, and a sale may not be made at less than the appraised value established by three (3) independent appraisers appointed by the governor. The ports of Indiana shall be authorized to restrict the use of any land so sold by the ports of Indiana and provide for a reversion to the ports of Indiana in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The ports of Indiana shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the ports of Indiana, on such terms as the ports of Indiana shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the ports of Indiana shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ports, terminal facilities, and projects under the jurisdiction or control of the ports of Indiana. In the event the ports of Indiana shall lease to others a building or structure financed by the issuance of revenue bonds under IC 8-10-4, the transaction must be structured as a self-liquidating or nonrecourse project (as defined in

IC 8-10-4-1).

(d) No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the ports of Indiana, a port, a project, or the state, unless a written agreement entered into by the ports of Indiana expressly provides:

(1) the exact nature and extent of the right, claim, title, or interest;

(2) all the conditions under which the right, claim, title, or interest is granted; and

(3) a legal or complete description of the specific property.

(Formerly: Acts 1961, c.11, s.10; Acts 1972, P.L.66, SEC.1.) As amended by P.L.224-2003, SEC.210 and P.L.271-2003, SEC.10; P.L.232-2005, SEC.6; P.L.98-2008, SEC.20.

IC 8-10-1-11

Eminent domain; taking or disturbing property or facilities of public utility or common carrier

Sec. 11. The ports of Indiana is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or project. The ports of Indiana shall also be empowered to exercise such powers of eminent domain as may be conferred upon the ports of Indiana by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the ports of Indiana to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the ports of Indiana to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the ports of Indiana excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

(Formerly: Acts 1961, c.11, s.11.) As amended by P.L.224-2003, SEC.211 and P.L.271-2003, SEC.11; P.L.98-2008, SEC.21.

IC 8-10-1-12

Indiana port fund; creation and administration

Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from

said fund shall be made only for the following:

(1) Acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition.

(2) Studies in connection with the port or project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the ports of Indiana.

The fund shall be held in the name of the ports of Indiana, shall be administered by the ports of Indiana, and all expenditures therefrom shall be made by the ports of Indiana, subject, however, to the approval by governor and the budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action.

(b) Upon the sale of revenue bonds for any port or project, the funds expended from the Indiana port fund in connection with the development of such port or project and any obligation or expense incurred by the ports of Indiana for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such port or project shall be reimbursed to the state general fund from the proceeds of such bonds.

(Formerly: Acts 1961, c.11, s.12.) As amended by P.L.66-1984, SEC.4; P.L.165-2003, SEC.1; P.L.224-2003, SEC.212 and P.L.271-2003, SEC.12; P.L.97-2004, SEC.36; P.L.98-2008, SEC.22.

IC 8-10-1-13

Revenue bonds; terms and form; negotiability; governor approval required

Sec. 13. (a) Subject to the approval of the governor, the ports of Indiana is hereby authorized to provide by resolution of the commission, at one (1) time or from time to time, for the issuance of revenue bonds of the state for the purpose of paying all or any part of the cost of a port or project under this chapter or IC 8-10-4. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding thirty-five (35) years from the date thereof, as may be determined by the ports of Indiana, and may be made redeemable before maturity, at the option

of the ports of Indiana, at such price or prices and under such terms and conditions as may be fixed by the ports of Indiana in the authorizing resolution.

(b) The ports of Indiana shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the ports of Indiana by the chairman or vice chairman of the commission or chief executive of the ports of Indiana, or by the facsimile signature of the chairman or vice chairman of the commission or chief executive of the ports of Indiana and the official seal of the ports of Indiana or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

(d) All bonds issued under this article shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the ports of Indiana may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 21-32-3, except as provided in IC 8-10-4.

(g) No action to contest the validity of any bonds issued by the ports of Indiana under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

(h) The ports of Indiana shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds under this chapter or IC 8-10-4.

(Formerly: Acts 1961, c.11, s.13.) As amended by Acts 1981, P.L.11, SEC.51; P.L.224-2003, SEC.213 and P.L.271-2003, SEC.13; P.L.235-2005, SEC.110; P.L.2-2007, SEC.135; P.L.98-2008, SEC.23.

IC 8-10-1-14

Use of proceeds of revenue bonds; replacement of lost or destroyed bonds

Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port or project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the ports of Indiana may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port or project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the ports of Indiana may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The ports of Indiana may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this article may be issued under the provisions of this article without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter. *(Formerly: Acts 1961, c.11, s.14.) As amended by P.L.66-1984, SEC.5; P.L.224-2003, SEC.214 and P.L.271-2003, SEC.14; P.L.98-2008, SEC.24.*

IC 8-10-1-15
Refunding bonds

Sec. 15. The ports of Indiana is hereby authorized to provide by resolution for the issuance of refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of section 13 of this chapter or IC 8-10-4-2, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the ports of Indiana, for the additional purpose of constructing improvements, extensions, or enlargements of the port or project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and

other details thereof, the rights of the holders thereof and the rights, duties and obligations of the ports of Indiana in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

(Formerly: Acts 1961, c.11, s.15.) As amended by P.L.66-1984, SEC.6; P.L.224-2003, SEC.215 and P.L.271-2003, SEC.15; P.L.98-2008, SEC.25.

IC 8-10-1-16

Trust agreements; pledge or assignment of revenues

Sec. 16. In the discretion of the ports of Indiana any bonds issued under the provisions of this act may be secured by a trust agreement by and between the ports of Indiana and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, except as provided in IC 8-10-4. Any resolution adopted by the commission providing for the issuance of revenue bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the ports of Indiana except such part as may be necessary to pay the cost of the ports of Indiana's administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the ports of Indiana, but the ports of Indiana shall not convey or mortgage any port or project or any part thereof, except for self liquidating or nonrecourse projects under IC 8-10-4. In authorizing the issuance of bonds for any particular port or project, the ports of Indiana may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the ports of Indiana may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port or project on account of which the original bonds were issued, or to provide funds to pay the cost of additional projects undertaken in connection with the development of the port or project, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the ports of Indiana pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the ports of Indiana shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the

ports of Indiana irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the ports of Indiana. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the ports of Indiana in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the port or project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges, to be collected for the use of the project, and the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the ports of Indiana, to furnish such indemnifying bonds or to pledge such securities as may be required by the ports of Indiana. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the ports of Indiana may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port or project.

(Formerly: Acts 1961, c.11, s.16.) As amended by P.L.224-2003, SEC.216 and P.L.271-2003, SEC.16; P.L.232-2005, SEC.7; P.L.98-2008, SEC.26.

IC 8-10-1-17

Rates and charges; fixing; surplus net revenues; disposition

Sec. 17. The ports of Indiana shall be authorized to fix, review, charge, and collect fees, tolls, rentals, and other charges for the use of the ports, projects, terminal facilities, and lands under the jurisdiction or control of the ports of Indiana or services rendered by the ports of Indiana, and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance, and repair of the port or project and terminal facilities, including the administration expenses of the ports of Indiana, and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls,

rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau, or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of the port or project shall be paid into the state general fund.
(Formerly: Acts 1961, c.11, s.17.) As amended by P.L.224-2003, SEC.217 and P.L.271-2003, SEC.17; P.L.98-2008, SEC.27.

IC 8-10-1-18
Disposition of revenues

Sec. 18. All money received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this chapter, but prior to the time when needed for use may be invested to the extent and in the manner provided by IC 5-13-10.5, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the ports of Indiana, in the manner provided by the governing statutes in so far as applicable. The resolution of the commission authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such money shall be entrusted, shall act as trustee of such money and shall hold and apply the same for the purposes hereof, subject to the provisions of this chapter and of the authorizing resolution or trust agreement.
(Formerly: Acts 1961, c.11, s.18.) As amended by P.L.66-1984, SEC.7; P.L.19-1987, SEC.24; P.L.18-1996, SEC.28; P.L.98-2008, SEC.28.

IC 8-10-1-19
Mandamus or other action compelling compliance with law

Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the ports of Indiana or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or project.
(Formerly: Acts 1961, c.11, s.19.) As amended by P.L.66-1984,

SEC.8; P.L.224-2003, SEC.218 and P.L.271-2003, SEC.18; P.L.98-2008, SEC.29.

IC 8-10-1-20
Operation, policing, and maintenance of projects

Sec. 20. Each port or project, as defined in section 2 of this chapter, when constructed and placed in operation shall be maintained and kept in good condition and repair by the ports of Indiana. Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the ports of Indiana may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.
(Formerly: Acts 1961, c.11, s.20.) As amended by P.L.66-1984, SEC.9; P.L.224-2003, SEC.219 and P.L.271-2003, SEC.19; P.L.98-2008, SEC.30.

IC 8-10-1-21
Political subdivisions; lease, grant, or conveyance of property to ports of Indiana

Sec. 21. All counties, cities, towns, townships, and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the ports of Indiana at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court, or other action or formality, other than the regular and formal action of the authorities concerned, any real or personal property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the ports of Indiana.
(Formerly: Acts 1961, c.11, s.21.) As amended by P.L.224-2003, SEC.220 and P.L.271-2003, SEC.20; P.L.98-2008, SEC.31.

IC 8-10-1-22
Audit of books and accounts; annual report

Sec. 22. (a) The ports of Indiana shall cause an audit of its books and accounts to be made at least once each year by certified public accountants, and the cost thereof may be treated as a part of the cost of construction or of operations of the ports and projects of the ports of Indiana. The accounts, books, and records of the ports of Indiana shall be audited by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ports and projects of the ports of Indiana.

(b) The ports of Indiana shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the general assembly. An annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. Each report shall set forth a complete operating and financial statement for the ports of Indiana during the fiscal year it covers.

(Formerly: Acts 1961, c.11, s.22.) As amended by Acts 1978, P.L.6, SEC.13; P.L.224-2003, SEC.221 and P.L.271-2003, SEC.21; P.L.235-2005, SEC.111; P.L.98-2008, SEC.32; P.L.181-2015, SEC.31.

IC 8-10-1-23

Adverse or pecuniary interest; member, agent, or employee

Sec. 23. A member of the commission or an agent or employee of the ports of Indiana who knowingly is interested in any contract with the ports of Indiana, or in the sale of any property, either real or personal, to the ports of Indiana, commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the ports of Indiana and other departments, municipalities, or subdivisions of state government.

(Formerly: Acts 1961, c.11, s.23.) As amended by Acts 1978, P.L.2, SEC.840; P.L.98-2008, SEC.33; P.L.1-2009, SEC.70.

IC 8-10-1-24

Construction of law

Sec. 24. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

(Formerly: Acts 1961, c.11, s.24.) As amended by P.L.66-1984, SEC.10.

IC 8-10-1-25

Investment in revenue bonds by financial institutions

Sec. 25. Revenue bonds issued by the ports of Indiana under the provisions of this article shall constitute legal investments for any private trust funds, and the funds of any 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, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. The bonds are also made securities that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other

obligations of Indiana is now or may be later authorized by law.
(Formerly: Acts 1961, c.11, s.25.) As amended by P.L.66-1984, SEC.11; P.L.42-1993, SEC.7; P.L.224-2003, SEC.222 and P.L.271-2003, SEC.22; P.L.98-2008, SEC.34.

IC 8-10-1-26
Journal of ports of Indiana

Sec. 26. All final actions of the ports of Indiana shall be journalized and said journal shall be open to the inspection of the public at all reasonable times.
(Formerly: Acts 1961, c.11, s.26.) As amended by P.L.98-2008, SEC.35.

IC 8-10-1-27
Tax exemptions

Sec. 27. (a) The exercise of the powers granted by this article will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port or project by the ports of Indiana will constitute the performance of essential governmental functions, the ports of Indiana shall not be required to pay any taxes or assessments upon any port or project or any property acquired or used by the ports of Indiana under the provisions of this article or upon the income therefrom. The bonds issued by the ports of Indiana, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the ports of Indiana is exempt from property taxation. However, an exemption under this subsection is not available for land not located at a port.
(Formerly: Acts 1961, c.11, s.27.) As amended by P.L.66-1984, SEC.12; P.L.21-1990, SEC.39; P.L.60-1992, SEC.1; P.L.254-1997(ss), SEC.13; P.L.224-2003, SEC.223 and P.L.271-2003, SEC.23; P.L.98-2008, SEC.36.

IC 8-10-1-28
Repealed

(Repealed by P.L.1-1989, SEC.75.)

IC 8-10-1-29
Contracts for construction or purchase over $150,000; bidding

required; emergency exception; violations a Level 6 felony

Sec. 29. (a) The ports of Indiana may declare an emergency:

(1) in the case of fire, flood, windstorm, casualty, or other extraordinary emergency, including mechanical failure of any part of a building or structure; and

(2) if the health, safety, or welfare of the public or necessary governmental operations are endangered by loss or damage.

The ports of Indiana shall declare an emergency by recording the declaration and grounds for the emergency in the minutes of the commission.

(b) Unless the ports of Indiana declares an emergency, the ports of Indiana may not during any six (6) month period make separate contracts with another party for similar construction projects or the purchase of similar equipment, materials, or supplies under IC 8-10-1-7(5) without advertising for and accepting public bids, if the aggregate cost of the separate contracts is more than one hundred fifty thousand dollars ($150,000).

(c) A commission member or an employee of the ports of Indiana who knowingly violates subsection (b) commits a Level 6 felony.

(d) A person who accepts a contract with the ports of Indiana knowing that subsection (b) was violated in connection with the contract commits a Level 6 felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of the person's conviction.

(e) If the ports of Indiana declares an emergency, the ports of Indiana may:

(1) contract for a construction project or the purchase of equipment, materials, or supplies without advertising for bids, if bids or quotes are invited from at least three (3) persons known to deal in:

(A) the public work required to be done; or

(B) the equipment, materials, or supplies sought to be purchased; and

(2) either:

(A) reject all bids or quotes submitted; or

(B) contract with the lowest and best bidder or quoter for the construction project or purchase.

The total amount of all contracts the ports of Indiana may award with respect to an emergency declared under subsection (a) may not exceed one million dollars ($1,000,000), unless an executive order is issued by the governor authorizing the ports of Indiana to exceed this limit.

(f) When awarding a contract with respect to an emergency declared under subsection (a), the ports shall list in the minutes of the next commission meeting the names of all the entities invited to bid.

As added by Acts 1977, P.L.108, SEC.2. Amended by P.L.18-1987, SEC.9; P.L.102-1993, SEC.1; P.L.98-2008, SEC.37; P.L.156-2013, SEC.2; P.L.158-2013, SEC.133; P.L.168-2014, SEC.11.

IC 8-10-1-30

Rights of bondholders not to be impaired

Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the ports of Indiana to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The ports of Indiana is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.

As added by P.L.224-2003, SEC.224 and P.L.271-2003, SEC.24. Amended by P.L.98-2008, SEC.38.

IC 8-10-2
Chapter 2. Ports of Indiana–Canals and Storage Facilities

IC 8-10-2-1
Authority for construction or improvement; reimbursement for damages to public or private facilities

Sec. 1. (a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.

(b) In addition to the powers conferred upon the ports of Indiana by other provisions of this article, the ports of Indiana, in order to promote the agricultural, industrial, and commercial development of the state or to provide for the general welfare, and in order to connect any port under its jurisdiction with any other waterway or as part of a plan to ultimately connect such port with any other waterway, shall have the power and is hereby authorized, in cooperation with the federal government or otherwise, to construct a new canal or canals or to improve any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of shipping channels, canals, and turning basins in a manner to accommodate water-borne transportation and the construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. In exercising the powers hereby granted, the ports of Indiana shall have only such powers granted to it by this article in connection with a port project as may relate to the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, and the term "port project", as used in this article, shall be deemed to include the construction of a new canal or canals or the improvement of any canal, river, or other waterway, or both, including but not limited to dredging and all other work required in the design and construction of wharves, docks, piers, warehouses, and other facilities for the unloading of barges and other boats. However, the ports of Indiana shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharfs, piers, boat docks, warehouses, and pipeline equipment resulting from such construction and other activities. Nothing in this section shall authorize the ports of Indiana to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port.

(Formerly: Acts 1967, c.210, s.1.) As amended by P.L.66-1984, SEC.14; P.L.98-2008, SEC.39.

IC 8-10-2-2
Manufacturing, processing, and recreational facilities; damages to public or private facilities; reimbursement

Sec. 2. (a) In addition to the powers conferred upon the ports of

Indiana by other provisions of this article, the ports of Indiana, whenever the ports of Indiana finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the ports of Indiana further finds will increase the traffic into or out of the project. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the ports of Indiana shall have all the powers granted to it by this article, in connection with a project, and the term "project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the ports of Indiana to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The ports of Indiana shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

(Formerly: Acts 1967, c.210, s.2.) As amended by P.L.66-1984, SEC.15; P.L.224-2003, SEC.225 and P.L.271-2003, SEC.25; P.L.98-2008, SEC.40.

IC 8-10-2-3

Indiana port fund; management and disbursements

Sec. 3. Subject to the approval of the governor, the budget agency, and the budget committee, the ports of Indiana may, notwithstanding the provisions of IC 8-10-1-12 or the provisions of any other statute relating to or appropriating money to the Indiana port fund, expend moneys without further appropriation than the provisions of this chapter from the Indiana port fund for the operation and maintenance of a "port" or "port project" as those terms are defined in this article, and in connection with the issuance of bonds, may covenant to set aside and may set aside moneys from the Indiana port fund in a

separate fund or account with a corporate trustee or otherwise to be applied on the cost of such operation and maintenance.
(Formerly: Acts 1967, c.210, s.3.) As amended by P.L.66-1984, SEC.16; P.L.98-2008, SEC.41.

IC 8-10-3

Chapter 3. Ports of Indiana–Foreign Trade Zone and In-Transit Storage

IC 8-10-3-1

Authority for acquisition and operation of port facilities

Sec. 1. (a) Except as otherwise provided by this chapter, the definitions set forth in IC 8-10-1-2 apply throughout this chapter.

(b) In addition to the powers conferred upon the ports of Indiana by other provisions of this article, the ports of Indiana shall have the power whenever the ports of Indiana finds it either desirable or necessary in order to increase the water borne traffic into or out of the port to acquire, lease, construct, maintain, repair, and police facilities, adjuncts, and appurtenances for use in the business of in transit processing, finishing, reduction, conversion, completion, packaging, bottling, transshipment, or handling of commodities. In exercising the powers granted in this section, the ports of Indiana shall have all the powers granted to the ports of Indiana by this article in connection with a port project, and the term "port project", as used in this article, shall be deemed and construed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(Formerly: Acts 1965, c.237, s.1.) As amended by P.L.66-1984, SEC.17; P.L.98-2008, SEC.42.

IC 8-10-3-2

Authority for establishment and operation of foreign-trade zones

Sec. 2. The ports of Indiana, or a public or private agency or corporation of the state of Indiana designated by the ports of Indiana, is hereby authorized to make application to the board established by the act of Congress approved June 18, 1934 (48 Stat. 998-1003; 19 United States Code 81a-81u) (Public Law 397, 73rd Congress) entitled "an act to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States to expedite and encourage foreign commerce and other purposes," and all acts amendatory thereto, for a grant to the ports of Indiana, or a public or private agency or corporation of the state of Indiana designated by the ports of Indiana, of the privilege of establishing, operating, and maintaining a foreign-trade zone at such places within the state of Indiana as the ports of Indiana may determine, including lake ports, river ports, and elsewhere, pursuant to the provisions of such act, and if such application be granted to accept such grant and to establish, operate, and maintain such zone in accordance with law.

(Formerly: Acts 1965, c.237, s.2; Acts 1975, P.L.84, SEC.2.) As amended by Acts 1976, P.L.28, SEC.1; P.L.98-2008, SEC.43.

IC 8-10-3-3

Eminent domain

Sec. 3. The ports of Indiana in any appropriation of property, under the provisions of the appropriate eminent domain law, may take either a fee simple title in any property, or easement, or right-of-way, or riparian right, or any other estate therein as in any particular instance as to any parcel of property may be deemed necessary by the ports of Indiana.

(Formerly: Acts 1965, c.237, s.3.) As amended by P.L.98-2008, SEC.44.

IC 8-10-4

Chapter 4. Ports of Indiana–Jurisdiction and Bonding Powers

IC 8-10-4-1

"Self-liquidating or nonrecourse project"

Sec. 1. (a) As used in this chapter, "self-liquidating or nonrecourse project" means:

(1) a project for which a lease or leases have been executed providing for payment in an amount the ports of Indiana determines to be sufficient to pay:

(A) the interest and principal of the bonds to be issued to finance the cost of the project; and

(B) all costs of maintenance, repair, and insurance of the project; or

(2) a project that is structured in such a manner that the ports of Indiana determines there is no recourse against the state or the ports of Indiana.

(b) Other words and terms used in this chapter shall have the same meaning as in IC 8-10-1-2 and the other provisions of this article, unless otherwise specifically provided.

(Formerly: Acts 1969, c.292, s.1.) As amended by P.L.66-1984, SEC.18; P.L.224-2003, SEC.226 and P.L.271-2003, SEC.26; P.L.232-2005, SEC.8; P.L.98-2008, SEC.45.

IC 8-10-4-2

Revenue bonds; application of bidding and public works statutes; governor approval required

Sec. 2. (a) In addition to the powers conferred upon the ports of Indiana by other provisions of this article, and subject to subsection (b), the ports of Indiana, in connection with any self-liquidating or nonrecourse project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(1) The revenue bonds issued by the ports of Indiana to finance the cost of such self-liquidating or nonrecourse project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(2) The revenue bonds issued by the ports of Indiana to finance the cost of such self-liquidating or nonrecourse project may be sold in such manner, either at public or private sale, as the ports of Indiana may determine, and the provisions of IC 21-32-3 shall not be applicable to such sale.

(3) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a self-liquidating or nonrecourse project.

(b) The issuance of revenue bonds by the ports of Indiana under this chapter is subject to the approval of the governor.

(Formerly: Acts 1969, c.292, s.2.) As amended by P.L.66-1984, SEC.19; P.L.224-2003, SEC.227 and P.L.271-2003, SEC.27; P.L.235-2005, SEC.112; P.L.232-2005, SEC.9; P.L.1-2006, SEC.154; P.L.2-2007, SEC.136; P.L.98-2008, SEC.46.

IC 8-10-4-3
Charges of lessees

Sec. 3. Any lease of a project may provide that the lessee, as its reasonable portion of the ports of Indiana's administrative expense incurred by the ports of Indiana during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the ports of Indiana for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the ports of Indiana.

(Formerly: Acts 1969, c.292, s.3.) As amended by P.L.66-1984, SEC.20; P.L.224-2003, SEC.228 and P.L.271-2003, SEC.28; P.L.98-2008, SEC.47.

IC 8-10-4-4
Valuation of land for project site

Sec. 4. The cost of any project may include, instead of the cost of the acquisition of the land constituting the site of such project, the value of such land as determined by the ports of Indiana. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

(Formerly: Acts 1969, c.292, s.4.) As amended by P.L.224-2003, SEC.229 and P.L.271-2003, SEC.29; P.L.98-2008, SEC.48.

IC 8-10-4-5
Contracts for use of license, process, or device

Sec. 5. The ports of Indiana may contract for the use of any license, process or device, whether patented or not, which the ports of Indiana finds is necessary for the operation of any project, and may permit the use thereof by any lessee on such terms and conditions as the ports of Indiana may determine. The cost of such license, process, or device may be included as part of the cost of the project.

(Formerly: Acts 1969, c.292, s.5.) As amended by P.L.224-2003, SEC.230 and P.L.271-2003, SEC.30; P.L.98-2008, SEC.49.

IC 8-10-4-6
Application of certain provisions

Sec. 6. The following provisions apply to this chapter:

(1) IC 8-10-1-4.
(2) IC 8-10-1-10.
(3) IC 8-10-1-13.
(4) IC 8-10-1-14.
(5) IC 8-10-1-15.

(6) IC 8-10-1-16.
(7) IC 8-10-1-19.
(8) IC 8-10-1-25.
(9) IC 8-10-1-27.
(10) IC 8-10-1-30.

As added by P.L.224-2003, SEC.231 and P.L.271-2003, SEC.31.

IC 8-10-5

Chapter 5. Creation of Port Authorities by Local Governments

IC 8-10-5-1

Definitions

Sec. 1. As used in this chapter:

(1) "Port authority" means a port authority created pursuant to authority of this chapter.

(2) The terms "port" or "harbor" may be used interchangeably and when used in this chapter shall mean any area used for servicing, storing, protecting, mooring, loading or unloading, or repairing any watercraft, on or adjacent to any body of water which may be wholly or partially within or wholly or partially adjacent to the state of Indiana. The terms include a breakwater area.

(3) The term "watercraft" shall mean any vessel, barge, boat, ship, tug, sailingcraft, skiff, raft, inboard or outboard propelled boat, or any contrivance known on March 13, 1959, or invented after March 13, 1959, used or designed for navigation of or use upon water, including a vessel permanently anchored in a port.

(4) "Publication" means publication once a week for two (2) consecutive weeks in a newspaper of general circulation in the city, county, or counties wherein such publication is required to be made.

(5) The term "governing body" shall mean the legislative authority of the governmental unit or units establishing or having established a port authority under the provisions of this chapter.

(Formerly: Acts 1959, c.343, s.1; Acts 1961, c.247, s.1.) As amended by P.L.66-1984, SEC.21; P.L.103-1993, SEC.1.

IC 8-10-5-2

Ordinance or resolution authorizing creation; actions by or against; contracts

Sec. 2. (a) Any municipal corporation, county, or any combination of a municipal corporation, municipal corporations, county, or counties may create a port authority and there may be created a port authority in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Such authority may operate in addition to any municipal authority that may be created under this chapter. A municipal corporation shall act by ordinance, and a county shall act by resolution of the county commissioners in authorizing the creation of a port authority. A port authority created hereunder shall be a body corporate and politic which may sue and be sued, plead and be impleaded, and shall have the powers and jurisdiction enumerated in this chapter. The exercise by such port authority of the powers conferred upon it shall be

deemed to be essential governmental functions of the state of Indiana, but no port authority shall be immune from liability by reason thereof.

(b) In the exercise of the powers and authorities herein granted said port authority shall have power to make and enter into any and all contracts that may be necessary to effectuate the purposes of this chapter. Except as otherwise expressly provided by this chapter, a contract made by a port authority is not subject to ratification by any other board, body, or officer.

(Formerly: Acts 1959, c.343, s.2; Acts 1961, c.247, s.2; Acts 1975, P.L.86, SEC.1.) As amended by P.L.12-1992, SEC.61; P.L.49-2010, SEC.1.

IC 8-10-5-3

Counties creating port authority; reimbursement of municipal corporations

Sec. 3. Any county, which seeks to create a port authority shall, prior to such creation of a port authority, and prior to the exercising of the hereinafter described rights, compensate in full the municipal corporations included in the territory of such county, in an amount of money equal to the waterfront investment of such municipal corporations in the territory or adjoining lands including but not limited to appropriations, expenditures, charges for materials used or labor performed by public officials or employees of said municipal corporation in the placing, construction, development, or improvement of land fills; waterfront shoreways or highways; bulkheads; connecting ways; tracts, breakwaters; soil erosion projects; harbor improvements; public beaches; boat harbor facilities; drainage systems; docks; bridges; wharves; piers; places; ways; buildings and appurtenances; sewers; public utility facilities for power, light, heat or water; dredging or channel improvement projects; communications systems; and lakefront improvements. Such municipal corporations may decline to demand compensation for any of the foregoing components of their waterfront investment and thereby retain their possession, custody, control, and property interest in the component for which no compensation is demanded.

Such compensation paid to the municipal corporation may not be derived or take origin directly or indirectly from levies, taxes, assessments, fees, or charges of any kind or nature which were imposed or will be imposed upon the citizens, electors or taxpayers of the municipal corporation which receives such compensation.

(Formerly: Acts 1959, c.343, s.3.)

IC 8-10-5-4

Surveys and examinations; dissolution of authority

Sec. 4. Any municipal corporation or county creating or participating in the creation of a port authority may expend funds not otherwise appropriated to defray the expense of surveys and

examinations incidental to the purposes of the port authority so created.

Subject to making due provisions for payment and performance of its obligations, a port authority may be dissolved by the subdivision or subdivisions creating it, and in such event the properties of the port authority shall be transferred to the subdivision creating it, or if created by more than one subdivision, to the subdivision creating it in such manner as may be agreed upon between such subdivisions.

(Formerly: Acts 1959, c.343, s.4.)

IC 8-10-5-5

Directors

Sec. 5. (a) A port authority created in accordance with the provisions of this chapter shall be governed by a board of directors. Except as provided in subsection (c), members of a board of directors of a port authority created by the exclusive action of a municipal corporation shall consist of the number of members it deems necessary and be appointed by the mayor with the advice and consent of the common council. Members of a board of directors of a port authority created by the exclusive action of a county shall consist of such members as it deems necessary and be appointed by the county commissioners of such county. Members of a board of directors of a port authority created by a combination of political subdivisions shall be divided among such political subdivisions in such proportions as such political subdivisions may agree and appointed in the same manner as this section provides for their appointment when such political subdivision creates its own port authority. When a port authority is created by a combination of political subdivisions, the number of directors composing the board shall be determined by agreement between such political subdivisions.

(b) In the case of a port authority created under section 2 of this chapter in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the board of directors shall consist of seven (7) members, three (3) of whom shall be appointed by the board of county commissioners, one (1) each by the mayors of the three (3) cities in the county having the largest populations, and the mayor of the city having the largest population shall appoint any remaining member or members. The board shall be appointed as follows:

(1) The mayors of the three (3) cities in the county having the largest populations shall each make one (1) appointment.

(2) The board of county commissioners shall make its three (3) appointments following the naming of the city appointees and appoint persons of such political faith as to make the board of directors a bipartisan body.

(3) If a city is entitled to a second appointment, the mayor shall make the appointment subject to retaining the board's bipartisan

status.

(4) In no event may more than three (3) board members residing in the same city serve on said board at the same time.

(5) In no event may more than four (4) members of one (1) political party serve on the board at the same time.

(c) This subsection applies to a port authority created under section 2 of this chapter by the exclusive action of a municipal corporation in a city having a population of more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000). The board of directors of the port authority consists of five (5) members appointed as follows:

(1) Three (3) members appointed by the mayor of the city.

(2) Two (2) members appointed by the legislative body of the city.

(d) The appointing authority may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

(e) At the time of appointment, a director must be a resident of one (1) of the following:

(1) The political subdivision from which the director is appointed.

(2) The county within which the port authority is established.

At all times, a majority of the directors must be residents of the political subdivisions from which the members are appointed.

(f) The directors of any port authority first appointed shall serve staggered terms. Thereafter each successor shall serve for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term and any director shall be eligible for reappointment.

(g) The directors shall elect one (1) of their membership as chairman, and another as vice chairman, and shall designate their terms of office, and shall appoint a secretary who need not be a director. A majority of the board of directors shall constitute a quorum the affirmative vote of which shall be necessary for any action taken by the port authority. No vacancy in the membership of the board shall impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

(h) Each member of the board of directors of a port authority shall be entitled to receive from the port authority such sum of money as the board of directors may determine as compensation for the member's service as director and reimbursement for the member's reasonable expenses in the performance of the member's duties.

(Formerly: Acts 1959, c.343, s.5; Acts 1975, P.L.86, SEC.2.) As amended by P.L.12-1992, SEC.62; P.L.68-1996, SEC.3; P.L.88-1997, SEC.1; P.L.119-2012, SEC.87.

IC 8-10-5-5.5
Expansion of jurisdiction; ordinances

Sec. 5.5. Any port authority that is created under this chapter may expand its jurisdiction to include any other unit (as defined in IC 36-1-2-23) that desires to join the expanded authority. The legislative body (as defined in IC 36-1-2-9) of each unit that is in the authority shall by ordinance determine the number of directors on the board of the expanded authority and any other terms of the expansion that it considers appropriate. The legislative body of each unit that desires to join the authority shall by ordinance agree to join the authority and to accept the terms of the ordinance that provides for the expansion.
As added by P.L.85-1988, SEC.1.

IC 8-10-5-6
Officers and employees

Sec. 6. A port authority shall employ and fix the qualifications, duties and compensation of such employees and professional help as it may require to conduct the business of the port and may appoint an advisory board which shall serve without compensation. Any employee may be suspended or dismissed, and the services of professional help may be terminated at any time by the port authority.
(Formerly: Acts 1959, c.343, s.6.)

IC 8-10-5-6.5
Retirement plans for port authority railroad employees

Sec. 6.5. (a) A port authority operating a railroad under this chapter may establish a retirement plan for the benefit of the port authority's railroad employees and past railroad employees who are not members of the public employees' retirement fund.

(b) If a port authority establishes a retirement plan under subsection (a), the port authority may do the following:

(1) Provide for the method, manner, and amount of contributions by the:

(A) port authority out of the port authority's railroad revenues or reserves; and

(B) railroad employees of the port authority, if required by the retirement plan.

(2) Create an account for the retirement plan and allocate to the account contributions sufficient to establish the retirement plan on a sound actuarial basis, including contributions for past services of employees.

(c) A retirement plan established under subsection (a) may not require contributions from an employee that exceed six percent (6%) of the employee's wages or salary.
As added by P.L.16-1998, SEC.1.

IC 8-10-5-7
Jurisdictional area

Sec. 7. The area of jurisdiction of a port authority shall include:

(1) all of the territory of the political subdivision or subdivisions creating it; and

(2) a facility that is owned or operated by the port authority, whether or not the facility is within the boundaries of the political subdivision or subdivisions that created the port authority;

however, the same area may not be included in the jurisdiction of more than one (1) port authority.

(Formerly: Acts 1959, c.343, s.7.) As amended by P.L.103-1993, SEC.2.

IC 8-10-5-8

Powers and duties

Sec. 8. (a) A port authority is an instrumentality of the state and shall have full power and authority independent of any political subdivision to do the following:

(1) Purchase, construct, sell, lease, and operate docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the port authority and make charges for the use thereof.

(2) Straighten, deepen, and improve any canal, channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of such port.

(3) Establish dock lines, piers, and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction of the port authority.

(4) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the port authority and determine the use of land adjacent to waters under the jurisdiction of the port authority within a reasonable distance from the shore lines of such waters. However, this subdivision does not:

(A) affect the requirement that special standards for the safe operation of watercraft on public waters must be adopted by rule by the department of natural resources under IC 14-15-7-3; or

(B) authorize the assessment by the port authority of a charge or fee for the passage of a watercraft through the navigable waters of the state.

(5) Acquire, own, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority.

(6) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and establish, operate, and maintain such foreign trade zones.

(7) Exercise the right of eminent domain to appropriate any

land, rights, rights-of-way, franchises, easements, or other property necessary or proper for the construction or the efficient operation of any facility of the port authority, award damages to landowners for real estate and property rights appropriated and taken or injuriously affected, and in case the board of directors of the port authority cannot agree with the owners, lessees, or occupants of any real estate selected by them for the purposes herein set forth, proceed to procure the condemnation of the same as hereinafter provided, and in addition thereto, when not in conflict or inconsistent with the express provisions of this chapter, proceed under the general laws of the state of Indiana governing the condemnation of lands and the rights-of-way for other public purposes which may be in force at the time, and the provisions of such laws are hereby extended to ports and harbors and to the properties of port authorities as provided for herein so far as the same are not in conflict or inconsistent with the terms of this chapter. In any such proceeding prosecuted by the board of directors of a port authority to condemn or appropriate any land or the use thereof or any right therein for purposes permitted by this chapter, the board and all owners and holders of property or rights therein sought to be taken shall be governed by and have the same rights as to procedure, notices, hearings, assessments of benefits and awards, and payments thereof as are now or may hereafter be prescribed by law for the appropriation and condemnation of real estate, and such property owners shall have like powers and rights as to remonstrance and of appeals to the circuit or superior courts in the county in which such property sought to be appropriated is located. However, the payment of all damages awarded for all lands and property or interests or rights therein appropriated under the provisions of this chapter shall be paid entirely out of funds under the control of such port authority, except for the following:

(A) Upon written application of any property owner affected, any municipal corporation, or, as to areas outside the boundaries of a municipal corporation, any county, participating in the creation of a port authority, after ten (10) days written notice to the port authority and public hearing had thereon, may revoke the right of eminent domain to be exercised by the port authority as to any parcel or parcels of land inside its borders within sixty (60) days after the port authority has by resolution announced the lands, rights, rights-of-way, franchises, easements, or other property to be taken.

(B) Nothing herein contained shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the

operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier, for the payment of compensation, if any at the sole cost of the port authority, subject to the following:

(i) If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(ii) Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority.

(8) Accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of a port or harbor or other navigation facilities, and sites therefor and comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such ports and other navigation facilities.

(9) Maintain such funds as it deems necessary.

(10) Direct its agents or employees, when properly identified in writing, and after at least five (5) days written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done.

(11) Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority.

(12) Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port.

(13) Borrow money and secure the borrowing by a pledge of the following:

(A) Accounts receivable.

(B) A security interest in capital equipment for which the proceeds of the loan are used.

(C) Other security, including the excess of unobligated revenues over operating expenses.

(b) The term of a loan authorized by subsection (a)(13) may not exceed:

(1) thirty-five (35) years, in the case of a loan made before July 1, 2011; or

(2) twenty-five (25) years, in the case of a loan made after June 30, 2011.

(Formerly: Acts 1959, c.343, s.8; Acts 1965, c.390, s.1.) As amended by Acts 1979, P.L.89, SEC.1; Acts 1981, P.L.11, SEC.52; P.L.103-1993, SEC.3; P.L.1-1995, SEC.56; P.L.49-2010, SEC.2; P.L.229-2011, SEC.100.

IC 8-10-5-8.1
Railroad right-of-way; powers

Sec. 8.1. In addition to the other powers granted under this chapter, the port authority may contract for, accept, or otherwise acquire and maintain railroad property and rights-of-way. The port authority may accept and expend funding from any source, and may issue revenue bonds, for the construction, operation, and maintenance of the property and rights-of-way and the lease or purchase of all necessary equipment and appurtenances to successfully operate a railroad over the rights-of-way. The powers granted, and procedures provided for, by this chapter shall extend to any authority created pursuant to this chapter even though the railroad facilities will not serve a port or harbor.

As added by Acts 1977, P.L.109, SEC.1. Amended by Acts 1979, P.L.89, SEC.2; Acts 1981, P.L.74, SEC.3; P.L.85-1988, SEC.2.

IC 8-10-5-8.5
Powers of port authorities in certain counties

Sec. 8.5. Port authorities created in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), shall have all the powers of port authorities provided under section 8 of this chapter except the power to exercise eminent domain as provided in section 8(a)(7) of this chapter in any city having a population of:

(1) more than eighty thousand five hundred (80,500) but less than one hundred thousand (100,000); or

(2) more than twenty-nine thousand six hundred (29,600) but less than twenty-nine thousand nine hundred (29,900).

(Formerly: Acts 1975, P.L.86, SEC.3.) As amended by P.L.12-1992, SEC.63; P.L.170-2002, SEC.63; P.L.1-2003, SEC.49; P.L.49-2010, SEC.3; P.L.119-2012, SEC.88.

IC 8-10-5-8.7
Bonding

Sec. 8.7. (a) The board of directors may, by resolution, recommend to the governing body of the municipality or municipalities creating the port authority that they authorize general obligations, mortgage, or revenue bonds for any one (1) or more of the following purposes:

(1) To acquire or improve port or harbor sites.

(2) To acquire, construct, extend, alter, or improve structures, ways, facilities, or equipment necessary for the proper operation of the port authority or the port or harbor within its jurisdiction.

(3) To refund outstanding bonds and matured interest coupons and issue and sell refunding bonds for that purpose.

(b) Before making a recommendation authorized by subsection (a), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days before the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county, counties, or other municipalities involved, a notice of the date, time, place, and purpose of the hearing. If there is only one (1) newspaper, one (1) notice is sufficient.

(c) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 applies as fully to mortgage bonds as to general obligation or revenue bonds.

(d) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.

(e) The governing body shall fix the date, time, and place of payment of principal and interest, but no issue may have a maturity date later than:

(1) forty (40) years after date of issue, in the case of bonds issued before July 1, 2011; or

(2) twenty-five (25) years after date of issue, in the case of bonds issued after June 30, 2011.

(f) Bonds issued under this chapter, together with the interest thereon, are tax exempt.

(g) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest on the bonds.

(h) This chapter does not affect obligations existing before July 1, 2010, on outstanding bonds. If a board of directors or a port authority is discontinued, as provided in section 4 of this chapter, the primary obligations on its bonds remain unaffected. In addition, the city or county or municipalities involved in the issuance of bonds shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion in the bonds.

As added by P.L.49-2010, SEC.4. Amended by P.L.229-2011, SEC.101.

IC 8-10-5-8.9
Royalty contracts

Sec. 8.9. With the approval of the governing body creating it, a port authority may sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns. Money received from these sources shall be deposited in the nonreverting capital fund of the port authority.
As added by P.L.49-2010, SEC.5.

IC 8-10-5-9
Maps, plans, and profiles for future development; hearings; objections

Sec. 9. The board of directors of a port authority shall prepare or cause to be prepared a plan for the future development, construction, and improvement of the port and its facilities, including such maps, profiles, and other data and descriptions as may be necessary to set forth the location and character of the work to be undertaken by the port authority. Upon the completion of such plan, the board of directors shall cause notice by publication as provided in section 1 of this chapter, to be given in each county in which there is a political subdivision participating in the creation of the port authority, and shall likewise cause notice to be served upon the owners of the uplands contiguous to any submerged lands affected by such plan in the manner provided by law for service of notice in the levy of special assessments by municipal corporations, and shall permit the inspection thereof at their office by all persons interested. Said notice shall fix the time and place for the hearing of all objections to said plan which time shall be not less than ten (10) nor more than thirty (30) days from the date of last publication of said notice. Any interested person may file written objections to such plan, provided such objections are filed with the secretary of the board of directors at his office not less than five (5) days prior to the date fixed for said hearing. After said hearing, the board of directors may adopt such plan with any modifications or amendments thereto as the official plan of the port authority.
(Formerly: Acts 1959, c.343, s.9; Acts 1961, c.247, s.3.) As amended by P.L.66-1984, SEC.22.

IC 8-10-5-10
Modification, amendment, or extension of development plan

Sec. 10. The board of directors shall, from time to time after the adoption of said official plan, have the power to modify, amend, or extend the same, provided that upon the making of any such modification, amendment, or extension thereof, the board of directors shall cause notice to be given and shall conduct a hearing, all as provided in section 9 of this chapter, and shall not adopt any modification, amendment, or extension until the notice has been given and the hearing held as herein provided in this chapter.
(Formerly: Acts 1959, c.343, s.10.) As amended by P.L.66-1984, SEC.23.

IC 8-10-5-11
Modification, amendment, or extension of development plan; conclusiveness

Sec. 11. The plan and any modification, amendment or extension thereof, when adopted by the board of directors after notice and hearing shall be final and conclusive and its validity shall be conclusively presumed.

(Formerly: Acts 1959, c.343, s.11.)

IC 8-10-5-12
Private enterprise; participation in construction and operation of facilities

Sec. 12. The port authority shall foster and encourage the participation of private enterprise in the development of the port facilities to the fullest extent it deems practicable in the interest of limiting the necessity of construction and operation of such facilities by the port authority. In this respect the port authority may upon its own motion or upon the written request of any other party advertise and solicit for the construction, operation and/or maintenance of any facility included in the development plan in accordance to plans, specifications and regulations therefor prepared by the board of directors.

It is further provided that in the event the board of directors deems it advisable and practicable, said board may cause certain facilities included in the development plan to be installed by private enterprise and leased back to the port authority on an instalment contract or option to purchase. The exercise of any power granted to the port authority under the provisions of this section shall be consummated and regulated in accordance with detailed provisions set out and enacted into proper legislation by the governing body or governing bodies creating such port authority.

(Formerly: Acts 1959, c.343, s.12; Acts 1961, c.247, s.4.)

IC 8-10-5-13
Revenue bonds; issuance and sale

Sec. 13. (a) Whenever a port authority, which was created or which shall be hereafter created by a city, town or county acting as a singular government unit or which after its creation has come under the jurisdiction of a city, town, or county as a singular government unit, has been authorized by the governing body of the city, town, or county to issue and sell revenue bonds for the purpose of obtaining funds with which to construct, purchase, lease, operate, maintain, or improve facilities included in the development plan or amendment thereof, the revenue bonds shall be:

(1) issued in the name of the city, town, or county;

(2) executed by the executive of the city, town, or county and the chairman of the board of directors of the port authority; and

(3) attested to by the clerk or clerk-treasurer of the city or town

or auditor if a county.

(b) In authorizing revenue bonds and providing for the issuance and sale thereof, the governing body of the city, town, or county shall, by ordinance, consistent with pertinent statutes, provide all necessary details concerning the form and tenor of the revenue bonds, the amount thereof, the maturity dates, the provision for payment of principal and interest, the negotiability, and all other details, requirements, regulations, or specifications necessary to make the revenue bonds acceptable and legal instruments.

(c) The governing body shall, in its ordinance, make provision for the expenditure of the funds derived from the sale of the revenue bonds in accordance with the purposes for which the issuance and sale was authorized. The governing body shall specifically provide for the allocation of income and revenue of the port authority into the fund or funds as may be necessary to properly secure the accumulation of money in a separate account or accounts for use in the payment of principal and interest of the revenue bonds as they become due and payable.

(Formerly: Acts 1959, c.343, s.12a; Acts 1961, c.247, s.5.) As amended by Acts 1981, P.L.74, SEC.4; P.L.8-1989, SEC.52.

IC 8-10-5-14

Miscellaneous provisions

Sec. 14. Nothing contained in this chapter shall:

(a) impair the provisions of law or ordinance directing the payment of revenues derived from public property into sinking funds or dedicating such revenues to specific purposes;

(b) impair the powers of any county, township, or municipal corporation to develop or improve port and terminal facilities; or

(c) impair or interfere with the exercise of any permit for the removal of sand or gravel, or other similar permits issued by this state or the United States.

(Formerly: Acts 1959, c.343, s.13.) As amended by P.L.66-1984, SEC.24.

IC 8-10-5-15

Bids and bidding; construction contracts and lease or sale of land or property

Sec. 15. Contracts for the creation, construction, alteration, or repair of any building, structure, or other improvement undertaken by a port authority created in accordance with this chapter shall be let in accordance with IC 36-1-12. No lease or sale of any lands or property shall be made by the port authority unless notice calling for bids for the same shall have been given by publication as provided by this chapter. No such lease or sale shall be made, except to the highest and best bidder. In the case of any lease or sale of land by the port authority, specifications for the bids for such lease or sale shall

be in such form and detail as shall be determined by the port authority.

(Formerly: Acts 1959, c.343, s.14; Acts 1965, c.390, s.2.) As amended by Acts 1979, P.L.89, SEC.3; Acts 1981, P.L.57, SEC.20.

IC 8-10-5-16

Budget; rates and charges

Sec. 16. The board of directors of a port authority shall annually prepare a budget for the port authority.

Rents and charges received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. If there remains, at the end of any calendar year, any surplus of such funds after providing for the above uses, the board of directors may pay such surplus into the general funds of the political subdivisions creating and comprising the port authority in proportions to the taxable value of all property within the port authority which shall be listed on the general tax lists for the respective subdivisions.

(Formerly: Acts 1959, c.343, s.15.)

IC 8-10-5-17

Cumulative channel maintenance fund; establishment; tax levies; docking and launch fees

Sec. 17. (a) The board of directors of any port authority may, by resolution, recommend to any municipal corporation or county that a cumulative channel maintenance fund be established under IC 6-1.1-41 to provide funds for the:

(1) dredging of channels;

(2) cleaning of channels and shores of debris and any other pollutants;

(3) purchase, renovation, construction, or repair of bulkheads, pilings, docks, and wharves;

(4) purchase and development of land adjoining channels within the jurisdiction of the port authority and which land is necessary to the fulfillment of the plan adopted by the port authority for the future development, construction, and improvement of its facilities. The purchased and developed land shall be available to the residents of the taxing district without further charge; or

(5) regulation and enforcement of regulation of all uses and activities related to waters that are under the jurisdiction of the port authority.

(b) To provide for the cumulative channel maintenance fund:

(1) a county, city, or town fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) on all taxable property within the county, town, or city; and

(2) a city described in sections 22(a) and 23(a) of this chapter may impose the following:

(A) An annual docking fee under section 22 of this chapter.
(B) A marina launch fee under section 23 of this chapter.

(c) The revenue from a tax, an annual docking fee, or a marina launch fee collected under subsection (b) shall be held in the cumulative channel maintenance fund established under subsection (a).

(Formerly: Acts 1959, c.343, s.16; Acts 1972, P.L.67, SEC.1.) As amended by Acts 1981, P.L.11, SEC.53; P.L.8-1989, SEC.53; P.L.17-1995, SEC.7; P.L.6-1997, SEC.133; P.L.34-2004, SEC.1.

IC 8-10-5-18
Bond of secretary; depositories; disbursement of funds

Sec. 18. Before receiving any moneys, the secretary of a port authority shall furnish bond in such amount as shall be determined by the port authority, with sureties satisfactory to it, and all funds coming into the hands of said secretary shall be deposited by him to the account of the port authority in one (1) or more depositories as shall be qualified to receive deposits of funds, in the same manner as is done by the city or county creating such port authority, which deposits shall be secured in the same manner as such city or county funds are required to be secured. No disbursements shall be made from such funds except in accordance with rules and regulations adopted by the port authority.

(Formerly: Acts 1959, c.343, s.17; Acts 1965, c.390, s.3.)

IC 8-10-5-19
Emergency measure

Sec. 19. This chapter is hereby declared to be an emergency measure, necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity lies in the fact that the provisions of this chapter should become effective immediately in order to permit the prompt organization of port authorities to take advantage of the St. Lawrence Seaway project authorized by the Congress, thereby advancing the interests and the welfare of the state of Indiana and its citizens.

(Formerly: Acts 1959, c.343, s.18.) As amended by P.L.66-1984, SEC.25.

IC 8-10-5-20
Contracts; purchase, lease, or acquisition of land or other property

Sec. 20. The board of directors of a port authority may enter into such contracts or other arrangements with the United States government, or any department thereof, with persons, railroads, or other corporations, with public corporations, and with the state government of this or other states, with counties, municipalities, townships, or other governmental agencies created by or under the authority of the laws of the state of Indiana, including sewerage, drainage, conservation, conservancy, or other improvement districts

in this or other states as may be necessary or convenient for the exercise of powers granted by the provisions of this chapter, including the making of surveys, investigations, or reports thereon, provided that such contracts or arrangements shall not be in violation of the Indiana Constitution. The board of directors may purchase, lease, or acquire land or other property in any county of the state of Indiana and in adjoining states for the accomplishment of an authorized purpose of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction, and may let contracts or spend money for making such improvements or development of port facilities in adjoining states. *(Formerly: Acts 1959, c.343, s.19.) As amended by P.L.66-1984, SEC.26.*

IC 8-10-5-21
Repealed

(Repealed by Acts 1975, P.L.86, SEC.4.)

IC 8-10-5-22
Application of section; annual watercraft fee; watercraft fee decal

Sec. 22. (a) This section applies to a city that:

(1) creates; or

(2) participates in the creation of;

a port authority created under this chapter that includes a channel that is ordinarily navigable to Lake Michigan.

(b) The fiscal body of a city described in subsection (a) may impose an annual docking fee upon each watercraft that is docked for more than twenty-nine (29) days during a year in waters that are under the jurisdiction of a port authority under this chapter.

(c) An annual docking fee imposed under this section shall be:

(1) not more than seventy-five cents ($0.75) per foot for watercraft of thirty (30) feet or less; and

(2) not more than one dollar and fifty cents ($1.50) per foot for watercraft over thirty (30) feet.

(d) A marina, dock, or port:

(1) located on waters that are under the jurisdiction of a port authority created by a city under this chapter; and

(2) where a watercraft is docked;

shall collect the annual docking fee imposed on the watercraft under this section. Not later than the fifteenth day of each month, each marina, dock, or port shall remit to the city fiscal officer the amount of fees collected under this section during the immediately preceding month.

(e) Annual docking fees imposed under this section by a city described in subsection (a) shall be deposited in the cumulative channel maintenance fund established under section 17 of this chapter.

(f) Upon collecting an annual docking fee imposed on a watercraft

under this section, a marina, dock, or port shall issue to the owner of the watercraft a decal that indicates the year for which the fee under this section has been paid.

(g) The decal issued under subsection (f) must be displayed on the watercraft during the year for which the decal is issued. A watercraft that displays a valid annual docking fee decal under this subsection is not subject to:

(1) annual docking fees imposed at other marinas, docks, or ports under this section; and

(2) marina launch fees imposed under section 23 of this chapter.

(h) The general assembly finds that in port authorities that include a channel that is ordinarily navigable to Lake Michigan there exist unique problems related to necessary dredging and cleaning of channels used by boats that operate on the Great Lakes. These unique problems may be alleviated by the authorization of a docking fee under this section.

As added by P.L.60-1992, SEC.2. Amended by P.L.170-2002, SEC.64; P.L.34-2004, SEC.2.

IC 8-10-5-23

Per launch watercraft fee; deposit of fees; watercraft fee decal

Sec. 23. (a) The fiscal body of a city that creates or participates in the creation under this chapter of a port authority that includes a channel that is ordinarily navigable to Lake Michigan may impose a marina launch fee for a watercraft that is launched from a marina, dock, or port located on waters that are under the jurisdiction of the port authority created by the city.

(b) The owner of a watercraft subject to a fee under this section shall pay one (1) of the following:

(1) A launch fee of one dollar ($1) per launch.

(2) An annual marina launch fee of:

(A) seventy-five cents ($0.75) per foot for a watercraft of thirty (30) feet or less in length; or

(B) one dollar and fifty cents ($1.50) per foot for watercraft over thirty (30) feet in length.

(c) A marina, dock, or port:

(1) located on waters that are under the jurisdiction of a port authority created by a city under this chapter; and

(2) from which a watercraft is launched;

shall collect the marina launch fee imposed on the watercraft under this section. Not later than the fifteenth day of each month, each marina, dock, or port shall remit to the city fiscal officer the amount of fees collected under this section during the immediately preceding month.

(d) The marina launch fees imposed under this section by a city described in subsection (a) shall be deposited in the cumulative channel maintenance fund established under section 17 of this chapter.

(e) Upon collecting a fee under this section, a marina, dock, or port shall issue to the person who owns the watercraft:

(1) a paper permit that indicates the day for which the fee was paid, in the case of a one (1) time marina launch fee; or

(2) a decal that indicates the year for which the fee was paid, in the case of an annual marina launch fee.

(f) The decal or permit issued under subsection (e) must be displayed on the watercraft during the period for which the decal or permit is issued. A watercraft that displays a valid annual marina launch decal or permit under this subsection is not subject to an annual watercraft docking fee imposed under section 22 of this chapter.

(g) The general assembly finds that in port authorities that include a channel that is ordinarily navigable to Lake Michigan there exist unique problems related to necessary dredging and cleaning of channels used by boats that operate on the Great Lakes. These unique problems may be alleviated by the authorization of a launch fee under this section.

As added by P.L.34-2004, SEC.3.

IC 8-10-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-10-7
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-10-8
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-10-9

Chapter 9. Waterway Management Districts

IC 8-10-9-1

Application of chapter

Sec. 1. This chapter applies to a city having a population of more than twenty-nine thousand six hundred (29,600) but less than twenty-nine thousand nine hundred (29,900).

As added by P.L.56-1994, SEC.2. Amended by P.L.170-2002, SEC.65; P.L.119-2012, SEC.89.

IC 8-10-9-2

Definitions

Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Confined disposal facility" means a structure, an enclosure, a receptacle, or a disposal area established:

(1) by an agency or instrumentality of the state or federal government; and

(2) for the purpose of storing, retaining, disposing of, isolating, or holding dredgings or excavated material from the banks or bottom of a waterway;

within a district created by this chapter.

(c) "District" means a waterway management district established under section 3 of this chapter.

(d) "Waterway" means a canal, river, channel, or stream that is navigable for a substantial portion of its length by boats, barges, ships, or other watercraft for both commercial and recreational purposes.

As added by P.L.56-1994, SEC.2.

IC 8-10-9-3

Establishment of district; boundaries

Sec. 3. (a) There is established in each city to which this chapter applies a waterway management district.

(b) The district includes all territory, including both dry land and water, within a distance of one-half (1/2) mile on either side of the center line of any waterway within the city in which the district is established, excluding the land and water occupied by any marina owned by a unit of government located in the corridor (as defined in IC 36-7-13.5-1).

(c) The district boundary is formed by an imaginary line one-half (1/2) mile distant from the center line of a waterway in all directions. However, the boundary of the district does not extend beyond the boundaries of the city in which the district is located in those areas where the city boundary is located less than one-half (1/2) mile from the center line of a waterway.

As added by P.L.56-1994, SEC.2. Amended by P.L.1-1995, SEC.57;

P.L.197-2011, SEC.34.

IC 8-10-9-4
Powers and jurisdiction of district

Sec. 4. (a) The district is a body corporate and politic that may sue or be sued and plead and be impleaded. The district has the powers and jurisdiction provided in this chapter.

(b) The exercise by the district of the district's powers is an essential governmental function of the state and the city in which the district is located, but the district is not immune from liability.

As added by P.L.56-1994, SEC.2.

IC 8-10-9-5
Purposes of district

Sec. 5. The district is established for the following purposes:

(1) To manage and supervise, in conjunction with other state and federal authorities, the industrial, commercial, and recreational development of the waterways in the city in which the district is formed.

(2) To assist other agencies of local, state, and federal governments to manage, maintain, and promote the use of the waterways in the city in which the district is formed.

(3) To foster use of the canal in an environmentally responsible manner.

(4) To provide for the orderly planning for waterways.

(5) To plan for, develop, and maintain roads, bridges, approaches, locks, gates, and other structures in connection with a waterway within the jurisdiction of the district consistent with the obligations and jurisdiction of other agencies of the federal or state government.

(6) It is the goal of the waterway projects and activities performed under this chapter to improve the commercial and recreational use of waterways in an environmentally sound manner, and to promote the economic development of the city in which the district is located.

As added by P.L.56-1994, SEC.2.

IC 8-10-9-6
Board of directors; members

Sec. 6. (a) The district shall be governed by a board of directors consisting of seven (7) members, four (4) of whom are appointed by the executive of the city in which the district is formed, two (2) of whom are appointed by the governor, and one (1) of whom is appointed by the legislative body of the city in which the district is formed.

(b) Members of the board serve terms of three (3) years. A member's term may be extended by any partial term to which the member was appointed to fill a vacancy.

(c) Five (5) members of the board of directors must be qualified electors of the city in which the district is formed. Two (2) members need not be residents of the city in which the district is formed but shall be representatives of property owners of land that borders waterways within the district. One (1) of the two (2) members shall be among the members appointed by the mayor, and one (1) shall be among the members appointed by the governor.

(d) The appointing authority shall fill all vacancies of members appointed by that authority.

As added by P.L.56-1994, SEC.2.

IC 8-10-9-7

Board of directors; meetings; records; quorum

Sec. 7. (a) The board of directors shall meet in a public place within the city in which the district is formed after giving notice.

(b) The board shall annually elect one (1) of its members as president and another member as vice president. The board shall designate a secretary who need not be a member of the board.

(c) The board shall cause a detailed written record to be kept in the form of minutes of all of the board's meetings, and the board shall meet at least four (4) times annually.

(d) A majority of the board members actually serving constitutes a quorum for any purpose.

As added by P.L.56-1994, SEC.2.

IC 8-10-9-8

Board of directors; powers and duties

Sec. 8. The board of directors of a district has and may exercise the following powers and duties:

(1) To manage and supervise, to the extent permitted by the laws of the state or the United States, the development of waterways and of related roads, highways, bridges, locks, and structures within the jurisdiction of the district.

(2) To assist other agencies of state and local government having jurisdiction over the waterways within the district.

(3) To enter into contracts in furtherance of the district's purposes including, without limitation, the construction and maintenance of waterway related facilities, including wastewater pre-treatment plants, pumps, wells, locks, wharves, piers, bridges, roads, highways, confined disposal facilities, and similar structures.

(4) To employ a professional staff to assist the board in carrying out its duties and to engage consultants, attorneys, accountants, and other professional personnel who are necessary to carry out the duties of the board.

(5) To prepare a budget annually, and to appropriate funds for the discharge of the district's purposes and duties; provided that the district shall neither appropriate nor expend any funds to

support the construction, operation, or maintenance of any casino gaming boat, dock, or related facility.

(6) To raise funds by the imposition of user fees for waterways and public facilities in the district's jurisdiction subject to the following:

(A) The fees shall not exceed one hundred thousand dollars ($100,000) per year for the state fiscal years beginning July 1, 1994, and July 1, 1995.

(B) The fees shall not exceed two hundred thousand dollars ($200,000) per year for the state fiscal year beginning July 1, 1996.

(C) The fees shall not exceed three hundred thousand dollars ($300,000) per year for the state fiscal year beginning July 1, 1997.

(D) The fees shall not exceed four hundred thousand dollars ($400,000) per year for the state fiscal year beginning July 1, 1998.

(E) The fees shall not exceed five hundred thousand dollars ($500,000) per year thereafter.

(F) The fees shall be deposited into a nonreverting fund to be expended by the district in the discharge of its functions.

These fees shall be imposed on all owners of property adjacent to waterways and users of waterways and may not exceed seventy-five thousand dollars ($75,000) per year for any single owner or user.

(7) To act as a local sponsoring agency under contract or memorandum of understanding with any private party or any agency of the state government or the government of the United States in furtherance of the purposes, powers, and duties of the district.

(8) To accept grants, transfers, payments, or other conveyances of money or property in the capacity of a trustee or fiduciary in a special nonreverting fund under terms agreeable by the district and by the person, entity, individual, or agency providing the money or property for the purpose of:

(A) managing funds for the cleanup, environmental remediation, and closure of any real property on or adjacent to the waterway within the district; or

(B) establishing waste water pre-treatment plants, pumps, related equipment, and other structures, equipment, and fixtures required to maintain a confined disposal facility or similar structure on or near any waterway within the jurisdiction of the district.

(9) To perform studies and establish plans for the use and development of waterways within the district's jurisdiction in an environmentally responsible manner.

(10) To acquire and dispose of real or personal property by grant, gift, purchase, lease, devise, or otherwise.

(11) To hold, use, improve, maintain, operate, own, manage, or

lease (as lessor or lessee) real or personal property, or any interest in that property.

(12) To act, when requested, as a coordinating agency for programs and activities of other public and private agencies that are related to its purposes.

As added by P.L.56-1994, SEC.2.

IC 8-11

ARTICLE 11. REPEALED

(Repealed by P.L.18-1990, SEC.299.)

ARTICLE 12. REPEALED

(Repealed by P.L.18-1990, SEC.299.)

IC 8-13

ARTICLE 13. REPEALED

(Repealed by P.L.18-1990, SEC.299.)

IC 8-14

ARTICLE 14. HIGHWAY FINANCES

IC 8-14-1

Chapter 1. Motor Vehicle Highway Account Act

IC 8-14-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 11 of this chapter by P.L.116-1989 applies to all accounts receivable that are found to be uncollectible on July 1, 1989, and to accounts that are found to be uncollectible after June 30, 1989.

As added by P.L.220-2011, SEC.198.

IC 8-14-1-1

Definitions

Sec. 1. As used in this chapter:

(1) "Motor vehicle highway account" means the account of the general fund of the state known as the "motor vehicle highway account" to which is credited collections from motor vehicle registration fees, licenses, driver's and chauffeur's license fees, gasoline taxes, auto transfer fees, certificate of title fees, weight taxes or excise taxes and all other similar special taxes, duties or excises of all kinds on motor vehicles, trailers, motor vehicle fuel, or motor vehicle owners or operators. The account also includes amounts distributed to the fund under IC 9-29.

(2) The term "department" refers to the Indiana department of transportation.

(3) The term "highways" includes roadway, rights of way, bridges, drainage structures, signs, guard rails, protective structures in connection with highways, drains, culverts, and bridges and the substructure and superstructure of bridges and approaches thereto and streets and alleys of cities or towns.

(4) The term "construction" means the planning, supervising, inspecting, actual building, draining, and all expenses incidental to the construction of a highway.

(5) The term "reconstruction" means a widening or a rebuilding of the highway or any portion thereof.

(6) The term "maintenance" when used in reference to cities, towns, and counties as applied to that part of the highway other than bridges, means the constant making of needed repairs, to preserve a smooth surfaced highway, adequately drained, marked and guarded by protective structures for public safety and, as to bridges, means the constant making of needed repairs to preserve a smooth surfaced highway thereon and the safety and preservation of the bridge and its approaches, together with the substructure and superstructure thereof; and such term also means and includes the acquisition and use, in any manner, of

all needed equipment, fuel, materials, and supplies essential and incident thereto.

(7) The term "vehicle registration" means the number of vehicles subject to registration under IC 9-18 which are registered thereunder, and, when used with respect to the state, shall mean the number of vehicles registered in the state and, when used in respect to a county, city, or town, shall mean the number of vehicles registered by owners resident in the county, city, or town.

(Formerly: Acts 1941, c.168, s.1.) As amended by Acts 1980, P.L.74, SEC.213; P.L.18-1990, SEC.106; P.L.2-1991, SEC.59; P.L.145-2011, SEC.2; P.L.216-2014, SEC.8.

IC 8-14-1-2
Public policy; budget management; political subdivisions

Sec. 2. It is hereby declared to be the policy of the state of Indiana that:

(1) the net amount in the motor vehicle highway account shall be budgeted for programs of traffic safety and for the construction, reconstruction, improvement, and maintenance of the highways of the state;

(2) a fair distribution thereof shall be made between the department and subordinate political subdivisions having jurisdiction of highways of the state;

(3) the funds allotted shall be used in accordance with the policy herein declared and the provisions of this chapter; and

(4) the funds allocated to counties, cities, and towns from such motor vehicle highway account shall be budgeted as provided by law, and such county budgets shall be referred to the county council for approval, revision, or reduction.

(Formerly: Acts 1941, c.168, s.2.) As amended by Acts 1980, P.L.74, SEC.214; Acts 1981, P.L.41, SEC.48; P.L.205-2013, SEC.133.

IC 8-14-1-2.5
Repealed

(Repealed by P.L.59-1985, SEC.38.)

IC 8-14-1-3
Allocations; basis for distribution

Sec. 3. The money collected for the motor vehicle highway account fund and remaining after refunds and the payment of all expenses incurred in the collection thereof, and after the deduction of the amount appropriated to the department for traffic safety, shall be allocated to and distributed among the department and subdivisions designated as follows:

(1) Of the net amount in the motor vehicle highway account the auditor of state shall set aside for the cities and towns of the state fifteen percent (15%) thereof. This sum shall be allocated

to the cities and towns upon the basis that the population of each city and town bears to the total population of all the cities and towns and shall be used for the construction or reconstruction and maintenance of streets and alleys and shall be annually budgeted as now provided by law. However, no part of such sum shall be used for any other purpose than for the purposes defined in this chapter. If any funds allocated to any city or town shall be used by any officer or officers of such city or town for any purpose or purposes other than for the purposes as defined in this chapter, such officer or officers shall be liable upon their official bonds to such city or town in such amount so used for other purposes than for the purposes as defined in this chapter, together with the costs of said action and reasonable attorney fees, recoverable in an action or suit instituted in the name of the state of Indiana on the relation of any taxpayer or taxpayers resident of such city or town. A monthly distribution thereof of funds accumulated during the preceding month shall be made by the auditor of state.

(2) Of the net amount in the motor vehicle highway account, the auditor of state shall set aside for the counties of the state thirty-two percent (32%) thereof. However, as to the allocation to cities and towns under subdivision (1) and as to the allocation to counties under this subdivision, in the event that the amount in the motor vehicle highway account fund remaining after refunds and after the payment of all expenses incurred in the collection thereof shall be less than twenty-two million six hundred and fifty thousand dollars ($22,650,000) in any fiscal year, then the amount so set aside in the next calendar year for distributions to counties shall be reduced fifty-four percent (54%) of such deficit and the amount so set aside for distribution in the next calendar year to cities and towns shall be reduced thirteen percent (13%) of such deficit. Such reduced distributions shall begin with the distribution January 1 of each year.

(3) The amount set aside for the counties of the state under the provisions of subdivision (2) shall be allocated monthly upon the following basis:

(A) Five percent (5%) of the amount allocated to the counties to be divided equally among the ninety-two (92) counties.

(B) Sixty-five percent (65%) of the amount allocated to the counties to be divided on the basis of the ratio of the actual miles, now traveled and in use, of county roads in each county to the total mileage of county roads in the state, which shall be annually determined, accurately, by the department and submitted to the auditor of state before April 1 of each year.

(C) Thirty percent (30%) of the amount allocated to the

counties to be divided on the basis of the ratio of the motor vehicle registrations of each county to the total motor vehicle registration of the state.

All money so distributed to the several counties of the state shall constitute a special road fund for each of the respective counties and shall be under the exclusive supervision and direction of the board of county commissioners in the construction, reconstruction, maintenance, or repair of the county highways or bridges on such county highways within such county.

(4) Each month the remainder of the net amount in the motor vehicle highway account shall be credited to the state highway fund for the use of the department.

(5) Money in the fund may not be used for any toll road or toll bridge project.

(6) Notwithstanding any other provisions of this section, money in the motor vehicle highway account fund may be appropriated to the Indiana department of transportation from the forty-seven percent (47%) distributed to the political subdivisions of the state to pay the costs incurred by the department in providing services to those subdivisions.

(7) Notwithstanding any other provisions of this section or of IC 8-14-8, for the purpose of maintaining a sufficient working balance in accounts established primarily to facilitate the matching of federal and local money for highway projects, money may be appropriated to the Indiana department of transportation as follows:

(A) One-half (1/2) from the forty-seven percent (47%) set aside under subdivisions (1) and (2) for counties and for those cities and towns with a population greater than five thousand (5,000).

(B) One-half (1/2) from the distressed road fund under IC 8-14-8.

(Formerly: Acts 1941, c.168, s.3; Acts 1943, c.221, s.1; Acts 1945, c.275, s.1; Acts 1949, c.270, s.1; Acts 1965, c.223, s.1.) As amended by Acts 1980, P.L.74, SEC.215; Acts 1981, P.L.41, SEC.49; P.L.113-1983, SEC.1; P.L.18-1990, SEC.107; P.L.2-1990, SEC.10; P.L.205-2013, SEC.134; P.L.261-2013, SEC.40; P.L.2-2014, SEC.33.

IC 8-14-1-4

County allocations; budgeting; permissible use of funds; county allocation

Sec. 4. The funds allocated to the respective counties of the state from the motor vehicle highway account shall annually be budgeted as provided by law, and, when distributed shall be used for construction, reconstruction and maintenance of the highways of the respective counties, including highways which traverse the streets of

incorporated towns, the cost of the repair and maintenance of which prior to the tenth day of September, 1932, was paid from the county gravel road repair fund excepting where the department is charged by law with the maintenance or construction of any such highway so traversing such streets. Any surplus existing in the funds at the end of the year shall thereafter continue as a part of the highway funds of the said counties and shall be rebudgeted and used as already provided in this chapter. The purchase, rental and repair of highway equipment, painting of bridges and acquisition of grounds for erection and construction of storage buildings, acquisition of rights of way and the purchase of fuel oil, and supplies necessary to the performance of construction, reconstruction and maintenance of highways, shall be paid out of the highway account of the various counties.

(Formerly: Acts 1941, c.168, s.4.) As amended by Acts 1980, P.L.74, SEC.216.

IC 8-14-1-5

Permissible use of funds; municipal allocations

Sec. 5. (a) All funds allocated to cities and towns from the motor vehicle highway account shall be used by the cities and towns for the construction, reconstruction, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting and cleaning of their highways as herein defined, and including also any curbs, and the city's or town's share of the cost of the separation of the grades of crossing of public highways and railroads, the purchase or lease of highway construction and maintenance equipment, the purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices; and the painting of structures, objects, surfaces in highways for purposes of safety and traffic regulation. All of such funds shall be budgeted as provided by law.

(b) In addition to purposes for which funds may be expended under subsections (a) and (c) of this section, monies allocated to cities and towns under this chapter may be expended for law enforcement purposes, subject to the following limitations:

(1) For cities and towns with a population of less than five thousand (5,000), no more than fifteen percent (15%) may be spent for law enforcement purposes.

(2) For cities and towns other than those specified in subdivision (1) of this subsection, no more than ten percent (10%) may be spent for law enforcement purposes.

(c) In addition to purposes for which funds may be expended under subsections (a) and (b) of this section, monies allocated to cities and towns under this chapter may be expended for the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

(Formerly: Acts 1941, c.168, s.5; Acts 1945, c.164, s.1; Acts 1959, c.278, s.1; Acts 1965, c.121, s.1.) As amended by Acts 1981, P.L.111,

SEC.3; P.L.61-2000, SEC.1.

IC 8-14-1-6
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-14-1-7
Short title

Sec. 7. This chapter shall be known as the "Motor Vehicle Highway Account Act". The distribution herein set out under section 3 of this chapter is hereby declared to be equitable.

(Formerly: Acts 1941, c.168, s.7.) As amended by P.L.66-1984, SEC.55.

IC 8-14-1-8
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-14-1-9
Mandatory transfer of funds

Sec. 9. (a) A written agreement between the department and a city, town, or county under IC 8-23-2-5, or a similar government cooperative statute, may provide for a mandatory transfer of funds by the auditor of state under this section if one (1) of the parties becomes more than sixty (60) days late in making a payment required by the agreement.

(b) To obtain a mandatory transfer of funds, the party to whom the funds were to be paid under terms of the written agreement must certify in writing to the auditor of state:

(1) that a written agreement between the parties authorizes the mandatory transfer of funds as provided in subsection (a);
(2) that the owing party was notified in writing of the amount owed;
(3) that the payment is more than sixty (60) days past due;
(4) the names of the parties; and
(5) the amount of the payment due.

(c) Upon receipt of a certificate as specified in subsection (b), the auditor of state shall:

(1) immediately notify the delinquent party of the claim; and
(2) if proof of payment is not furnished to the auditor of state within thirty (30) days after the delinquent party has been notified, transfer the unpaid amount from the delinquent party's allocations from the motor vehicle highway account to the other party. Transfers shall be made until the unpaid amount has been paid in full under the terms of the agreement.

As added by P.L.113-1983, SEC.2. Amended by P.L.18-1990, SEC.108.

IC 8-14-1-10
Covered bridges; appropriation from account; disbursements

Sec. 10. (a) On July 1 of each year, there is appropriated from the motor vehicle highway account for the maintenance of covered bridges in Indiana the amount necessary to make the disbursements under subsection (b) for the year.

(b) Before September 1 of each year, the auditor of state shall, by warrant drawn on the treasurer of state, distribute to each county that has a covered bridge located on the county's road system an amount that may only be used for maintenance of covered bridges in the county. The amount to which each county is entitled under this subsection equals the product of:

(1) the number of covered bridges located on the county's road system; multiplied by

(2) one thousand eight hundred fifty dollars ($1,850).

As added by P.L.127-1987, SEC.1. Amended by P.L.115-1989, SEC.1; P.L.57-1994, SEC.1; P.L.23-2007, SEC.1.

IC 8-14-1-11
Local agency revolving fund; reimbursement; accounts receivable; transfer of funds

Sec. 11. (a) The department may create a local agency revolving fund from money appropriated under section 3(7) of this chapter for the purpose of maintaining a sufficient working balance in accounts established primarily to facilitate the matching of federal and local money for highway projects.

(b) The revolving fund balance must be maintained through reimbursement from a local unit for money used by that unit to match federal funds.

(c) If the local unit fails to reimburse the revolving fund, the department shall notify the local unit that the department has found the outstanding accounts receivable to be uncollectible.

(d) The attorney general shall review the outstanding accounts receivable and if the attorney general agrees with the department's assessment of the account's status, the attorney general shall certify to the auditor of state that the outstanding accounts receivable is uncollectible and request a transfer of funds as provided in subsection (e).

(e) Upon receipt of a certificate as specified in subsection (d), the auditor of state shall:

(1) immediately notify the delinquent local unit of the claim; and

(2) if proof of payment is not furnished to the auditor of state within thirty (30) days after the notification, transfer an amount equal to the outstanding accounts receivable to the department from the delinquent local unit's allocations from the motor vehicle highway account for deposit in the local agency revolving fund.

(f) Transfers shall be made under subsection (e) until the unpaid amount has been paid in full under the terms of the agreement. However, the agreement may be amended if both the department and the unit agree to amortize the transfer over a period not to exceed five (5) years.

(g) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.116-1989, SEC.1. Amended by P.L.1-1994, SEC.35.

IC 8-14-1.5
Repealed

(Repealed by P.L.59-1985, SEC.38.)

IC 8-14-2

Chapter 2. Special Highway User Tax Accounts

IC 8-14-2-1

Definitions

Sec. 1. As used in this chapter:

(1) Primary highway system special account means the account of the state known as the "primary highway system special account" to which is credited monthly fifty-five percent (55%) of the money deposited in the highway, road, and street fund.

(2) Local road and street account means the account of the state known as the "local road and street account" to which is credited monthly forty-five percent (45%) of the money deposited in the highway, road and street fund.

(3) The term "department" refers to the Indiana department of transportation created under IC 8-23-2.

(4) The term "primary highways" shall mean that portion of the federal-aid highway system designated by the department and approved by the United States department of transportation as being the state "primary highway system".

(5) The term "construction" shall mean both construction and reconstruction to a degree that new, supplementary, or substantially improved traffic service is provided, and significant geometric or structural improvements are effected.

(6) "Arterial road system" shall mean the system of roads including bridges in each county of Indiana, under the jurisdiction of the board of county commissioners, or successor body, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-3, but not including local county roads.

(7) "Local county roads" shall mean all county roads and bridges which are not designated as being in the arterial road system.

(8) "Arterial street system" means the system of streets, including bridges in each city or town in Indiana, under the jurisdiction of municipal street authorities or successor bodies, including a department of transportation of a consolidated city, designated as such by the board under IC 8-23-4-4, but not including local streets.

(9) "Local streets" shall mean all city and town streets and bridges which are not designated as being in the arterial street system in each city or town.

(10) "Resurfacing" means the placement of additional pavement layers (including protective systems for bridge decks) over the existing (or restored or rehabilitated) roadway or bridge deck surface to provide additional strength or to improve serviceability for a substantial time period.

(11) "Restoration and rehabilitation" means work required to

return the existing structure (roadway pavement or bridge deck) to a suitable condition for an additional stage of construction (bridge deck protective system or resurfacing) or to a suitable condition to perform satisfactorily for a substantial time period.

(Formerly: Acts 1969, c.392, s.1; Acts 1971, P.L.98, SEC.1; Acts 1973, P.L.71, SEC.1.) As amended by Acts 1978, P.L.58, SEC.1; Acts 1980, P.L.74, SEC.217; Acts 1981, P.L.41, SEC.50; P.L.18-1990, SEC.109.

IC 8-14-2-2
Legislative intent as to use of monies

Sec. 2. It is hereby declared to be the intent of the general assembly that the monies deposited in the primary highway system special account and the local road and street account shall be used exclusively for engineering, land acquisition, construction, resurfacing, restoration, and rehabilitation of highway facilities.

(Formerly: Acts 1969, c.392, s.2; Acts 1971, P.L.98, SEC.2; Acts 1973, P.L.71, SEC.2; Acts 1975, P.L.90, SEC.1.) As amended by Acts 1978, P.L.58, SEC.2.

IC 8-14-2-2.1
Highway, road and street fund

Sec. 2.1. The auditor shall create a special fund to be known as the "Highway, Road and Street Fund" for the deposit of the revenues from:

(1) the gasoline and special fuel taxes dedicated to the fund under IC 6-6-1.1-802 and IC 6-6-2.5; and

(2) amounts deposited in or distributed to the fund under IC 9-29.

(Formerly: Acts 1971, P.L.98, SEC.3.) As amended by Acts 1978, P.L.58, SEC.3; Acts 1980, P.L.51, SEC.62; P.L.2-1991, SEC.60; P.L.277-1993(ss), SEC.55; P.L.216-2014, SEC.9.

IC 8-14-2-2.5
Repealed

(Repealed by P.L.59-1985, SEC.38.)

IC 8-14-2-3
Credit to state highway fund; appropriation of funds

Sec. 3. (a) The auditor of state shall credit the state highway fund established under IC 8-23-9-54 monthly with fifty-five percent (55%) of the money deposited in the highway, road and street fund.

(b) Funds allocated to the department under this chapter must be appropriated.

(Formerly: Acts 1969, c.392, s.3; Acts 1971, P.L.98, SEC.4; Acts 1975, P.L.90, SEC.2.) As amended by Acts 1978, P.L.58, SEC.4; Acts 1980, P.L.74, SEC.218; Acts 1981, P.L.111, SEC.4; P.L.18-1990, SEC.110.

IC 8-14-2-4

Local road and street account; allocation of funds

Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and credit this account monthly with forty-five percent (45%) of the money deposited in the highway, road and street fund.

(b) The auditor shall distribute to units of local government money from this account each month. Before making any other distributions under this chapter, the auditor shall distribute E85 incentive payments to all political subdivisions entitled to a payment under section 8 of this chapter.

(c) After distributing E85 incentive payments required under section 8 of this chapter, the auditor of state shall allocate to each county the remaining money in this account on the basis of the ratio of each county's passenger car registrations to the total passenger car registrations of the state. The auditor shall further determine the suballocation between the county and the cities within the county as follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For the purposes of allocating funds as provided in this section, towns which become incorporated as a town between the effective dates of decennial censuses shall be eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

(d) Each month the auditor of state shall inform the department of the amounts allocated to each unit of local government from the local road and street account.

(Formerly: Acts 1969, c.392, s.4; Acts 1971, P.L.98, SEC.5; Acts 1973, P.L.71, SEC.3; Acts 1974, P.L.33, SEC.1.) As amended by Acts 1978, P.L.58, SEC.5; Acts 1980, P.L.74, SEC.219; Acts 1981, P.L.11, SEC.54; Acts 1981, P.L.88, SEC.11; P.L.2-1990, SEC.11; P.L.182-2007, SEC.2.

IC 8-14-2-5
Local road and street account; use of funds

Sec. 5. Money from the local road and street account shall be used exclusively by the cities, towns, and counties for:

(1) engineering, land acquisition, construction, resurfacing, maintenance, restoration, or rehabilitation of both local and arterial road and street systems;

(2) the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects;

(3) any local costs required to undertake a recreational or reservoir road project under IC 8-23-5; or

(4) the purchase, rental, or repair of highway equipment.

(Formerly: Acts 1969, c.392, s.5; Acts 1971, P.L.98, SEC.6; Acts 1973, P.L.71, SEC.4; Acts 1974, P.L.33, SEC.2; Acts 1975, P.L.91, SEC.1.) As amended by Acts 1978, P.L.58, SEC.6; Acts 1981, P.L.41, SEC.51; P.L.18-1990, SEC.111; P.L.76-1990, SEC.1.

IC 8-14-2-6
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-14-2-7
Local road and street account; transfer of surplus allocated money to town general fund

Sec. 7. An included town under IC 36-3-1-7 may transfer surplus allocated monies to the town general fund from the local road and street account if those monies have not been allocated or expended within the previous twenty-four (24) months.

As added by P.L.67-1984, SEC.3.

IC 8-14-2-8
E85 incentive payments to political subdivisions

Sec. 8. (a) This section applies to a political subdivision's purchase of E85 occurring after December 31, 2007.

(b) As used in this section, "administrator" has the meaning set forth in IC 6-6-1.1-103(a).

(c) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103(s).

(d) As used in this section, "qualified motor vehicle" means a motor vehicle that may be fueled by E85.

(e) A political subdivision is entitled to a monthly E85 incentive payment under this section if at least seventy-five percent (75%) of the motor fuel purchased by the political subdivision in the preceding calendar month for use in the political subdivision's qualified motor vehicles was E85.

(f) Subject to subsection (j), the amount of a monthly E85 incentive payment to which a political subdivision is entitled under this section is equal to:

(1) the total number of qualified motor vehicles owned by the political subdivision; multiplied by

(2) thirty-three dollars and thirty-three cents ($33.33).

(g) To claim an E85 incentive payment under this section, the fiscal officer of a political subdivision must present to the auditor of state a statement that:

(1) contains a written verification that the incentive payment claim is made under penalties of perjury; and

(2) sets forth:

(A) the total number of qualified motor vehicles owned by the political subdivision;

(B) the total amount of E85 purchased by the political subdivision in the preceding calendar month for use in each qualified motor vehicle described in clause (A); and

(C) the total amount of motor fuel purchased for use in each qualified motor vehicle described in clause (A).

(h) The auditor of state may request the administrator to make investigations the auditor of state considers necessary before issuing an E85 incentive payment under this section. The administrator shall provide any assistance requested under this section. Upon the request of the administrator, a political subdivision shall furnish to the administrator sufficient documentation to prove the validity of the information presented under subsection (g).

(i) If an E85 incentive payment is not issued within ninety (90) days after filing of the verified statement and all supplemental information required by subsection (h), the auditor of state shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required under this section until a date determined by the auditor of state that does not precede by more than thirty (30) days the date on which the E85 incentive payment is made.

(j) A political subdivision is not entitled to an E85 incentive payment for E85 used in a qualified motor vehicle owned by the political subdivision after December 31 of the fifth calendar year of the political subdivision's ownership of the qualified motor vehicle.

(k) A political subdivision may not claim an E85 incentive payment for any purchase of E85 occurring after December 31, 2014.

(l) This section expires January 1, 2019.

As added by P.L.182-2007, SEC.3. Amended by P.L.220-2011, SEC.199.

IC 8-14-3

Chapter 3. Appropriations to Indiana Department of Transportation

IC 8-14-3-1

Repealed

(Repealed by P.L.24-1985, SEC.25(a).)

IC 8-14-3-2.1

Agreements to be performed in more than one fiscal year

Sec. 2.1. The Indiana department of transportation may enter into an agreement that obligates appropriations for work that will be performed in more than one (1) fiscal year.

As added by P.L.24-1985, SEC.18. Amended by P.L.18-1990, SEC.112.

IC 8-14-4
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-14-5
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-14-6
Chapter 6. Appropriation of Dedicated Highway Funds

IC 8-14-6-1
Budget estimates

Sec. 1. Where, by virtue of the provisions of any law of this state, any designated portion of the gasoline tax collected by the state shall have been distributed to the several cities of the state to be used for the maintenance and repair of the streets of such cities, such funds shall be under the exclusive control of the common council, and shall be used and expended by, the board of public works of any such city, or the common council thereof, acting as the board of public works. The maintenance and repair of streets, for which any such funds may be used and expended, shall be deemed to include any part of the cost of resurfacing, widening or reconstructing any street or any part thereof which any such city may be liable to pay pursuant to any law authorizing the improvement of streets; Provided, That any such funds so distributed hereafter shall be estimated and included in the published budgets of such municipalities in the year preceding such distribution.

(Formerly: Acts 1932(ss), c.35, s.1.)

IC 8-14-7
Repealed

(Repealed by Acts 1982, P.L.17, SEC.4.)

IC 8-14-8
Chapter 8. Distressed Roads

IC 8-14-8-1
Purpose

Sec. 1. The intent of this chapter is to create a method of providing financial assistance to counties, cities, and towns (referred to as "units" in this chapter) which have serious road and street deficiencies. This chapter has the purpose of enhancing public safety and ensuring the free flow of commerce.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.114-1983, SEC.1.

IC 8-14-8-2
Distressed road fund; establishment

Sec. 2. There is established a distressed road fund which is to be administered by the Indiana department of transportation. The distressed road fund is a nonbudgetary, nonreverting fund.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.18-1990, SEC.113.

IC 8-14-8-3
"Qualified county"

Sec. 3. For purposes of this chapter, "qualified county" means a county having a population of:

(1) more than fifty-seven thousand (57,000) but less than sixty thousand (60,000);
(2) more than forty thousand (40,000) but less than forty-two thousand (42,000);
(3) more than thirty-three thousand five hundred (33,500) but less than thirty-four thousand (34,000);
(4) more than thirty thousand (30,000) but less than thirty-two thousand (32,000);
(5) more than twenty-five thousand eight hundred (25,800) but less than twenty-six thousand (26,000);
(6) more than eighteen thousand (18,000) but less than nineteen thousand five hundred (19,500);
(7) more than twenty thousand nine hundred (20,900) but less than twenty-one thousand (21,000);
(8) more than twelve thousand eight hundred (12,800) but less than thirteen thousand (13,000);
(9) more than ten thousand (10,000) but less than ten thousand five hundred (10,500); or
(10) more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000).

As added by Acts 1981, P.L.88, SEC.12. Amended by Acts 1982, P.L.1, SEC.26; P.L.12-1992, SEC.64; P.L.170-2002, SEC.66; P.L.119-2012, SEC.90.

IC 8-14-8-4
Loan; application; requisites

Sec. 4. (a) A qualified county which:

(1) has adopted the county motor vehicle excise surtax under IC 6-3.5-4 and the county wheel tax under IC 6-3.5-5;

(2) is imposing the county motor vehicle excise surtax at:

(A) the maximum allowable rate, if the qualified county sets a county motor vehicle excise surtax rate under IC 6-3.5-4-2(b)(1) or IC 6-3.5-4-2(c)(1); or

(B) the maximum allowable amount, if the qualified county sets the county motor vehicle excise surtax at a specific amount under IC 6-3.5-4-2(b)(2) or IC 6-3.5-4-2(c)(2); and

(3) has not issued bonds under IC 8-14-9;

may apply to the Indiana department of transportation for a loan from the distressed road fund. At the time of the application, the county shall notify the department of local government finance that it has made the application.

(b) The application must include, at a minimum:

(1) a map depicting all roads and streets in the system of the applicant; and

(2) a copy of that county's proposed program of work covering the current and the immediately following calendar year.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.18-1990, SEC.114; P.L.255-1996, SEC.6; P.L.90-2002, SEC.315; P.L.146-2016, SEC.14.

IC 8-14-8-5
Loan; evaluation of needs; criteria

Sec. 5. (a) In evaluating each applicant's needs for a loan from the distressed road fund, the Indiana department of transportation shall use criteria that are consistent with good engineering practices. The criteria used must include, at a minimum:

(1) traffic counts and projected traffic;

(2) areas served;

(3) surface material and conditions;

(4) base material and depth;

(5) drainage, including culverts;

(6) width of roadway and right-of-way;

(7) soils upon which the road is placed;

(8) topography; and

(9) seasonal weather conditions and the effect on road repair and maintenance.

(b) In addition to the criteria listed in subsection (a), the department shall consider the minimum transportation needs of all areas regardless of population or vehicle registration, and the report filed with the department by the department of local government finance under section 6 of this chapter.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.18-1990,

SEC.115; P.L.90-2002, SEC.316.

IC 8-14-8-6
Report; availability and use of highway money

Sec. 6. Within thirty (30) days of the date of application for a loan by a qualified county, the department of local government finance shall submit to the Indiana department of transportation a financial report which shall include the following:

(1) The amount of money available to the county for road construction and maintenance.

(2) An analysis of the use, during the five (5) years immediately preceding the date of the loan application, of all highway money the county has received.

(3) Any other information required by the Indiana department of transportation for the processing of loan applications.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.114-1983, SEC.2; P.L.18-1990, SEC.116; P.L.90-2002, SEC.317.

IC 8-14-8-7
Loan approval; agreement; terms; repayment

Sec. 7. (a) The Indiana department of transportation shall notify a qualified county that makes a loan application of the department's approval or disapproval of the application within sixty (60) days of the date of application. The decision made by the department to approve or disapprove a loan application is final.

(b) The Indiana department of transportation and each qualified county for which a loan has been approved under this chapter shall enter into a loan agreement which shall specify, as a minimum, the purposes for which the loan is to be used and the terms of repayment of the loan. The terms must be consistent with subsection (c).

(c) The maximum term of repayment of a loan made under this section is ten (10) years. A loan that is repaid within the term of repayment specified in the loan agreement is not subject to interest. If a loan is not fully repaid within the term of repayment, the balance that remains unpaid at the end of the term of repayment is subject to interest at the rate of twelve percent (12%) per year.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.114-1983, SEC.3; P.L.18-1990, SEC.117.

IC 8-14-8-8
Receipts from loan repayment; deposit in fund

Sec. 8. All amounts received by the Indiana department of transportation from a county as repayment of a loan made under this chapter, or as payment of interest on a loan made under this chapter, shall be deposited in the distressed road fund.

As added by Acts 1981, P.L.88, SEC.12. Amended by P.L.18-1990, SEC.118.

IC 8-14-8-9
Expenditures not subject to Geometric Design Guide for Local Roads and Streets

Sec. 9. Notwithstanding any other law, expenditure made from the distressed roads fund are not subject to the provisions of the Geometric Design Guide for Local Roads and Streets.

As added by Acts 1982, P.L.79, SEC.2.

IC 8-14-8-10
Loan; qualified county or unit eligible to receive distribution from motor vehicle highway account

Sec. 10. The Indiana department of transportation shall make loans from the distressed road fund:

(1) to any qualified county under the terms of this chapter; or

(2) to any unit eligible to receive a distribution from the motor vehicle highway account (IC 8-14-1) under terms of section 11 of this chapter.

As added by P.L.114-1983, SEC.4. Amended by P.L.18-1990, SEC.119.

IC 8-14-8-11
Loan; application; approval; interest; agreement between unit and department; restrictions on funds

Sec. 11. (a) A unit must make application for the loan to the Indiana department of transportation. The application must include, as a minimum:

(1) a map depicting all roads and streets in the system of the applicant; and

(2) a copy of that unit's proposed program of work covering the current and the immediately following calendar year.

(b) The Indiana department of transportation shall notify a unit that makes a loan application of the department's approval or disapproval of the application within sixty (60) days of the date of application. The decision made by the department to approve or disapprove is final.

(c) The loan is not subject to the payment of interest or penalty if repaid within two (2) years.

(d) The unit and the Indiana department of transportation shall enter into a written agreement stating the terms of the loan. The agreement must include a provision that the unit directs the auditor of state to withhold distributions from its allocations from the motor vehicle highway account if the loan is not repaid within two (2) years.

(e) Money from a loan made under this section may be used only for the purpose of matching federal aid highway funds.

As added by P.L.114-1983, SEC.5. Amended by P.L.18-1990, SEC.120.

IC 8-14-8-12

Use of funds for matching federal or local money

Sec. 12. Funds in the distressed road fund may be appropriated to the Indiana department of transportation to maintain a working balance in accounts established primarily to facilitate the matching of federal and local money for highway projects.

As added by P.L.113-1983, SEC.3. Amended by P.L.18-1990, SEC.121.

IC 8-14-9

Chapter 9. Local County Road and Bridge Board

IC 8-14-9-1
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-14-9-2
Repealed

(Repealed by Acts 1982, P.L.1, SEC.71.)

IC 8-14-9-3
Board; establishment; taxing district

Sec. 3. The county council of a qualified county may establish a local county road and bridge board to be known as the Local County Road and Bridge Board of _____ (insert the name of the qualified county) and a special taxing district to be known as the Local County Road and Bridge District of _____ (insert the name of the qualified county). The territory which is within the boundaries of a qualified county constitutes the territory of a special taxing district established by the county council of that qualified county under this chapter.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-4
Members; tenure; compensation

Sec. 4. (a) The local county road and bridge board consists of three (3) members appointed by the president of the county council of the county.

(b) All terms of office begin on January 1 and end on December 31. Members of the board serve two (2) year terms. If a vacancy occurs, a qualified person shall be appointed by the president of the county council of the county to serve for the remainder of the term.

(c) A member of the board may be removed for cause by the president of the county council of the county.

(d) Members of the board may not receive a salary. However, board members shall receive reimbursement for necessary expenses, but only if the expenses are incurred in the performance of their duties.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-5
Construction projects; adoption of resolution

Sec. 5. (a) Whenever the local county road and bridge board determines that it is necessary for the general welfare of the persons residing within the local county road and bridge district and that it will be of public utility and benefit to the property in the district to carry out a project of construction, reconstruction, or operation of

roads or bridges, or both, within the district, the board shall adopt a resolution stating the necessity of the project and the intent of the district to proceed with the project.

(b) As a part of the resolution, the local county road and bridge board shall:

(1) adopt preliminary or final plans and specifications for the entire project; and

(2) determine the estimated cost of all work and all acquisitions necessary to carry out the project.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-6

Resolution; public inspection; notice; hearing

Sec. 6. (a) A resolution adopted under section 5 of this chapter shall be made available for public inspection. The board shall publish notice of the adoption. The notice must contain a general description of the resolution, and it must indicate that the resolution and included materials may be inspected at a specified location.

(b) The notice shall be published in one (1) newspaper of general circulation within the local county road and bridge district once each week for two (2) consecutive weeks.

(c) The notice shall specify a date, not less than ten (10) days after the date of last publication, on which the board will conduct a hearing at which interested or affected parties may object to the resolution.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-7

Remonstrances; filing; hearing and decision

Sec. 7. (a) At or before the time fixed under section 6 of this chapter for a hearing, any interested or affected party may file with the board a written remonstrance against the proposed project, in whole or in part. At the hearing, which may be adjourned from time to time, the board shall hear all interested persons, and shall finally determine if the project, in whole or in part, is necessary for the general welfare of the persons residing in the district and will be of public utility and benefit to the property in the district. The board may confirm, modify, or rescind the resolution.

(b) The board shall keep a record of its decision on each proposed project, and submit the decision as a resolution to the county council of the qualified county.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-8

Resolution; approval by county council; duties of board

Sec. 8. If the county council of a qualified county approves a resolution submitted to it under section 7(b) of this chapter, the local county road and bridge board shall, for purposes of carrying out the

project:

(1) let contracts, in accordance with IC 5-17-1;

(2) acquire real estate; and

(3) employ persons by special contract to render professional or consulting services.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-9

Modification of approved projects; new resolutions

Sec. 9. (a) The local county road and bridge board may modify a project approved under section 8 of this chapter if:

(1) the modification is necessary to carry out the purpose and intent of the resolution; and

(2) the modifications do not increase the estimated cost determined under section 5(b) of this chapter.

(b) Any modification which does not meet the requirements prescribed by subsection (a) must be made by a new resolution that is adopted and approved in the manner provided by sections 5 through 8 of this chapter.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-10

Bonds; issuance; limitations; approval

Sec. 10. (a) Subject to the limitations imposed by this section, the local county road and bridge board may issue bonds in the name of the qualified county for the benefit of the local county road and bridge district. The bonds shall be issued for the purpose of raising money to acquire lands or rights-of-way, and to pay for any capital improvement, necessary for the construction, reconstruction, or operation of roads or bridges, or both, within the district. The local county road and bridge board may appropriate the proceeds of the bonds.

(b) The amount of bonds to be issued may not exceed the estimated cost of:

(1) all lands and rights-of-way to be acquired;

(2) capital improvements;

(3) supervision and inspection fees during the period of construction or reconstruction;

(4) programming, planning, and designing the capital improvements; and

(5) all necessary expenses, including publication of notices, engineering fees, architectural fees, and legal fees, incurred in acquiring property, letting contracts, and selling bonds for the project.

The amount of bonds issued for the project may not exceed the estimated cost determined under section 5(b) of this chapter. In addition, the amount of outstanding bonds issued by a county under this chapter may not exceed two percent (2%) of the adjusted value

of taxable property located within the local county road and bridge district as determined under IC 36-1-15.

(c) The local county road and bridge board may issue bonds under this chapter only if the issuance of those bonds has been approved by:

(1) the county council of the qualified county; and

(2) the department of local government finance as required by IC 6-1.1-18.5-8.

(d) A local county road and bridge board may issue bonds under this chapter only if:

(1) the county motor vehicle excise surtax (IC 6-3.5-4) and the county wheel tax (IC 6-3.5-5) are in effect in the county in which the local county road and bridge district is located;

(2) the county motor vehicle excise surtax is being imposed at the maximum allowable rate; and

(3) the county in which the local county road and bridge district is located has not obtained a loan under IC 8-14-8.

(e) No bonds may be issued under this section after June 30, 1984.

As added by Acts 1981, P.L.88, SEC.13. Amended by P.L.73-1983, SEC.17; P.L.3-1990, SEC.31; P.L.6-1997, SEC.134; P.L.90-2002, SEC.318.

IC 8-14-9-11

Bonds; disclaimer; revenues for payment

Sec. 11. The face of each bond shall include a statement that the bond does not constitute a corporate obligation or indebtedness of the qualified county and that the bond principal and interest are payable only out of the revenues of the local county road and bridge district.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-12

Bonds; tax exemption; application of laws

Sec. 12. All bonds and interest on bonds issued under this chapter are exempt from taxation as provided under IC 6-8-5-1. All general laws relating to:

(1) the filing of a petition requesting the issuance of bonds;

(2) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);

(3) the appropriation of the proceeds of the bonds and the approval of the appropriation by the department of local government finance; and

(4) the sale of bonds at public sale for not less than par value;

are applicable to proceedings under this chapter.

As added by Acts 1981, P.L.88, SEC.13. Amended by P.L.90-2002, SEC.319; P.L.219-2007, SEC.93; P.L.146-2008, SEC.362.

IC 8-14-9-13
Tax; imposition; limitation

Sec. 13. For the purpose of raising money to pay bonds issued under section 10 of this chapter as the bonds severally mature, and to pay all interest accruing on the bonds, the county council of a qualified county may, notwithstanding IC 8-18-8-5, impose a special tax on all real and personal property located within the local county road and bridge district. However, the county council may only impose a tax under this section for a particular budget year to the extent that the estimated revenues that the county will receive from the county motor vehicle excise surtax and the county wheel tax during that budget year will be insufficient to pay the principal and interest coming due on those bonds during that budget year. The special tax constitutes the amount of benefits to the property which result from carrying out a project under this chapter.
As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-14
Local county road and bridge district bond fund; deposits; exemption; use

Sec. 14. (a) A separate fund known as the local county road and bridge district bond fund is created for deposit of the following monies:

(1) revenues collected from the tax imposed under this chapter;
(2) any appropriation made under section 16 of this chapter; and
(3) any proceeds remaining from the sale of bonds after payment of all costs and expenses described in section 10(b) of this chapter.

In addition, if there are any outstanding bonds issued under this chapter, then revenues received by the county from the county motor vehicle excise surtax and the county wheel tax shall, notwithstanding IC 6-3.5-4-13 and IC 6-3.5-5-15, be deposited in the local county road and bridge district bond fund. However, this subsection does not apply to county motor vehicle excise surtax and county wheel tax revenues which are to be distributed under IC 6-3.5-4-13 and IC 6-3.5-5-15 to cities and towns located in the county.

(b) Monies in the fund shall be used only for payment of local county road and bridge district bonds as they severally mature, and the interest on those bonds.

(c) Monies in the fund shall be deposited with one (1) depository of other funds of the qualified county. Interest accruing on monies in the fund belongs to the fund.
As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-15

Local county road and bridge construction fund; use; deposits

Sec. 15. (a) All proceeds from the sale of bonds issued under this chapter shall be deposited in a separate fund known as the local county road and bridge district construction fund. Monies in the fund shall be used to pay for:

(1) any lands or rights-of-way to be acquired for roads or bridges, or both, within the local county road and bridge district;

(2) any capital improvement necessary for the construction, reconstruction, or operation of roads or bridges, or both, within the local county road and bridge district; and

(3) any other necessary expenses incurred in carrying out the project.

Monies in the fund may not be used to pay the salaries of employees of the qualified county.

(b) Monies in the fund shall be deposited with any depository of public funds of the qualified county. Interest accruing on monies in the fund belongs to the fund.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-16

Bonds; payment; appropriation

Sec. 16. The county council may annually appropriate other monies to the local county road and bridge district bond fund to pay bonds as they severally mature, and to pay interest on the bonds in the year following the appropriation.

As added by Acts 1981, P.L.88, SEC.13.

IC 8-14-9-17

Expenditures not subject to Geometric Design Guide for Local Roads and Streets

Sec. 17. Notwithstanding any other law, expenditures made from the local county road and bridge district construction fund are not subject to the provisions of the Geometric Design Guide for Local Roads and Streets.

As added by Acts 1982, P.L.79, SEC.3. Amended by P.L.86-1988, SEC.16.

IC 8-14-10

Chapter 10. State Highway Road Construction and Improvement Fund

IC 8-14-10-1

"Department" defined

Sec. 1. As used in this chapter, "department" refers to the Indiana department of transportation.

As added by P.L.68-1988, SEC.11. Amended by P.L.18-1990, SEC.122.

IC 8-14-10-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the state highway road construction and improvement fund.

As added by P.L.68-1988, SEC.11.

IC 8-14-10-3

"Reconstruction" defined

Sec. 3. As used in this chapter, "reconstruction" includes the improvement, enlargement, or extension of a highway, but does not include maintenance or repairs.

As added by P.L.68-1988, SEC.11.

IC 8-14-10-4

"State highway" defined

Sec. 4. As used in this chapter, "state highway" means any highway that is designated as part of the state highway system under IC 8-23-4. The term includes all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, buildings, and facilities that the department considers necessary for the operation of the highway, together with all property, rights, easements, and interests that are acquired by the department for the construction or reconstruction of the highway.

As added by P.L.68-1988, SEC.11. Amended by P.L.18-1990, SEC.123.

IC 8-14-10-5

Establishment of fund

Sec. 5. The state highway road construction and improvement fund is established for the purpose of constructing or reconstructing state highways. The fund consists of distributions received under IC 6-6-1.1-801.5.

As added by P.L.68-1988, SEC.11.

IC 8-14-10-6

Administration of fund

Sec. 6. The fund shall be administered by the department. The

treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.
As added by P.L.68-1988, SEC.11.

IC 8-14-10-7
Reversion to state general fund

Sec. 7. 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.68-1988, SEC.11.

IC 8-14-10-8
Costs payable from fund

Sec. 8. The department may use the money in the fund only to pay the following costs:

(1) The cost of construction or reconstruction of a state highway.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a state highway, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a state highway.

(4) Engineering and legal expenses, and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases securing bonds issued under IC 8-14.5-6.

As added by P.L.68-1988, SEC.11. Amended by P.L.246-2005, SEC.77.

IC 8-14-10-9
Crossroads 2000 fund

Sec. 9. (a) The crossroads 2000 fund is established for the purpose of constructing or reconstructing state highways. The crossroads 2000 fund consists of distributions received under IC 9-29.

(b) The crossroads 2000 fund shall be administered by the department. The treasurer of state shall invest the money in the crossroads 2000 fund not currently needed to meet the obligations of the crossroads 2000 fund in the same manner as other public funds may be invested.

(c) Money in the crossroads 2000 fund at the end of a state fiscal year does not revert to the state general fund.

(d) The department may use the money in the crossroads 2000

fund only to pay the following costs:

(1) The cost of construction or reconstruction of a state highway.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a state highway, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a state highway.

(4) Engineering and legal expenses and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases securing bonds issued under IC 8-14.5-6.

As added by P.L.260-1997(ss), SEC.52. Amended by P.L.246-2005, SEC.78; P.L.92-2013, SEC.3; P.L.216-2014, SEC.10.

IC 8-14-10-10

Grant anticipation fund

Sec. 10. (a) The grant anticipation fund is established to construct and reconstruct state highways. The grant anticipation fund consists of distributions of federal highway revenues (as defined in IC 8-14.5-7-2) made under IC 8-23-3-11.

(b) The grant anticipation fund shall be administered by the department. The treasurer of state shall invest the money in the grant anticipation fund not currently needed to meet the obligations of the grant anticipation fund in the same manner as other public funds may be invested.

(c) Money in the grant anticipation fund at the end of a state fiscal year does not revert to the state general fund.

(d) The department may use the money in the grant anticipation fund only to pay the following costs:

(1) The cost of construction or reconstruction of a highway improvement project.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the department for the construction or reconstruction of a highway improvement project, including the cost of any relocations incident to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the department for the construction or reconstruction of a highway improvement project.

(4) Engineering and legal expenses and the costs of plans,

specifications, surveys, estimates, and any necessary feasibility studies.

(5) Payment of rentals and performance of other obligations under contracts or leases relating to highway improvement projects securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7. However, amounts in the grant anticipation fund may not be pledged to such payments.

(e) A holder of grant anticipation revenue bonds or notes issued under IC 8-14.5-7 may not compel the payment of federal highway revenues to the department.

As added by P.L.246-2005, SEC.79.

IC 8-14-11

Chapter 11. Local Bridge Grant Fund

IC 8-14-11-1

"Board" defined

Sec. 1. As used in this chapter, "board" refers to the local bridge grant board established by section 9 of this chapter.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-2

"Construction" defined

Sec. 2. As used in this chapter, "construction" means the building of a local bridge to the extent that new, supplementary, or substantially improved traffic service is provided.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-3

"Department" defined

Sec. 3. As used in this chapter, "department" refers to the Indiana department of transportation.

As added by P.L.117-1989, SEC.1. Amended by P.L.18-1990, SEC.124.

IC 8-14-11-4

"Executive" defined

Sec. 4. As used in this chapter, "executive" has the meaning set forth in IC 36-1-2-5.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-5

"Fund" defined

Sec. 5. As used in this chapter, "fund" refers to the local bridge grant fund established by section 8 of this chapter.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-6

"Local bridge" defined

Sec. 6. As used in this chapter, "local bridge" means a structure that:

(1) is designed to carry vehicular traffic over or under an obstacle to the normal flow of traffic, including any grade separation, culvert, or approach to a bridge; and

(2) is located on a public road in a county highway system that is not part of the federally aided highway system.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-7

"Reconstruction" defined

Sec. 7. As used in this chapter, "reconstruction" includes the resurfacing and rebuilding of a local bridge to the extent that significant structural improvements result.
As added by P.L.117-1989, SEC.1.

IC 8-14-11-8
Establishment of fund; administration

Sec. 8. (a) The local bridge grant fund is established to:

(1) provide grants to counties for the construction and reconstruction of local bridges; and

(2) pay the costs of administering this chapter.

The fund shall be administered by the department.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund.
As added by P.L.117-1989, SEC.1.

IC 8-14-11-9
Board; establishment; members; tenure; compensation; quorum

Sec. 9. (a) The local bridge grant board is established to receive and review applications for grants under this chapter. The board consists of the following members:

(1) The director of the department, or the director's designee.

(2) Six (6) persons appointed by the governor, no more than three (3) of whom may be of the same political party, as follows:

(A) Two (2) members of a county executive.

(B) One (1) county highway engineer.

(C) One (1) mayor of a city.

(D) One (1) member of a town board of trustees.

(E) One (1) person with substantial experience or education in the design or construction of bridges.

A member appointed under clause (A), (B), (C), or (D) who ceases to hold the office described in that clause ceases to be a member of the board.

(b) The governor shall designate a member of the board to serve as chairman.

(c) Members of the board who are appointed by the governor serve for terms of four (4) years. The governor shall fill a vacancy on the board by appointing a new member to serve the remainder of the unexpired term.

(d) A member of the board, other than the director of the department, is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually

incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(e) Four (4) members of the board constitute a quorum. The affirmative votes of four (4) members of the board are required for the board to take any action.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-10

Board support staff

Sec. 10. The department shall provide staff support to the board.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-11

Grant application evaluation criteria

Sec. 11. The board shall establish criteria to be used in evaluating applications for grants from the fund. These criteria:

(1) must be consistent with the purposes of the federal local bridge program (23 U.S.C. 144(n));

(2) must be based on good engineering practices; and

(3) must provide for an equitable distribution of grants to counties located throughout Indiana.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-12

Grant application; requirements

Sec. 12. (a) The executive of a county may apply to the board for a grant from the fund to be used to pay up to eighty percent (80%) of the cost of construction or reconstruction of one (1) or more local bridges. At the time of the application, the county executive shall notify the department of local government finance that the county has made the application.

(b) The application must include the following:

(1) A description of the construction or reconstruction projects for which the grant application is made.

(2) The estimated cost of the projects.

(3) The amount of funding the county will provide for the projects, which must be at least twenty percent (20%) of the estimated cost of the projects. This amount may include the value of labor and materials to be provided by the county.

(4) Any other information that the board or the department considers necessary.

As added by P.L.117-1989, SEC.1. Amended by P.L.90-2002, SEC.320.

IC 8-14-11-13

Grant application financial report

Sec. 13. Within thirty (30) days after a county applies for a grant

under section 12 of this chapter, the department of local government finance shall submit to the department a financial report that includes the following information:

(1) The amount of money available to the county for the construction and reconstruction of local bridges.

(2) Any other information required by the board or the department for the processing of grant applications.

As added by P.L.117-1989, SEC.1. Amended by P.L.90-2002, SEC.321.

IC 8-14-11-14

Evaluation of grant application; approval; notice

Sec. 14. The board shall use the criteria established under section 11 of this chapter and the report submitted under section 13 of this chapter to evaluate an application for a grant from the fund. The board shall notify a county that makes a grant application of the board's approval or disapproval of the application within sixty (60) days of the date of the application. The board's decision to approve or disapprove a grant application is final.

As added by P.L.117-1989, SEC.1.

IC 8-14-11-15

Agreement; terms

Sec. 15. The board and each county for which a grant has been approved under this chapter shall enter into an agreement specifying the purposes for which the grant may be used. The terms of the agreement must be consistent with the purposes of this chapter.

As added by P.L.117-1989, SEC.1.

IC 8-14-12

Chapter 12. Historic Bridge Maintenance Grant

IC 8-14-12-1

"Grant" defined

Sec. 1. As used in this chapter, "grant" refers to a historic bridge maintenance grant under this chapter.

As added by P.L.158-2001, SEC.1.

IC 8-14-12-2

"Historic bridge" defined

Sec. 2. As used in this chapter, "historic bridge" means a bridge that meets the following requirements:

(1) Is listed on:

(A) the National Register of Historic Places; or

(B) the register of Indiana historic sites and historic structures established under IC 14-21-1.

(2) Is not a covered bridge receiving funding for maintenance under IC 8-14-1-10.

As added by P.L.158-2001, SEC.1.

IC 8-14-12-3

Requests for grants

Sec. 3. Before June 1 of each year, the county executive of a county having a historic bridge located on the county's road system may request a grant.

As added by P.L.158-2001, SEC.1.

IC 8-14-12-4

Amount of grants

Sec. 4. Subject to the amount appropriated by the general assembly for historic bridge maintenance grants and not to exceed one hundred thousand dollars ($100,000) per state fiscal year, the annual grant amount for a county is one thousand two hundred fifty dollars ($1,250) for each historic bridge located on the county's road system.

As added by P.L.158-2001, SEC.1.

IC 8-14-12-5

Distributions

Sec. 5. Before September 1 of each year and subject to available funding, the auditor of state shall, by warrant drawn on the treasurer of state, distribute from the state general fund to each county the total amount to which the county is entitled for a grant under this chapter.

As added by P.L.158-2001, SEC.1.

IC 8-14-12-6

Commingling and accumulating money

Sec. 6. A county executive may commingle and accumulate money received under this chapter with money received under IC 8-14-1-10 for the maintenance of covered bridges.
As added by P.L.158-2001, SEC.1.

IC 8-14-12-7
Permitted uses

Sec. 7. A county executive shall use money received under this chapter only to maintain historic bridges or covered bridges in the county in a manner that the county executive determines.
As added by P.L.158-2001, SEC.1.

IC 8-14-14

Chapter 14. Major Moves Construction Fund

IC 8-14-14-1

"Authority"

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.47-2006, SEC.5.

IC 8-14-14-2

"Department"

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

As added by P.L.47-2006, SEC.5.

IC 8-14-14-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the major moves construction fund established by section 5 of this chapter.

As added by P.L.47-2006, SEC.5.

IC 8-14-14-4

"Transportation plan"

Sec. 4. As used in this chapter, "transportation plan" refers to the department's long range comprehensive transportation plan developed under IC 8-23-2-5.

As added by P.L.47-2006, SEC.5.

IC 8-14-14-5

Establishment of fund; administration

Sec. 5. (a) The major moves construction fund is established for the purpose of:

(1) funding projects, other than passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), under IC 8-15.7 or IC 8-15-3;

(2) funding other projects in the department's transportation plan; and

(3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these

investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Distributions to the fund from the toll road fund under IC 8-15.5-11.

(2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

(3) Appropriations to the fund.

(4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(5) Revenues arising from:

(A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

(B) a toll road under IC 8-15-2 or IC 8-23-7-23;

that the department designates as part of, and deposits in, the fund.

(6) Payments, other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(a)(4), made to the authority or the department from operators under IC 8-15.7.

(7) Any money transferred to the fund under IC 8-14-14.1-4.

(8) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

As added by P.L.47-2006, SEC.5. Amended by P.L.203-2007, SEC.2; P.L.35-2012, SEC.95; P.L.201-2014, SEC.1.

IC 8-14-14-6

Distributions from the fund

Sec. 6. (a) If the authority enters into a public-private agreement concerning the Indiana Toll Road under IC 8-15.5, the auditor of state shall make the following distributions from the fund for the indicated purposes:

(1) One hundred fifty million dollars ($150,000,000) to the treasurer of state for deposit in the motor vehicle highway account established by IC 8-14-1. Notwithstanding IC 8-14-1, on or before October 15, 2006, and on or before October 15, 2007, the auditor of state shall distribute seventy-five million dollars ($75,000,000) of the money deposited in the motor vehicle highway account under this subdivision to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. The auditor of state:

(A) shall make the distributions required by this subdivision separately from distributions required by IC 8-14-1; and

(B) may not combine the distributions required by this subdivision with distributions required by IC 8-14-1.

Money distributed under this subdivision may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(2) The following amounts to the northwest Indiana regional development authority for deposit in the development authority fund established under IC 36-7.5-4-1:

(A) Forty million dollars ($40,000,000) during the state fiscal year beginning July 1, 2006. During the state fiscal year beginning July 1, 2006, the regional development authority must pay at least twenty million dollars ($20,000,000) of the distribution received under this clause to an airport authority that is carrying out an airport expansion project described in IC 36-7.5-2-1(2).

(B) Eighty million dollars ($80,000,000) to be distributed in installments of ten million dollars ($10,000,000) during the state fiscal year beginning July 1, 2007, and each of the seven (7) state fiscal years thereafter.

However, no distributions may be made under clause (B) until the development authority's comprehensive strategic development plan prepared under IC 36-7.5-3-4 has been reviewed by the budget committee and approved by the director of the office of management and budget. In addition, no distributions may be made under clause (B) during the state fiscal years beginning July 1, 2009, July 1, 2011, and July 1, 2013, unless the budget committee has reviewed the status of the plan and any changes to the plan.

(3) The following amounts to each of the following counties on or before September 15, 2006, for deposit in local major moves construction funds under IC 8-14-16:

(A) Forty million dollars ($40,000,000) to each county described in IC 8-14-16-1(1) through IC 8-14-16-1(5). However, if a county described in IC 8-14-16-1(3) becomes a member of the northwest Indiana regional development authority, the distribution to that county is twenty-five million dollars ($25,000,000) instead of forty million dollars ($40,000,000).

(B) Twenty-five million dollars ($25,000,000) to each county described in IC 8-14-16-1(6).

(C) Fifteen million dollars ($15,000,000) to each county described in IC 8-14-16-1(7).

(4) One hundred seventy-nine million dollars ($179,000,000) during the state fiscal year beginning July 1, 2006, to the state highway fund for use by the department for preliminary engineering, purchase of rights-of-way, or construction of

highways, roads, and bridges. After review by the budget committee, and subject to the approval of the governor, the budget agency may augment this distribution from balances available in the fund.

(5) An amount sufficient to provide for the payments owed by the authority as a result of a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles, or to establish or replenish the reserves therefore, to the administration account of the toll road fund. The budget agency shall determine the amount of the distributions required to be made by this subdivision for each state fiscal year beginning with the state fiscal year ending June 30, 2007, and ending with the state fiscal year ending June 30, 2016.

(6) An amount sufficient to make any payments required by IC 5-10.3-6-8.9 as a result of a public-private agreement under IC 8-15.5.

(b) There is annually appropriated from the fund an amount sufficient to make any distributions required by subsection (a).

As added by P.L.47-2006, SEC.5.

IC 8-14-14-7

Additional distributions from the fund

Sec. 7. (a) In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

(1) Except as provided in subsection (b), the payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

(3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

As added by P.L.47-2006, SEC.5. Amended by P.L.203-2007, SEC.3.

IC 8-14-14-8

Allocation of distributions for certain projects

Sec. 8. (a) The total amount of distributions from the fund for projects or purposes that benefit a county traversed by the Indiana

Toll Road may not be less than thirty-four percent (34%) of:

(1) the money that is transferred to the fund from the toll road fund under IC 8-15.5-11; plus

(2) the amount initially set aside in the administration account of the toll road fund to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

(b) The budget agency shall determine the amount of distributions required by this section. In making the determination, the budget agency shall include the following amounts:

(1) Amounts distributed to counties traversed by the Indiana Toll Road under section 6(a)(1) of this chapter.

(2) Money distributed to the northwest Indiana regional development authority under this chapter.

(3) Money distributed under section 6(a)(3) of this chapter.

(4) Projects carried out by the department in counties traversed by the Indiana Toll Road and funded with money distributed under section 6(a)(4) of this chapter.

(5) The amount initially set aside in the administration account of the toll road fund to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

(6) Money transferred to the administration account of the toll road fund under section 6(a)(5) of this chapter.

(7) Payments to the Indiana public retirement system required by section 6(a)(6) of this chapter.

As added by P.L.47-2006, SEC.5. Amended by P.L.35-2012, SEC.96.

IC 8-14-14.1

Chapter 14.1. Major Moves 2020 Trust Fund

IC 8-14-14.1-1

"Department"

Sec. 1. As used in this chapter, "department" refers to the Indiana department of transportation.

As added by P.L.205-2013, SEC.135.

IC 8-14-14.1-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the major moves 2020 trust fund established by section 3 of this chapter.

As added by P.L.205-2013, SEC.135.

IC 8-14-14.1-3

Establishment of the fund; transfers from the state general fund

Sec. 3. (a) The major moves 2020 trust fund is established, to be used exclusively for major highway expansion projects that enhance the ability of goods to be transported in and through Indiana.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of:

(1) money transferred to the fund under subsection (h); and

(2) any interest or other earnings on money in the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency. IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

(h) The budget agency may before July 1, 2015, direct the auditor of state to transfer not more than two hundred million dollars ($200,000,000) to the fund from the state general fund. If the budget agency directs the auditor of state to make such a transfer, the auditor of state shall transfer to the fund the amount determined by the

budget agency. There is annually appropriated from the state general fund an amount sufficient to make the transfer under this subsection. A transfer under this subsection is in addition to any transfer from the state general fund to the fund before January 1, 2014.
As added by P.L.205-2013, SEC.135. Amended by P.L.201-2014, SEC.2.

IC 8-14-14.1-4
Transfers to the major moves construction fund

Sec. 4. (a) Notwithstanding section 3(e) of this chapter, the budget agency may, before July 1, 2014, transfer not more than two hundred million dollars ($200,000,000) from the fund to the major moves construction fund established by IC 8-14-14-5. Money transferred under this section may be used for any purpose of the major moves construction fund.

(b) Notwithstanding section 3(e) of this chapter, if one (1) or more transfers under section 3(h) of this chapter are made to the fund after December 31, 2013, the budget agency may transfer from the fund to the major moves construction fund established by IC 8-14-14-5 an amount equal to the lesser of:

(1) two hundred million dollars ($200,000,000); or

(2) the total amount of any transfers under section 3(h) of this chapter that are made to the fund after December 31, 2013.

(c) The following apply to a transfer described in subsection (b):

(1) The transfer is subject to review by the budget committee and may be made as late as the date on which the budget committee submits the budget report and budget bill for the biennium beginning July 1, 2015, and ending June 30, 2017, to the governor under IC 4-12-1-9(a).

(2) The transfer is in addition to any transfer made under subsection (a).

(3) Money that is transferred may be used for any purpose of the major moves construction fund.

As added by P.L.201-2014, SEC.3.

IC 8-14-14.1-5
Transfer to major moves construction fund and state highway fund

Sec. 5. (a) After review by the budget committee, the budget agency may, after June 30, 2015, and before July 1, 2016, direct the auditor of state to transfer not more than one hundred million dollars ($100,000,000) to the fund from the state general fund. If the budget agency directs the auditor of state to make such a transfer, the auditor of state shall transfer to the fund the amount determined by the budget agency. There is appropriated from the state general fund an amount sufficient to make the transfer under this subsection.

(b) After June 30, 2016, and before July 1, 2017, the auditor of state shall transfer one hundred million dollars ($100,000,000) to the state highway fund created by IC 8-23-9-54 from the state general

fund. There is appropriated from the state general fund an amount sufficient to make the transfer under this subsection.

(c) Notwithstanding section 3(e) of this chapter, if one (1) or more transfers under subsection (a) are made to the fund, the budget agency may after review by the budget committee transfer from the fund to the major moves construction fund established by IC 8-14-14-5 an amount equal to the lesser of:

(1) one hundred million dollars ($100,000,000); or

(2) the total amount of any transfers under subsection (a) that are made to the fund.

(d) Money that is transferred as described in subsection (c) may be used for any purpose of the major moves construction fund.

(e) Notwithstanding section 3(e) of this chapter, the transfer under subsection (b) to the state highway fund must be used only for preserving or reconstructing existing state highways and bridges for which the department is responsible.

As added by P.L.213-2015, SEC.102. Amended by P.L.146-2016, SEC.15.

IC 8-14-15

Chapter 15. Next Generation Trust Fund

IC 8-14-15-1

"Authority"

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

As added by P.L.47-2006, SEC.6.

IC 8-14-15-2

"Trust"

Sec. 2. As used in this chapter, "trust" refers to the next generation trust fund established under this chapter.

As added by P.L.47-2006, SEC.6.

IC 8-14-15-3

"Trustee"

Sec. 3. As used in this chapter, "trustee" refers to the trustee of the trust designated under section 7 of this chapter.

As added by P.L.47-2006, SEC.6.

IC 8-14-15-4

Establishment of trust

Sec. 4. (a) The authority shall establish a next generation trust fund to hold title to proceeds transferred to the trust under IC 8-15.5-11 to be used exclusively for the provision of highways, roads, and bridges for the benefit of the people of Indiana and the users of those facilities.

(b) The trust shall be established as a charitable trust, separate from the state, but for the benevolent public purpose provided in this section.

(c) The trust consists of the proceeds transferred to the trust under IC 8-15.5-11 and any income that accrues from the investment of these proceeds.

As added by P.L.47-2006, SEC.6.

IC 8-14-15-5

Trust agreement

Sec. 5. The chairman of the authority shall enter into a trust agreement on behalf of the authority with the treasurer of state in conformity with IC 30-4-2-1. Any provision of the trust agreement entered into under this section that is inconsistent with the provisions or intent of this chapter is void and of no further force or effect.

As added by P.L.47-2006, SEC.6.

IC 8-14-15-6

Irrevocable status of trust

Sec. 6. A trust established under this chapter must be an

irrevocable trust and may not be revoked or terminated by the authority or any other person, nor may it be amended or altered by the authority or any other person. However, the terms of the trust must provide that the trust terminates when no funds remain in the trust.
As added by P.L.47-2006, SEC.6.

IC 8-14-15-7
Treasurer of state to act as trustee
Sec. 7. The treasurer of state shall act as the trustee of the trust.
As added by P.L.47-2006, SEC.6.

IC 8-14-15-8
Duties of trustee
Sec. 8. (a) The trustee shall:
(1) administer and manage the trust;
(2) invest the money in the trust; and
(3) deposit in the trust any interest that accrues from the investment of these funds.

(b) Notwithstanding IC 5-13, the trustee shall invest the money in the trust not currently needed to meet the obligations of the trust in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. However, the trustee may not invest the money in the trust in equity securities. The trustee shall also comply with the prudent investor rule set forth in IC 30-4-3.5. The trustee may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the trust and may pay the state expenses incurred under those contracts from the trust.

(c) IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust established under this chapter.

(d) Money in the trust at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.47-2006, SEC.6. Amended by P.L.35-2012, SEC.97.

IC 8-14-15-9
Application of trust code
Sec. 9. IC 30-4 (trust code) applies to a trust established under this chapter.
As added by P.L.47-2006, SEC.6.

IC 8-14-15-10
Distributions from trust
Sec. 10. (a) The principal of the trust may not be diminished during the term of the trust.

(b) The income that accrues from investment of the trust shall be deposited in the trust.

(c) On March 15, 2011, March 15, 2016, and March 15 every five

(5) years thereafter, the treasurer of state shall transfer all interest accruing to the trust to the major moves construction fund.
As added by P.L.47-2006, SEC.6.

IC 8-14-15-11
Access to annual report; petition for accounting

Sec. 11. The report required under IC 30-4-5-12 is a public record. The attorney general may petition for an accounting as permitted by IC 30-4-5-12.
As added by P.L.47-2006, SEC.6.

IC 8-14-15-12
Petition for remedies

Sec. 12. (a) This section applies if a person does any of the following with respect to a trust created under this chapter:

(1) Commits a breach of the trust.
(2) Violates the mandate of the trust or trust agreement.
(3) Violates a duty imposed by this chapter, the trust agreement, or IC 30-4.

(b) The attorney general may petition a court to impose one (1) or more of the remedies described in IC 30-4-5.5-1.
As added by P.L.47-2006, SEC.6.

IC 8-14-15-13
Examination of records by state board of accounts

Sec. 13. Any records, files, or documents relating to the trust may be examined by the state board of accounts at a time selected by the state board of accounts. The trustee shall upon request of the state board of accounts:

(1) produce and submit any records, files, or documents related to the trust; and
(2) assist in every way the state board of accounts in its work in making an examination.

As added by P.L.47-2006, SEC.6.

IC 8-14-16

Chapter 16. Local Major Moves Construction Funds

IC 8-14-16-1

Application

Sec. 1. This chapter applies only to the following counties:

(1) A county having a population of more than thirty-four thousand (34,000) but less than thirty-four thousand three hundred (34,300).

(2) A county having a population of more than thirty-seven thousand one hundred twenty-five (37,125) but less than thirty-seven thousand five hundred (37,500).

(3) A county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000).

(4) A county having a population of more than one hundred eighty-five thousand (185,000) but less than two hundred fifty thousand (250,000).

(5) A county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000).

(6) A county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

(7) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

As added by P.L.47-2006, SEC.7. Amended by P.L.119-2012, SEC.91.

IC 8-14-16-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to a local major moves construction fund established under section 4 of this chapter.

As added by P.L.47-2006, SEC.7.

IC 8-14-16-3

Distributions by county auditor

Sec. 3. Money distributed to a county described in section 1 of this chapter from the major moves construction fund under IC 8-14-14-6(a)(3) shall be distributed by the county auditor among the county and each of the cities and towns in the county that is eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1, in the same proportion among the county, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1.

As added by P.L.47-2006, SEC.7.

IC 8-14-16-4
Establishment of funds

Sec. 4. (a) Each county, city, or town that receives a distribution under section 3 of this chapter shall establish a local major moves construction fund.

(b) The fund consists of money distributed to the county, city, or town from the major moves construction fund under section 3 of this chapter.

(c) The fiscal officer of the county, city, or town shall administer the fund.

(d) Subject to subsection (f), the fiscal body of the county, city, or town may appropriate money in the fund for a purpose described in section 5 of this chapter. The appropriations of money in the fund must be included as a part of the annual budget for the calendar year in accordance with IC 6-1.1-17.

(e) Money remaining in the fund at the end of a particular calendar year remains in the fund and does not revert to any other fund.

(f) A county fiscal body must consult with the county executive before making an appropriation under this section.

As added by P.L.47-2006, SEC.7.

IC 8-14-16-5 Version a
Uses of money in fund

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.

(3) Providing funding for economic development projects (as defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A) through IC 6-3.5-7-13.1(c)(2)(K)).

(4) Matching federal grants for a purpose described in this section.

(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

(6) Providing the county's, city's, or town's contribution to a regional development authority established under IC 36-7.6-2-3.

As added by P.L.47-2006, SEC.7. Amended by P.L.232-2007, SEC.6.

IC 8-14-16-5 Version b
Uses of money in fund

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 5. Money in the fund may be expended only for the following purposes:

(1) Construction of highways, roads, and bridges.

(2) In a county that is a member of the northwest Indiana regional development authority, or in a city or town located in such a county, any purpose for which the regional development authority may make expenditures under IC 36-7.5.

(3) Providing funding for economic development projects (as defined in IC 6-3.6-2-8(1) or IC 6-3.6-2-8(2)(A) through IC 6-3.6-2-8(2)(K)).

(4) Matching federal grants for a purpose described in this section.

(5) Providing funding for interlocal agreements under IC 36-1-7 for a purpose described in this section.

(6) Providing the county's, city's, or town's contribution to a regional development authority established under IC 36-7.6-2-3.

As added by P.L.47-2006, SEC.7. Amended by P.L.232-2007, SEC.6; P.L.197-2016, SEC.82.

IC 8-14-17

Chapter 17. Alternative Transportation Construction Fund

IC 8-14-17-1

"Authority"

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.203-2007, SEC.4.

IC 8-14-17-2

"Department"

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

As added by P.L.203-2007, SEC.4.

IC 8-14-17-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this chapter.

As added by P.L.203-2007, SEC.4.

IC 8-14-17-4

Fund established; administration and sources

Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:

(1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4); and

(2) funding distributions under section 5 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the Indiana public retirement system under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

(1) Appropriations to the fund.

(2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.

(3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(a)(4).

(4) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

As added by P.L.203-2007, SEC.4. Amended by P.L.35-2012, SEC.98.

IC 8-14-17-5

Uses of fund

Sec. 5. Money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(a)(4).

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

As added by P.L.203-2007, SEC.4.

IC 8-14.5

ARTICLE 14.5. LEASE FINANCING FOR TRANSPORTATION SYSTEMS

IC 8-14.5-1

Chapter 1. Legislative Findings of Fact

IC 8-14.5-1-1

Findings of fact

Sec. 1. The general assembly makes the following findings of fact:

(1) That there exists in Indiana a need for construction, acquisition, reconstruction, improvement, and extension of transportation systems in order to provide for the public welfare and safety by providing safe, dependable, and reliable transportation systems for vehicular traffic.

(2) That the development and maintenance of Indiana's economy requires an adequate transportation system in order to provide for the public welfare and to facilitate the creation and maintenance of jobs, the increase and stabilization of the tax base, and the general economic welfare of the state and its citizens.

(3) That it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-1-2

Supplemental and additional powers conferred by article

Sec. 2. This article provides an additional and alternative method for doing the things authorized by this article, and is supplemental and additional to powers conferred by other laws and not in derogation of any other powers.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-1-3

Liberal construction

Sec. 3. This article is necessary for the welfare of the state and its inhabitants and shall be liberally construed to effect the purposes of this article.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-1-4

Application of article to the authority

Sec. 4. This article:

(1) applies to the authority only when acting for the purposes set forth in this article; and

(2) does not apply to the authority when acting under any other

statute for any other purpose.
As added by P.L.235-2005, SEC.113.

IC 8-14.5-2
Chapter 2. Definitions

IC 8-14.5-2-1
Applicability of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-2
Authority
Sec. 2. "Authority" refers to the Indiana finance authority established under IC 4-4-11.
As added by P.L.68-1988, SEC.12. Amended by P.L.235-2005, SEC.114.

IC 8-14.5-2-3
Bonds
Sec. 3. "Bonds" refers to bonds of the authority issued under IC 8-14.5-6 or IC 8-14.5-7.
As added by P.L.68-1988, SEC.12. Amended by P.L.246-2005, SEC.80.

IC 8-14.5-2-4
Capitalized interest
Sec. 4. "Capitalized interest" means interest cost on bonds or notes before and during the period of construction of the project for which the bonds or notes were issued, and for a period not to exceed one (1) year after completion of construction.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-5
Construction
Sec. 5. "Construction" means the construction, acquisition, reconstruction, improvement, and extension of a project.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-6
Costs
Sec. 6. "Costs" as applied to any project includes any item or cost of a capital nature incurred in the construction of a project, including:

(1) the cost of construction;

(2) the cost of acquisition of all land, rights-of-way, property, rights, easements, and any other legal or equitable interests acquired by the authority for the construction, including the cost of any relocations incident to the acquisition;

(3) the cost of demolishing or removing any buildings,

structures, or improvements on property acquired by the authority including the cost of:

(A) acquiring any property to which the buildings, structures, or improvements may be moved; or

(B) acquiring any property which may be exchanged for property acquired by the authority;

(4) financing charges;

(5) costs of issuance of bonds or notes, including costs of credit enhancement, such as bond or note insurance;

(6) remarketing or conversion fees;

(7) bond or note discount;

(8) capitalized interest;

(9) the cost of funding any reserves to secure the payment of bonds or notes;

(10) engineering and legal expenses, costs of plans, specifications, surveys, estimates, and any necessary feasibility studies;

(11) other expenses necessary or incident to determining the feasibility or practicability of constructing any project;

(12) administrative expenses of the authority or the department relating to any project financed by bonds or notes;

(13) reimbursement of the department for:

(A) any cost, obligation, or expense incurred by the department relating to a project;

(B) advances relating to a project from the department to the authority for surveys, borings, preparation of plans and specifications, or engineering services; or

(C) any other cost of construction incurred by the department or paid from advances; and

(14) other expenses the authority finds necessary or incident to the construction of the project, the financing of the construction, and the placing of the project in operation.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-7
Department

Sec. 7. "Department" refers to the Indiana department of transportation established under IC 8-23-2.

As added by P.L.68-1988, SEC.12. Amended by P.L.18-1990, SEC.125.

IC 8-14.5-2-8
Notes

Sec. 8. "Notes" refers to notes of the authority issued under IC 8-14.5-6 or IC 8-14.5-7 and includes any evidences of indebtedness of the authority except bonds.

As added by P.L.68-1988, SEC.12. Amended by P.L.246-2005, SEC.81.

IC 8-14.5-2-9
Project

Sec. 9. "Project" means any:

(1) express highway;
(2) superhighway;
(3) state highway;
(4) public highway;
(5) road;
(6) street;
(7) motorway;
(8) bridge;
(9) tunnel;
(10) overpass;
(11) underpass;
(12) interchange;
(13) entrance;
(14) approach; or
(15) other public way;

that the authority considers necessary or desirable for the operation of transportation systems. "Project" includes all land, rights-of-way, property, rights, easements, materials, and legal or equitable interests that may be acquired by the authority for the construction of the project.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-10
Property owner

Sec. 10. "Property owner" means all individuals, copartnerships, associations, governmental units or entities, corporations, limited liability companies, or other legal entities having any title or interest in any land, rights-of-way, property, rights, easements, or legal or equitable interests that may be acquired by the authority.

As added by P.L.68-1988, SEC.12. Amended by P.L.8-1993, SEC.142.

IC 8-14.5-2-11
Public thoroughfares

Sec. 11. "Public thoroughfares" means any facilities for the movement of vehicular traffic owned by any governmental entity other than the state.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-12
Transportation systems

Sec. 12. "Transportation systems" means any facilities for the movement of vehicular traffic owned, leased, or operated by the state or the authority.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-13
Weighted average life

Sec. 13. "Weighted average life" of an issue of bonds or notes means:

(1) the sum of the products of the face amount of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory sinking fund redemptions); divided by

(2) the face amount of the entire issue of bonds or notes.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-2-14
Weighted average useful life

Sec. 14. "Weighted average useful life" of a project or projects means:

(1) the sum of the products of the cost of each asset comprising the project or projects and the useful life of the respective asset; divided by

(2) the total cost of all the assets comprising the project or projects.

For purposes of this computation, the useful life of land is fifty (50) years. The useful life of all other assets comprising the project shall be conclusively evidenced by a certificate of the department based on its experience in maintaining transportation systems. The weighted average useful life of any project shall be determined as of the later of the date on which the project is expected to be placed in service and the date on which the bonds or notes are issued.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3

Chapter 3. General Provisions

IC 8-14.5-3-1

Project and transportation system contracts

Sec. 1. The authority may contract with the department for construction, ownership, maintenance, and operation of projects and transportation systems.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-2

Project financing

Sec. 2. The authority may finance projects in accordance with this article.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-3

Cooperative agreements

Sec. 3. The authority may exercise any powers provided under this article in participation or cooperation with any governmental entity, including the department, and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-4

Payment of transportation system costs

Sec. 4. The authority may pay the cost of construction of a project or of owning or leasing transportation systems from any funds available to the authority under this article or any other law.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-5

Transfer of property rights

Sec. 5. The authority may sell, transfer, lease, or otherwise convey any land, rights-of-way, property, rights, easements, or legal or equitable interest it considers necessary or convenient for carrying out the provisions of this article, including disposal of unused or surplus property.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-6

Acquisition of property rights

Sec. 6. The authority may acquire by purchase, whenever it considers a purchase expedient, any land, rights-of-way, property, rights, easements, or other legal or equitable interests as it considers necessary or convenient for the construction and operation of any project. A purchase under this section shall be made upon the terms

and at the price agreed upon between the authority and the property owner. However, the authority shall take title to the property in the name of the state.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-7
Contracts and agreements
Sec. 7. The authority may 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 article or any other law. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-8
Repealed
(As added by P.L.68-1988, SEC.12. Repealed by P.L.235-2005, SEC.212.)

IC 8-14.5-3-9
Grants
Sec. 9. The authority may receive and accept from any federal or state agency grants for or in aid of the construction of any project and repay any grant to the authority or to the department from a federal agency if the repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove. Any repayment under this section shall be made from funds available to the authority at the time the repayment is required and shall be made in a way that does not impair any contract between the authority and the owners of its bonds or notes.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-10
Gifts and bequests
Sec. 10. The authority may accept gifts, devises, bequests, grants, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-11
Transfer of projects to authority
Sec. 11. The authority may accept the transfer of any project or transportation system to the authority.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-12
Appropriation; relocation of appropriated facilities

Sec. 12. (a) Except as provided in subsection (b), the authority may, in the manner provided by IC 8-23-7, acquire by appropriation any land, rights-of-way, property, rights, easements, or other legal or equitable interests necessary or convenient for the construction or the efficient operation of any project. However, compensation for the property taken shall first be made in money as provided by law.

(b) The authority may take or disturb property or facilities that:

(1) belong to any public utility or to a common carrier engaged in interstate commerce;

(2) are required for the proper and convenient operation of the public utility or common carrier; and

(3) are not located within the limits of existing transportation systems or projects being constructed under this article;

only if provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere at the cost of the authority.

As added by P.L.68-1988, SEC.12. Amended by P.L.18-1990, SEC.126.

IC 8-14.5-3-13
Necessary and proper acts

Sec. 13. The authority may do all things necessary or proper to carry out this article.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-14
Transfers from state to authority; advertising and bids

Sec. 14. The state, acting through the governor, may convey, transfer, lease, or sell, with or without consideration, real property of any nature (including buildings, structures, improvements, land, rights-of-way, easements, and legal or equitable interests) title to which is held in the name of the state, to the authority, without being required to advertise or solicit bids or proposals, in order to accomplish the governmental purposes of this article.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-3-15
Tax exemption

Sec. 15. All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments of the state or any political subdivision of the state.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-4

Chapter 4. Contracts With the Department

IC 8-14.5-4-1

Authorization of contracts

Sec. 1. The authority is responsible for the construction, leasing, and ownership of projects. With respect to each project, the authority and the department may enter into a contract for the purposes set forth in this chapter. If the authority and the department decide to enter into a contract under this chapter, the authority and the department may enter into a separate contract for each project or a master contract for several projects.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-4-2

Mandatory contract provisions

Sec. 2. A contract under this chapter must:

(1) provide for the construction and ownership of the project; and

(2) describe the project or projects, setting forth in general terms principal features such as geographic location, widths of rights-of-way, number of lanes in each direction, width of traffic lanes, widths of shoulders, location and nature of tunnels, overpasses, underpasses, interchanges, bridges, approaches, and connecting highways.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-4-3

Permissive contract provisions

Sec. 3. The contract may include the following:

(1) Provisions for payment by the authority to the department of all costs incurred by the department in the performance of the contracts, including all costs of construction, salaries, wages, and associated costs of department personnel attributable to performance of the contract.

(2) Other terms and conditions that the authority and the department consider appropriate.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5

Chapter 5. Leases With the Department

IC 8-14.5-5-1

Authority and department powers

Sec. 1. (a) In addition to its other powers, the department may enter into a lease or leases with the authority under section 2 or 3 of this chapter for any or all of the purposes set forth in this article.

(b) The authority has all the powers necessary and incidental to carry out the terms and conditions of leases under this chapter.

(c) If the authority and the department decide to enter into a lease under this chapter, the authority and the department may enter into a separate lease for each project or may enter into one (1) or more master leases for several projects.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5-2

Mandatory lease provisions

Sec. 2. (a) A lease entered into under this section must include the following:

(1) A statement that the term of the lease is for a period coextensive with the biennium used for state budgetary and appropriation purposes with a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of twenty-five (25) years, unless either the authority or the department gives notice of nonextension at least six (6) months before the end of a biennium, in which event the lease expires at the end of the biennium in which the notice is given.

(3) A provision plainly stating that the lease does not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the department solely from biennial appropriations, for the actual use or availability for use of projects provided by the authority, with payment commencing no earlier than the time the use or availability commences.

(4) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full:

(A) the debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any project, including any required additions to reserves for the bonds or notes maintained by the authority; and

(B) additional rent as provided by the lease;

subject to appropriation of money to pay lease rentals.

(5) Provisions requiring the department to operate and maintain the project or projects during the term of the lease.

(6) A provision in each master lease for two (2) or more

projects requiring that each project added to the master lease shall be covered by a supplemental lease describing the particular project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the department consider appropriate.

(c) The department shall request an appropriation for payment of lease rentals on any lease entered into under this section in writing at a time sufficiently in advance of the date for payment of the lease rentals so that an appropriation may be made in the normal state budgetary process.

(d) If the department fails at any time to pay to the authority when due any lease rentals on any lease under this section, the chairman of the authority shall immediately report the unpaid amount in writing to the governor and in an electronic format under IC 5-14-6 to the general assembly.

As added by P.L.68-1988, SEC.12. Amended by P.L.28-2004, SEC.73.

IC 8-14.5-5-3

Mandatory lease provisions

Sec. 3. (a) A lease entered into under this section must include the following:

(1) The term of the lease, which may not exceed weighted average useful life of the project or projects.

(2) A provision plainly stating that the lease does not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation, and that lease rentals are payable by the department solely for the annual use or availability for use of projects provided by the authority, with payment commencing no earlier than the time the use or availability commences.

(3) Provisions requiring the department to pay rent at times and in amounts sufficient to pay in full the following:

(A) The debt service payable under the terms of any bonds or notes issued by the authority and outstanding with respect to any project, including any required additions to reserves for the bonds or notes maintained by the authority.

(B) Additional rent as provided by the lease.

(4) Provisions requiring the department to operate and maintain the project or projects during the term of the lease.

(5) A provision in each master lease for two (2) or more projects requiring that each project added to the master lease shall be covered by a supplemental lease describing the

particular project, stating the additional rental payable and providing that all lease covenants, including the obligation to pay the original and additional rent under any supplement, shall be unitary and include all projects covered, whether by the master lease or a supplemental lease.

(b) A lease entered into under this section may contain other terms and conditions that the authority and the department consider appropriate.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5-4

Sale or conveyance of transportation system

Sec. 4. The department may sell, transfer, or convey by any means any transportation system to the authority through negotiation of a lease. The department may lease any existing transportation system or property under its control to the authority for construction of a project, which project may be leased to the department.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-5-5

Payment from revenues; lease rentals; grant anticipation revenue bonds

Sec. 5. The department shall pay lease rentals for leases entered into under this chapter and securing bonds issued under IC 8-14.5-6 from revenues transferred to the state highway road construction and improvement fund or the crossroads 2000 fund before making any other disbursements from those funds. The department shall pay lease rentals for leases entered into under this chapter and for securing grant anticipation revenue bonds or notes issued under IC 8-14.5-7 from federal highway revenues (as defined in IC 8-14.5-7-2) transferred to the grant anticipation fund before making any other disbursements from the grant anticipation fund.

As added by P.L.68-1988, SEC.12. Amended by P.L.260-1997(ss), SEC.53; P.L.246-2005, SEC.82.

IC 8-14.5-6

Chapter 6. Issuance of Bonds and Notes

IC 8-14.5-6-1

Bond and note authorization

Sec. 1. Except as provided in sections 2 and 5 of this chapter, the authority may, by resolution, issue and sell bonds or notes of the authority for the purpose of providing funds to carry out the provisions of this article with respect to the construction of a project or projects or the refunding of any bonds or notes, together with any reasonable costs associated with a refunding. However, the authority may not issue any bonds or notes for the construction of a project after July 1, 2007.

As added by P.L.68-1988, SEC.12. Amended by P.L.260-1997(ss), SEC.54.

IC 8-14.5-6-2

Approval; identification of funding objectives

Sec. 2. (a) Before the issuance of bonds or notes, the authority must receive the approval of:

(1) the commissioner of the Indiana department of transportation; and

(2) the budget agency.

(b) Before the issuance of bonds or notes, the department shall identify:

(1) the project or projects to be financed from the proceeds of the bonds or notes; or

(2) the project or projects proposed to be financed from the proceeds of the bonds or notes, the projected cost and useful life of which will form a basis upon which the authority may reasonably determine that the limitations in sections 3 and 5(b) of this chapter will be complied with if the proposed project or projects are financed from the bonds or notes.

As added by P.L.68-1988, SEC.12. Amended by P.L.112-1989, SEC.4; P.L.260-1997(ss), SEC.55.

IC 8-14.5-6-3

Weighted average useful life of project; term of bonds and interest

Sec. 3. (a) The construction of a project may not be financed under this article if at the time the lease with respect to the project is initially entered into the weighted average useful life of the project is less than five (5) years.

(b) For purposes of this section and section 5 of this chapter, a certificate of the department as to the weighted average useful life of the project is conclusive with respect to the matters contained in the certificate.

(c) If any bonds or notes bear interest at a variable or adjustable rate, lease rentals under any lease or leases attributable to debt

service shall be fixed over the term of the lease or leases based on the fair and reasonable value of the project or projects leased.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-4
Notice of bond issue; publication; time for contesting validity; subsequent leases

Sec. 4. (a) Before issuing a series of bonds or notes, the authority shall publish a notice of its determination to issue the bonds or notes. The notice shall be published one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis.

(b) No action to contest the validity of:

(1) any contract entered into by the department and the authority before the bonds or notes are issued;

(2) any lease entered into by the department and the authority before the bonds or notes are issued to secure a series of bonds or notes; or

(3) a series of bonds or notes issued by the authority;

may be brought after the fifteenth day following publication of the notice required by subsection (a).

(c) If a lease or contract is entered into under this chapter after bonds or notes relating to the lease or contract are issued, the authority may publish notice of execution of the lease or contract as set forth in subsection (a). No action to contest the validity of such a lease or contract may be brought after the fifteenth day following publication of the notice.

(d) If an action challenging a lease, contract, bonds, or notes is not brought within the time prescribed by this section, the lease, contract, bonds, or notes shall be conclusively presumed to be fully authorized and valid under the laws of the state and any person or entity is estopped from further questioning the authorization, validity, execution, delivery, or issuance of the contract, lease, bonds or notes.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-5
Bond and note provisions; weighted average life

Sec. 5. (a) The bonds or notes must indicate on their face:

(1) the maturity date or dates, as determined under subsection (b);

(2) the interest rate or rates (whether fixed, variable, or a combination of fixed or variable) or the manner in which the interest rate or rates will be determined if variable or adjustable rates are used;

(3) registration privileges and place of payment, including provisions for book entry obligations as set forth in IC 5-1-15;

(4) the conditions and terms under which the bonds or notes may be redeemed or prepaid before maturity; and

(5) their source of payment as set forth in section 10 of this

chapter.

(b) The weighted average life of the bonds or notes may not exceed the sum of:

(1) the weighted average useful life of the project or projects to be financed from the proceeds of the bonds or notes; plus

(2) the period of construction of the project or projects.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-6

Manual or facsimile signatures; seal

Sec. 6. The bonds or notes:

(1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;

(2) shall be attested by the manual or facsimile signature of the public finance director;

(3) shall be imprinted or impressed with the seal of the authority by any means;

(4) may be authenticated by a trustee, registrar, or paying agent; and

(5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, or public finance director whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

As added by P.L.68-1988, SEC.12. Amended by P.L.162-2007, SEC.31.

IC 8-14.5-6-7

Negotiable instrument nature of bonds or notes

Sec. 7. The bonds or notes, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds or notes for value.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-8

Public or negotiated sale

Sec. 8. The bonds or notes may be sold by the authority at a public or a negotiated sale at a time or times determined by the authority and at a premium or discount as determined by the authority. In determining the amount of bonds or notes to be issued and sold, the authority may include the costs of construction or of refunding bonds or notes, including reasonable debt service reserves, and all other expenses necessary or incident to the construction of the project, a refunding, or the issuance of the bonds or notes.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-9

Appropriated purpose of proceeds; maturities

Sec. 9. The proceeds of the bonds or notes are appropriated for the purpose for which the bonds or notes may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds or notes. The maturities of the bonds or notes, the rights of the owners, and the rights, duties, and obligations of the authority are governed in all respects by this article and the resolution or trust agreement.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-10
Bonds or notes of authority not state indebtedness; funds from which payable

Sec. 10. The bonds or notes:

(1) constitute the corporate obligations of the authority;

(2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and

(3) are payable solely as to both principal and interest from:

(A) the revenues from a lease to the department, if any;

(B) proceeds of bonds or notes, if any; or

(C) investment earnings on proceeds of bonds or notes.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-11
Enforcement of article and undertaking

Sec. 11. The provisions of this article and the covenants and undertakings of the authority as expressed in any proceedings preliminary to or in connection with the issuance of the bonds or notes may be enforced, subject to the provisions of any resolution or trust agreement, by a bond or note owner by action for injunction or mandamus against the authority or any officer, agent, or employee of the authority. However, no action for monetary judgment may be brought against the state for any violations of this article or for payment of the bonds or notes of the authority.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-12
Tax exemption

Sec. 12. All bonds or notes issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds and notes, the interest on the bonds and notes, the proceeds received by an owner from the sale of the bonds or notes to the extent of the owner's cost of acquisition, proceeds received upon redemption for maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state

inheritance tax imposed under IC 6-4.1.
As added by P.L.68-1988, SEC.12. Amended by P.L.21-1990, SEC.40; P.L.254-1997(ss), SEC.14.

IC 8-14.5-6-13
Bonds and notes as legal investment

Sec. 13. Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this chapter.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-14
Security registration exemption

Sec. 14. Bonds or notes issued under this chapter are exempt from the registration requirements of IC 23-19 and any other state securities registration statutes.
As added by P.L.68-1988, SEC.12. Amended by P.L.27-2007, SEC.7.

IC 8-14.5-6-15
Pledges

Sec. 15. A pledge of lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority is binding from the time the pledge is made. Lease rentals, proceeds of bonds or notes, investment earnings on those proceeds, or other money pledged by the authority and thereafter received by the authority or its trustee or fiduciary is immediately subject to the lien of the pledge without any further act, and the lien of the pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. A resolution, trust agreement, or any other instrument by which a pledge is created is required to be filed or recorded only in the records of the authority.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-16
Insurance or guaranty of payment

Sec. 16. The authority may obtain from a department or agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, or any debt service reserve funds, on bonds or notes issued by the authority, or on securities purchased or held by the authority.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-17

Credit enhancement or liquidity support agreements

Sec. 17. The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds or notes issued by the authority, or for any debt service reserves securing any bonds or notes, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law. The authority may execute and deliver notes to evidence its obligation to make payments under such an agreement, but these notes must conform to the provisions of this article in all respects.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-18
Service agreements with financial institutions

Sec. 18. The authority may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection with:

(1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;

(2) the payment or collection of amounts payable as to principal or interest; and

(3) the delivery to the authority of securities or other investments purchased or sold by it.

The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.
As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-19
Trust agreements or resolutions

Sec. 19. (a) In the discretion of the authority, any bonds and notes issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.

(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds or notes as may be reasonable and proper, in the discretion of the authority, and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the owners of any bonds or notes of the trustee and may restrict the individual right of action by the owners.

(d) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the

security of the owners of bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or notes or from any other funds available to the authority.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-20

Authority purchase of its own bonds or notes

Sec. 20. The authority may purchase bonds or notes of the authority out of its funds or money available for the purchase of its own bonds or notes. The authority may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with owners of its bonds or notes. Unless cancelled, bonds or notes so held shall be considered to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be considered to be extinguished.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-6-21

Investment of authority funds

Sec. 21. Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

As added by P.L.68-1988, SEC.12.

IC 8-14.5-7

Chapter 7. Grant Anticipation Revenue Bonds and Notes

IC 8-14.5-7-1

"Authority"

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

As added by P.L.246-2005, SEC.83. Amended by P.L.1-2006, SEC.155.

IC 8-14.5-7-2

"Federal highway revenues"

Sec. 2. As used in this chapter, "federal highway revenues" means:

(1) money and obligation authority apportioned or allocated, or anticipated to be apportioned or allocated in the current federal fiscal year or a future federal fiscal year, to Indiana by the United States Department of Transportation under 23 U.S.C., as amended, for use on a highway improvement project; or

(2) other federal money that may be used for a highway improvement project and is available or anticipated to be available in the current federal fiscal year or a future federal fiscal year.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-3

"Grant anticipation revenue bond"

Sec. 3. As used in this chapter, "grant anticipation revenue bond" or "grant anticipation revenue note" means a bond or note, respectively, secured by lease rentals relating to highway improvement projects and anticipated to be paid from federal highway revenues deposited in the grant anticipation fund.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-4

"Highway improvement project"

Sec. 4. As used in this chapter, "highway improvement project" means a highway project for which the department may use federal highway revenues.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-5

Issuance of grant anticipation revenue bonds or notes

Sec. 5. The authority may, by resolution, before July 1, 2009, issue grant anticipation revenue bonds or notes for any purpose that is authorized by IC 8-14.5-6 and for which the department may use federal highway revenues.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-6
Revenue declaration

Sec. 6. (a) Before grant anticipation revenue bonds or notes may be issued under this chapter, the department shall prepare a revenue declaration that includes the department's determination that the amount of federal highway revenues received by the state in a particular state fiscal year will exceed the amount specified in subsection (c)(2) by at least eighteen percent (18%). Grant anticipation revenue bonds or notes may not be issued under this chapter unless the department makes the determination required under this subsection.

(b) The revenue declaration prepared under this section must provide a specified amount or percentage of federal highway revenues received by the state during a state fiscal year to be deposited in the grant anticipation fund and the number of years the deposits shall be made. A revenue declaration prepared under this section is subject to approval of the budget agency and the authority.

(c) The total amount of lease rentals securing grant anticipation revenue bonds or notes issued under this chapter and scheduled to be paid during any state fiscal year, determined as of the date of issuance of each series of grant anticipation revenue bonds or notes, may not exceed an amount equal to twenty-five percent (25%) of the remainder of:

(1) the total amount of federal highway revenues apportioned or allocated to the department during the federal fiscal year immediately preceding the state fiscal year in which the series of bonds or notes is issued; minus

(2) seven hundred thirty-four million eight hundred fifty thousand three hundred ninety dollars ($734,850,390), which is the total amount of federal highway revenues apportioned or allocated to the department during the federal fiscal year beginning October 1, 2003, and ending September 30, 2004.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-7
Maximum term of bonds and notes

Sec. 7. The term of grant anticipation revenue bonds or notes may not exceed twelve (12) years.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-8
Application of other law

Sec. 8. All other provisions of IC 8-14.5-6 apply to the issuance of grant anticipation revenue bonds or notes under this chapter.

As added by P.L.246-2005, SEC.83.

IC 8-14.5-7-9
Indebtedness limited to authority

Sec. 9. Grant anticipation revenue bonds or notes:

(1) constitute the corporate obligations of the authority;

(2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and

(3) are payable solely as to both principal and interest from:

(A) the revenues from a lease to the department, if any;

(B) proceeds of bonds or notes, if any; or

(C) investment earnings on proceeds of bonds or notes, if any.

As added by P.L.246-2005, SEC.83.

IC 8-15

ARTICLE 15. TOLL ROADS

IC 8-15-1

Chapter 1. Authorization to Purchase Toll Road Bonds

IC 8-15-1-1

Eligibility of bonds

Sec. 1. Every financial institution, insurance company and trust fund, in addition to the investments now authorized by law, is authorized to invest any of its funds of any kind or character in any toll road revenue bonds of the state issued by the Indiana department of transportation pursuant to IC 8-15-2, and such bonds are hereby declared eligible for deposit by any financial institution, insurance company, or trust fund under any law of this state providing for the deposit of securities or funds.

(Formerly: Acts 1953, c.131, s.1.) As amended by Acts 1980, P.L.74, SEC.221; P.L.18-1990, SEC.127.

IC 8-15-1-2

Definitions

Sec. 2. "Financial institutions" as used herein means and includes any bank or trust company, credit union, bank of discount and deposit, savings bank, loan and trust and safe deposit company, trust company, savings association, mortgage guaranty company, and small loan company organized under any law of the state of Indiana.

"Insurance company" as used herein means and includes any stock, mutual, reciprocal, assessment or fraternal benefit company or society writing any life, fire, livestock, casualty, health, hospital, accident or bonding insurance or reinsurance, which company or society is organized under the laws of the state of Indiana.

"Trust fund" as used herein shall be limited to private trust funds.

(Formerly: Acts 1953, c.131, s.2.) As amended by P.L.42-1993, SEC.8; P.L.79-1998, SEC.15.

IC 8-15-1-3

Construction of act

Sec. 3. This chapter shall be liberally construed to effectuate the purpose of permitting investment in any such toll road bonds of this state and shall be construed as giving additional power and authority to every financial institution, insurance company, and trust fund to make such investments and for such investments to be eligible for deposit under law of this state, restrictions in statutes to the contrary notwithstanding; provided, however, that nothing contained in this chapter shall be construed to change any limitations as to amounts which may be invested in obligations of any one obligor as may be imposed by laws regulating the investments of various financial institutions, insurance companies, and trust funds.

(Formerly: Acts 1953, c.131, s.3.) As amended by P.L.66-1984, SEC.56.

IC 8-15-2
Chapter 2. Operation and Financing of Toll Roads

IC 8-15-2-0.1
Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 1.1 of this chapter by P.L.116-1989 applies to all accounts receivable that are found to be uncollectible on July 1, 1989, and to accounts that are found to be uncollectible after June 30, 1989.

(2) The amendments made to section 5 of this chapter by P.L.133-2007 apply only to public works contracts entered into after June 30, 2007.

As added by P.L.220-2011, SEC.200.

IC 8-15-2-1
Purpose; powers; applicability to the authority

Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

(1) subject to subsection (d), construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;

(2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;

(3) finance, develop, construct, reconstruct, improve, or maintain improvements for manufacturing, commercial, or public transportation activities within a county through which a toll road passes;

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within a county through which a toll road passes and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) finance improvements necessary for developing transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

(d) Before the authority or an operator selected under IC 8-15.5 may carry out any of the following activities under this chapter, the general assembly must enact a statute authorizing that activity:

(1) Imposing tolls on motor vehicles for use of Interstate Highway 69.

(2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.

(Formerly: Acts 1951, c.281, s.1; Acts 1959, c.285, s.1.) As amended by Acts 1980, P.L.74, SECS.222, 223; P.L.109-1983, SEC.4; P.L.48-1986, SEC.3; P.L.18-1990, SEC.128; P.L.8-1993, SEC.143; P.L.89-1997, SEC.1; P.L.235-2005, SEC.115; P.L.214-2005, SEC.51; P.L.47-2006, SEC.8; P.L.1-2006, SEC.156; P.L.1-2007, SEC.80; P.L.163-2011, SEC.1; P.L.119-2012, SEC.92; P.L.94-2015, SEC.1.

IC 8-15-2-1.1

Mandatory transfer of funds

Sec. 1.1. (a) A written agreement between the authority and a city, town, or county under section 1 of this chapter, or a similar government cooperative statute, may provide for a mandatory transfer of funds by the auditor of state under this section if one (1) of the parties becomes more than sixty (60) days late in making a payment required by the agreement.

(b) To obtain a mandatory transfer of funds, the party to whom the funds were to be paid under the terms of the written agreement must certify in writing to the auditor of state:

(1) that a written agreement between the parties authorizes the mandatory transfer of funds as provided in subsection (a);

(2) that the owing party was notified in writing of the amount owed;

(3) that the payment is more than sixty (60) days past due;

(4) the names of the parties; and

(5) the amount of the payment due.

(c) Upon receipt of a certificate as specified in subsection (b), the

auditor of state shall:

(1) immediately notify the delinquent party of the claim; and

(2) if proof of payment is not furnished to the auditor of state within thirty (30) days after the delinquent party has been notified, transfer the unpaid amount from the delinquent party's allocations from the motor vehicle highway account to the other party.

(d) Transfers shall be made under subsection (c) until the unpaid amount has been paid in full under the terms of the agreement. However, the agreement may be amended if both the department and the unit agree to amortize the transfer over a period of time not to exceed five (5) years.

As added by P.L.116-1989, SEC.2.

IC 8-15-2-1.3

Procedures for allocation of money; considerations in prioritizing and selecting projects

Sec. 1.3. (a) The authority shall establish a written procedure for allocating money to projects described in section 1(a)(3) and 1(a)(4) of this chapter.

(b) The procedure established under this section must include at least the following:

(1) An application procedure to identify projects that qualify for funding.

(2) Criteria for prioritizing projects.

(3) Procedures for selecting projects.

(4) Procedures for reporting the results of the selection process and the status of projects to the interim study committee on fiscal policy established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

(c) The prioritization and selection process under this section must give consideration to the following:

(1) The impact of the project on toll road usage.

(2) Consistency of the project with local transportation plans.

(3) The extent to which the project will have local financial participation relative to local available resources.

(4) The amount of vehicular traffic served.

(5) The potential local economic impact.

(6) Whether the project is deemed to be an emergency by the applicant and the authority.

As added by P.L.83-1996, SEC.2. Amended by P.L.53-2014, SEC.84.

IC 8-15-2-1.4

Selection of projects under section 1 of chapter after December 31, 1996, under written procedures

Sec. 1.4. Projects initially funded under section 1(a)(3) and 1(a)(4) of this chapter after December 31, 1996, must be selected under the written procedures developed under section 1.3 of this

chapter, as added by P.L.83-1996.
As added by P.L.220-2011, SEC.201.

IC 8-15-2-2
Pledge state faith and credit

Sec. 2. (a) Toll road revenue bonds issued under the provisions of this chapter:

(1) shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision; and

(2) shall be payable soley from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from the funds pledged for their payment as authorized by this chapter, unless such bonds are refunded by refunding bonds issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized by this chapter.

(b) All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from funds pledged for their payment, as authorized by this chapter.

(c) All expenses incurred in carrying out the provisions of this chapter shall be payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from funds provided under this chapter and nothing contained in this chapter shall be construed to authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.
(Formerly: Acts 1951, c.281, s.2.) As amended by Acts 1980, P.L.74, SECS.224, 225; P.L.109-1983, SEC.5; P.L.386-1987(ss), SEC.7.

IC 8-15-2-3
Repealed

(Repealed by P.L.109-1983, SEC.50.)

IC 8-15-2-4
Definitions

Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Authority" refers to the Indiana finance authority established under IC 4-4-11.

(2) "Capitalized interest" means:

(A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and

(B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any new or existing express highway, limited access facility, superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and facilities which the authority may deem necessary or desirable for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority for the construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. "Project" or "toll road project" also includes a project connecting the state of Indiana with an adjacent state. Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor, shall not be considered as within the definition of "project" or "toll road project".

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

(A) the cost of construction, including bridges over or under existing highways and railroads;

(B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;

(C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;

(E) the cost of all machinery and equipment;

(F) financing charges and capitalized interest;
(G) the cost of funding any reserves to secure the payment of toll road revenue bonds;
(H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;
(I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
(J) administrative expense;
(K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and
(L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon.

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using any toll road project.

(10) "Toll road bonds" means all bonds issued under the provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2.

(Formerly: Acts 1951, c.281, s.4; Acts 1959, c.285, s.2.) As amended by Acts 1980, P.L.74, SECS.226, 227; Acts 1981, P.L.41, SEC.52; P.L.109-1983, SEC.6; P.L.386-1987(ss), SEC.8; P.L.68-1988, SEC.13; P.L.18-1990, SEC.129; P.L.8-1993, SEC.144; P.L.235-2005, SEC.116; P.L.85-2010, SEC.1.

IC 8-15-2-5
Powers

Sec. 5. The authority may do the following:

(1) Construct, maintain, repair, police, and operate toll road projects (as defined in this chapter), public improvements, and arterial streets and roads under section 1 of this chapter and establish rules for the use of any such toll road project, public improvement, or arterial street or road.

(2) Issue toll road revenue bonds of the state, payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from revenues or from the proceeds of bonds issued under this chapter and earnings thereon, or from all three (3), for the purpose of paying all or any part of the cost of any one (1) or more toll road projects or for the purpose of refunding any other toll road revenue bonds.

(3) Establish reserves from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds.

(4) Fix and revise from time to time and charge and collect tolls for transit over each toll road project constructed by it.

(5) Acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation in the manner as provided by this chapter, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of this chapter. The authority may also:

(A) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, whether by purchase, condemnation, or otherwise, and whether such land or interest therein had been public or private, when the same shall no longer be needed for such purposes; and

(B) transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under the provisions of this chapter to a state agency or political subdivision.

(6) Designate the locations and establish, limit, and control such points of ingress to and egress from each toll road project as may be necessary or desirable in the judgment of the authority to ensure the proper operation and maintenance of such projects, and to prohibit entrance to such project from any point

not so designated. The authority shall not grant, for the operation of transient lodging facilities, either ingress to or egress from any project, including the service areas thereof on which are located service stations and restaurants, and including toll plazas and paved portions of the right-of-way. The authority shall cause to be erected, at its cost, at all points of ingress and egress, large and suitable signs facing traffic from each direction on the toll road. Such signs shall designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities with a population of five thousand (5,000) or more within a distance of seventy-five (75) miles on such roads of ingress or egress, and the distance in miles to such designated municipalities.

(7) 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, IC 8-9.5-8, or IC 8-15.5. When the cost under any such contract or agreement, other than:

(A) a contract for compensation for personal services;

(B) a contract with the department under IC 8-9.5-8-7;

(C) a lease with the department under IC 8-9.5-8-8; or

(D) a contract, a lease, or another agreement under IC 8-15.5;

involves an expenditure of more than ten thousand dollars ($10,000), the authority shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the authority shall determine. Such notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The authority may reject any and all bids. A bond with good and sufficient surety shall be required by the authority of all contractors in an amount equal to at least fifty percent (50%) of the contract price, conditioned upon the faithful performance of the contract. The authority shall require a bid, performance, and payment bond from a contractor for a project if the estimated cost of the project is more than two hundred thousand dollars ($200,000). The authority may require a bid, performance, or payment bond from a contractor for a project if the estimated cost of the project is not more than two hundred thousand dollars ($200,000).

(8) Employ consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, bond counsel, other attorneys with the approval of the attorney general, and other employees and agents as may be necessary in its judgment to carry out the provisions of this chapter, and to fix their compensation. However, all such expenses shall be payable solely from the proceeds of toll road revenue bonds issued under the provisions of this chapter or from revenues.

(9) Receive and accept from any federal agency, subject to IC 8-23-3, grants for or in aid of the construction of any toll road project, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made, and repay any grant to the authority or to the department from a federal agency if such repayment is necessary to free the authority from restrictions which the authority determines to be in the public interest to remove.

(10) Establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in projects authorized as public improvements on arterial streets and roads under section 1 of this chapter.

(11) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to the aid.

(12) Accept transfer of a state highway to the authority under IC 8-23-7-23 and pay the cost of conversion of the state highway to a toll road project.

(13) Enter into contracts or leases with the department under IC 8-9.5-8-7 or IC 8-9.5-8-8 and in connection with the contracts or leases agree with the department for coordination of the operation and the repair and maintenance of toll road projects and tollways which are contiguous parts of the same public road, including joint toll collection facilities and equitable division of tolls.

(14) Enter into public-private agreements under IC 8-15.5 and do all acts and things necessary or proper to carry out the purposes set forth in IC 8-15.5.

(15) Adopt rules under IC 4-22-2-37.1 to make changes to rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5. A rule adopted under this subdivision expires on the expiration date stated in the rule.

(16) Do all acts and things necessary or proper to carry out this chapter.

(Formerly: Acts 1951, c.281, s.5; Acts 1957, c.273, s.1; Acts 1959, c.285, s.3; Acts 1969, c.86, s.1.) As amended by Acts 1977, P.L.112,

SEC.1; Acts 1980, P.L.74, SECS.228, 229; Acts 1981, P.L.41, SEC.53; Acts 1982, P.L.62, SEC.10; P.L.109-1983, SEC.7; P.L.48-1986, SEC.4; P.L.386-1987(ss), SEC.9; P.L.18-1990, SEC.130; P.L.47-2006, SEC.9; P.L.133-2007, SEC.9; P.L.140-2013, SEC.6.

IC 8-15-2-5.2
Prohibition of sale, conveyance, or mortgage

Sec. 5.2. The authority may not sell, convey, or mortgage a toll road project.

As added by P.L.47-2006, SEC.10.

IC 8-15-2-5.5
Policing of toll roads

Sec. 5.5. (a) The authority may, if it determines to do so:

(1) employ its own police officers for the purpose of policing any toll road under its jurisdiction;

(2) designate one (1) or more of such officers for the purpose of policing any toll road under its jurisdiction; and

(3) designate one (1) of such officers as chief or superintendent.

(b) The police officers so employed by the authority are vested with all necessary police powers to enforce the provisions of the laws of the state of Indiana and without writ or warrant for violation thereof when committed in their presence. To this end, police officers employed by the authority shall be peace officers and shall have within the property limits of the toll road project the same powers with respect to the enforcement of laws as have sheriffs, constables, and police officers in their respective jurisdictions. Any warrant of arrest or search warrant issued by proper authority of the state may be executed by any police officers employed by the authority within the property limits of the toll road project.

(c) All uniformed police officers employed by the authority shall carry arms, and nonuniformed police officers employed by the authority may carry arms if in the performance of their duties.

(Formerly: Acts 1971, P.L.99, SEC.8.) As amended by Acts 1981, P.L.41, SEC.54; P.L.109-1983, SEC.8.

IC 8-15-2-6
Additional powers

Sec. 6. (a) The authority may:

(1) construct grade separations at intersections of any toll road project with public roads, state highways, and railroads; and

(2) change and adjust the lines and grades of such public roads, state highways, railroads, and public utility facilities.

The change and adjustment of lines and grades of public roads and state highways is subject to the approval of the division of government having jurisdiction of that road or highway. The cost of such grade separation and any damage incurred in changing and

adjusting the lines and grades of such roads, highways, railroads, and public utility facilities, shall be ascertained and paid by the authority as a part of the cost of such toll road project.

(b) If the authority shall find it necessary to change the location of any portion of any public road, state highway, railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad, or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway or railroad, or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility shall be ascertained and paid by the authority as a part of the cost of such toll road project.

(c) The authority shall have authority to petition, in the manner prescribed in IC 36-7-3-12, the legislative body of the municipality or of the county wherein is situated any public road or part thereof, affected by the location therein of any toll road project, for the vacation or relocation of such road or any part thereof.

(d) In addition, the authority and its authorized agents and employees after proper notice may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this chapter, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. However, before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved, at least five (5) days in advance of such entry, that survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track as would render said track unusable. The authority shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters, and premises as a result of such activities. The state of Indiana, subject to the approval of the governor, consents to the use of all lands owned by it, including lands lying under water, which are necessary or proper for the construction or operation of any toll road project, provided adequate compensation is made for such use.

(e) The authority shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this subsection as "public utility facilities") of any public utility in, on, along, over, or under any toll road project. Whenever the authority shall determine that it is necessary that any such public utility facilities which are located in, on, along, over, or under any such project should be relocated in such project, or should

be removed from such project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the authority; however, the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the authority as a part of the cost of such project excepting cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

(Formerly: Acts 1951, c.281, s.6.) As amended by Acts 1980, P.L.74, SEC.230; P.L.109-1983, SEC.9; P.L.5-1988, SEC.51.

IC 8-15-2-7

Powers to purchase

Sec. 7. The authority may:

(1) acquire by purchase, whenever it shall deem such purchase expedient, any land, property, rights, rights-of-way, franchises, easements, and other interests in lands as it may deem necessary or convenient for the construction and operation of any toll road project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the state;

(2) sell, transfer, and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes; and

(3) transfer and convey any such lands or interests therein as may be necessary or convenient for the construction and operation of any toll road project, or as otherwise required under this chapter.

(Formerly: Acts 1951, c.281, s.7; Acts 1957, c.273, s.2.) As amended by Acts 1980, P.L.74, SEC.231; P.L.109-1983, SEC.10.

IC 8-15-2-8

Powers to appropriate

Sec. 8. The authority may acquire by appropriation any land, property, rights, rights-of-way, franchises, easements, or other property necessary or proper for the construction or the efficient

operation of any toll road project in the manner provided by IC 8-23-7. However, a compensation for the property so taken shall first be made in money as provided by law. Nothing in this chapter shall authorize the authority to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of the public utility or common carrier, unless provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere at the sole cost of the authority excepting, however, cases in which the equipment or facilities are located within the limits of existing highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter.

(Formerly: Acts 1951, c.281, s.8.) As amended by Acts 1980, P.L.74, SEC.232; P.L.109-1983, SEC.11; P.L.18-1990, SEC.131.

IC 8-15-2-9

Toll road revenue bonds

Sec. 9. (a) Subject to IC 8-9.5-8-10, the authority is authorized to provide by a resolution at one (1) time or from time to time for the issuance of toll road revenue bonds of the state for the purpose of paying all or any part of the cost of any one (1) or more toll road projects. The principal of and the interest on such bonds shall be payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from the revenues or from the proceeds of bonds issued under the provisions of this chapter and earnings thereon, or from all three (3).

(b) The bonds of each issue shall:

(1) be dated;

(2) bear interest at such rate or rates as shall be established by the authority;

(3) mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the authority; and

(4) be made redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

(c) The authority shall:

(1) determine the form of the bonds, including any interest coupons to be attached thereto;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state.

(d) The bonds shall be signed by the chairman of the authority or by his facsimile signature, and attested to by the manual or the facsimile signature of the public finance director, and any coupons

attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent.

(e) All bonds issued under the provisions of this chapter shall have and are declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(f) The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(g) The authority may sell such bonds in such manner and for such price as it may determine to be for the best interests for the state, either at a public or private sale.

(h) The proceeds of the bonds of each issue shall be:

(1) used solely for the payment of the cost of the toll road project or projects for which such bonds shall have been issued; and

(2) disbursed in such manner and under such restrictions, if any, as the authority may provide in authorizing the issuance of such bonds or in the trust agreement mentioned securing the same.

(i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued.

(j) If the proceeds of the bonds of any issue shall exceed the cost of the toll road project or projects for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

(k) Prior to the preparation of definitive bonds, the authority may under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(l) Except as provided by IC 8-9.5-8-10, bonds may be issued under the provisions of this chapter without:

(1) obtaining the consent of any department, division,

commission, board, bureau, or agency of the state; and

(2) any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

(Formerly: Acts 1951, c.281, s.9; Acts 1969, c.86, s.2; Acts 1971, P.L.99, SEC.2.) As amended by Acts 1980, P.L.74, SECS.233, 234; P.L.109-1983, SEC.12; P.L.386-1987(ss), SEC.10; P.L.5-1988, SEC.52; P.L.162-2007, SEC.32.

IC 8-15-2-10
Toll road revenue refunding bonds

Sec. 10. (a) Subject to IC 8-9.5-8-10, the authority may provide for the issuance of toll road revenue refunding bonds of the state payable solely from the funds provided by this chapter for payment for the purpose of:

(1) refunding any bonds then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds; and

(2) if deemed advisable by the authority, for the additional purpose of constructing improvements, extensions, or enlargements of the toll road project in connection with which the bonds to be refunded shall have been issued.

(b) The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the authority in respect of the same, shall be governed by the provisions of this chapter insofar as the same may be applicable.

(Formerly: Acts 1951, c.281, s.10.) As amended by Acts 1980, P.L.74, SECS.235, 236; P.L.109-1983, SEC.13.

IC 8-15-2-10.5
Toll road succeeding lien bonds

Sec. 10.5. (a) If at any time all revenues are pledged to secure the payment of any toll road revenue bonds then outstanding, the authority, rather than providing for the issuance of another series of bonds equally secured by a pledge of such revenues or for immediate refunding of such bonds, may as it considers it advisable, provide by resolution for the issuance of toll road succeeding lien bonds of the state for the purpose of paying all or any part of the cost of any one (1) or more toll road projects, or for the present or future refunding of part or all of the outstanding toll road revenue bonds, or for both purposes.

(b) Notwithstanding any other provision of this chapter, revenues shall not be considered to be pledged for the payment of such succeeding lien bonds, including the interest thereon, so long as any of such prior bonds are outstanding but, upon retirement of such

prior bonds, such revenues shall be subjected immediately to a pledge securing the succeeding lien bonds by the terms of the trust agreement under which such succeeding lien bonds are issued without any further action by the authority.

(c) Succeeding lien bonds must provide that, pending payment of all such prior outstanding bonds, interest on the succeeding lien bonds shall be paid solely from the portion of the proceeds of the succeeding lien bonds designated for the payment of capitalized interest and from the earnings on such proceeds. After such prior outstanding bonds have been redeemed or retired, the principal of, premium, if any, and the interest on, the succeeding lien bonds shall be payable solely from the revenues and other funds pledged for such payment.

(d) The issuance and sale of succeeding lien bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority with respect thereto, shall be governed by the provisions of this chapter insofar as the same may be applicable, and the authority need not comply with the requirements of any other law applicable to the issuance of bonds other than as set forth in this chapter.

As added by Acts 1980, P.L.74, SEC.237. Amended by Acts 1981, P.L.41, SEC.55; P.L.109-1983, SEC.14.

IC 8-15-2-11

Journal of authority

Sec. 11. All final actions of the authority shall be journalized, and the journal shall be open to the inspection of the public at all reasonable times.

(Formerly: Acts 1951, c.281, s.11.) As amended by P.L.109-1983, SEC.15.

IC 8-15-2-12

Taxation

Sec. 12. (a) The exercise of the powers granted by this chapter will be in all respects for:

(1) the benefit of the people of the state;

(2) the increase of their commerce and prosperity; and

(3) the improvement of their health and living conditions.

(b) As the operation and maintenance of toll road projects by the authority will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon any toll road project or any property acquired or used by the authority under the provisions of this chapter or upon the income therefrom.

(c) The bonds issued under the provisions of this chapter, their transfer, and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state.

(Formerly: Acts 1951, c.281, s.12.) As amended by Acts 1980,

P.L.74, SEC.238; P.L.109-1983, SEC.16.

IC 8-15-2-13

Trust agreements securing bond issue

Sec. 13. (a) In the discretion of the authority, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(b) Any such trust agreement may pledge or assign the tolls and other revenue to be received from such project or any other project or projects constructed under the provisions of this chapter, subject only to valid prior pledges and except as provided by this chapter with respect to succeeding lien bonds, but shall not convey or mortgage any toll road project or any part thereof.

(c) Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to:

(1) the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the toll road project or projects in connection with which such bonds shall have been authorized, or of which the revenues are pledged;

(2) the rates of toll to be charged, and the custody, safeguarding, and application of all moneys; and

(3) the employment of consulting engineers in connection with the construction or operation of such project or projects.

(d) It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenue to furnish such indemnifying bonds or to pledge such securities as may be required by the authority.

(e) Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition, any such trust agreement may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

(f) All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the toll road project or projects.

(Formerly: Acts 1951, c.281, s.13; Acts 1971, P.L.99, SEC.3.) As amended by Acts 1980, P.L.74, SECS.239, 240; P.L.109-1983, SEC.17.

IC 8-15-2-14

Toll collection

Sec. 14. (a) The authority may do the following:

(1) Fix, revise, charge, and collect tolls for the use of each toll road project by any person, partnership, association, limited liability company, or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion and for placing thereon telephone, telegraph, electric light, or power lines.

(2) Fix the terms, conditions, and rates of charge for such use, including assessments for the failure to pay required tolls, subject, however, to the state's police power.

(3) Collect tolls, user fees, or other charges through manual or nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems.

(4) Adopt rules under IC 4-22-2-37.1 authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means under subdivision (3). A rule adopted under this subdivision expires on the expiration date stated by the authority in the rule.

(b) Notwithstanding subsection (a), no toll or charge shall be made by the authority under this section or under a public-private agreement entered into under IC 8-15.5 for:

(1) the operation of temporary lodging facilities located upon or adjacent to any project, nor may the authority itself operate or gratuitously permit the operation of such temporary lodging facilities by other persons without any toll or charge; or

(2) placing in, on, along, over, or under such project, such telephone, telegraph, electric light or power lines, equipment, or facilities as may be necessary to serve establishments located on the project or as may be necessary to interconnect any public utility facilities on one (1) side of the toll road project with those on the other side.

(c) All contracts executed by the authority shall be preserved in the principal office of the authority.

(d) In the case of a toll road project that is not leased to the department under IC 8-9.5-8-7, the tolls shall be fixed and adjusted for each toll road project so that the aggregate of the tolls from the project, together with other revenues that are available to the authority without prior restriction or encumbrance, will at least be adequate to pay:

(1) the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements;

(2) the principal of and the interest on bonds issued in

connection with the toll road project, as the principal and interest becomes due and payable, including any reserve or sinking fund required for the project; and

(3) the payment of principal of and interest on toll road bonds issued by the authority in connection with any other toll road project, including any reserve or sinking fund required for the project, but only to the extent that the authority provides by resolution and subject to the provisions of any trust agreement relating to the project.

(e) Not less than one (1) year before the date that final payment of all such bonds, interest, and reimbursement is expected by the chairman of the authority to be completed, the chairman shall notify the state budget committee in writing of the expected date of final payment.

(f) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau, or agency of the state.

(g) The tolls, rents, and all other revenues derived by the authority from the toll road project, except those received in accordance with a public-private agreement under IC 8-15.5, shall be used as follows:

(1) To pay the cost of operating, maintaining, and repairing the toll road project, including major repairs, replacements, and improvements, to the extent that those costs are not paid out of other funds.

(2) To the extent provided for in the resolution authorizing the issuance of bonds under this chapter or in the trust agreement securing the bonds, to pay:

(A) the principal of and interest on any bonds as the principal and interest become due; or

(B) the redemption price or purchase price of the bonds retired by call or purchase.

(3) Except as prohibited by the resolution authorizing the issuance of bonds under this chapter or the trust agreement securing them, for any purpose relating to any toll road project, including the subject toll road project, as the authority provides by resolution.

(h) Neither the resolution nor any trust agreement by which a pledge is created needs to be filed or recorded except in the records of the authority.

(i) The use and disposition of moneys to the credit of any sinking fund shall be subject to the provisions of any resolution or resolutions authorizing the issuance of any bonds or of any trust agreement. Except as may otherwise be provided in this chapter or in any resolution or any trust agreement, any sinking fund shall be a fund for all bonds without distinction or priority of one over another, subject, however, to such priorities as may arise from prior pledges.

(j) In the case of a toll road project that is leased to the department under IC 8-9.5-8-8, the lease must require that the department fix tolls for the toll road project that comply with IC 8-9.5-8-8(c)(6).

(k) User fees (as defined in IC 8-15.5-2-10) for a toll road project that is subject to a public-private agreement under IC 8-15.5 shall be set in accordance with IC 8-15.5-7.

(Formerly: Acts 1951, c.281, s.14; Acts 1959, c.285, s.4; Acts 1971, P.L.99, SEC.4.) As amended by Acts 1980, P.L.74, SECS.241, 242; P.L.109-1983, SEC.18; P.L.386-1987(ss), SEC.11; P.L.8-1993, SEC.145; P.L.47-2006, SEC.11; P.L.140-2013, SEC.7.

IC 8-15-2-14.5
Tolls

Sec. 14.5. (a) Subject to the provisions and requirements of any trust agreement providing for the issuance of toll road revenue bonds and only to the extent permitted by such trust agreement, the authority shall fix the tolls for any toll road under its jurisdiction.

(b) Subsection (a) does not apply to tolls fixed, authorized, or established in accordance with a public-private agreement under IC 8-15.5.

(Formerly: Acts 1971, P.L.99, SEC.9.) As amended by Acts 1980, P.L.74, SECS.243, 244; P.L.109-1983, SEC.19; P.L.214-2005, SEC.52; P.L.47-2006, SEC.12.

IC 8-15-2-14.7
Appropriations to development authority

Sec. 14.7. (a) As used in this section, "development authority" refers to the development authority established under IC 36-7.5-2-1.

(b) An appropriation made by the general assembly to the development authority may be distributed to the development authority only if all transfers required from cities and counties to the development authority under IC 36-7.5-4-2 have been made.

(c) An appropriation made by the general assembly to the development authority may be distributed to the development authority only after:

(1) the budget committee has reviewed; and

(2) the director of the office of management and budget has approved;

the comprehensive strategic development plan submitted in accordance with IC 36-7.5-3-4.

(d) If the Indiana Toll Road is sold or leased before January 1, 2008 (other than a lease to the department), and the sale or lease agreement does not require the purchaser or lessee to continue making the distributions required by subsection (b), the treasurer of state shall pay the amount, if any, appropriated by the general assembly to the development authority fund established under IC 36-7.5-4-1.

(e) Amounts distributed or paid to the development authority under this section may be used for any purpose of the development authorized under IC 36-7.5.

As added by P.L.214-2005, SEC.53. Amended by P.L.47-2006,

SEC.13.

IC 8-15-2-15
Deposit of funds

Sec. 15. (a) All moneys received pursuant to the authority of this chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this chapter. Such funds shall be kept in depositories as selected by the authority and may be invested until expended, all as provided by law.

(b) The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall:

(1) act as trustee of such moneys; and

(2) hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust agreement may provide.

(c) This section does not apply to money paid or received with respect to a toll road project that is the subject of a public-private agreement under IC 8-15.5.

(Formerly: Acts 1951, c.281, s.15.) As amended by Acts 1980, P.L.74, SECS.245, 246; P.L.109-1983, SEC.20; P.L.47-2006, SEC.14.

IC 8-15-2-16
Rights of bondholders

Sec. 16. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights granted by this chapter may be restricted by any applicable trust agreement, may:

(1) either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted by this chapter or under any applicable trust agreement or the resolution authorizing the issuance of such bonds; and

(2) enforce and compel the performance of all duties required by this chapter or by any applicable trust agreement or resolution to be performed by the authority or by any officer thereof, including the fixing, charging, and collecting of tolls.

(Formerly: Acts 1951, c.281, s.16; Acts 1971, P.L.99, SEC.5.) As amended by Acts 1980, P.L.74, SEC.247; P.L.109-1983, SEC.21.

IC 8-15-2-17
Power to adopt rules and regulations

Sec. 17. The authority shall have power to adopt bylaws and, under IC 4-22-2, rules and regulations as it may deem advisable for:

(1) the control and regulation of traffic on any toll road project;
(2) the protection and preservation of property under its jurisdiction and control; and
(3) the maintenance and preservation of good order within the property under its control.

However, such rules and regulations shall provide that public police officers shall be afforded ready access, while in the performance of their official duty, to all property under the jurisdiction of the authority without the payment of tolls.

(Formerly: Acts 1951, c.281, s.17.) As amended by Acts 1978, P.L.2, SEC.855; Acts 1980, P.L.74, SEC.248; P.L.109-1983, SEC.22.

IC 8-15-2-17.1
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-15-2-17.2
Scope of rules; violations; offenses; penalties

Sec. 17.2. (a) Notwithstanding IC 9, the authority may adopt rules:

(1) Establishing weight and size limitations for vehicles using a toll road project, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights as set out by the authority in rules and regulations shall apply to the authority in writing, for an application for a special hauling permit, which application must be in compliance with all the terms thereof, and which application must be received at least seven (7) days prior to the time of permitted entry should such permit be granted. Such permit, if granted, will be returned to the applicant in duplicate, properly completed and numbered, and the driver of the vehicle shall have a copy to present to the toll attendant on duty at the point of entry.

(B) The authority shall assess a fee for issuing a special hauling permit. In assessing the fee, the authority shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.
(ii) The potential damage the vehicle represents to the project.
(iii) The potential safety hazard the vehicle represents.

(2) Establishing the minimum speed that a motor vehicle may be driven on the interstate defense network of dual highways.
(3) Designating one-way traffic lanes on a toll road project.
(4) Determining the manner of operation of motor vehicles entering and leaving traffic lanes on a toll road project.
(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of

passing motor vehicles on a toll road project.

(6) Determining the establishment and enforcement of traffic control signs and signals for motor vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a toll road project.

(7) Determining the limitation of entry to and exit from a toll road project to designated entrances and exits.

(8) Determining the limitation on use of a toll road project by pedestrians and aircraft and by vehicles of a type specified in such rules and regulations.

(9) Regulating commercial activity on a toll road project, including but not limited to:

(A) the offering or display of goods or services for sale;

(B) the posting, distributing, or displaying of signs, advertisements, or other printed or written material; and

(C) the operation of a mobile or stationary public address system.

(10) Establishing enforcement procedures and making assessments for the failure to pay required tolls. The authority may adopt rules under this subdivision under IC 4-22-2-37.1. A rule under this subdivision adopted under IC 4-22-2-37.1 expires on the expiration date stated in the rule.

(b) A person who violates a rule adopted under this section commits a Class C infraction. However, a violation of a weight limitation established by the authority under this section is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) It is a defense to the charge of violating a weight limitation established by the authority under this section that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violated:

(1) a size or weight limitation established by the authority under this section; or

(2) a rule adopted under subsection (a)(10);

for a period of not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a weight or size limitation established by the authority under this section, the court may recommend suspension of the person's current chauffeur's license only if the violation was committed knowingly.

As added by Acts 1980, P.L.74, SEC.250. Amended by P.L.109-1983, SEC.23; P.L.151-2005, SEC.1; P.L.47-2006, SEC.15; P.L.140-2013, SEC.8.

IC 8-15-2-18
Maintenance of toll road projects

Sec. 18. (a) Each toll road project as defined in section 4(c) of this chapter, when constructed and opened to traffic shall be maintained and kept in good condition and repair by the authority. Each such project shall also be policed and operated by such force of police, toll-takers, and other operating employees as the authority may in its discretion employ.

(b) All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

(c) All counties, cities, towns, townships, and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are authorized and empowered to lease, lend, grant, or convey to the authority at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court, or other action of formality, other than the regular and formal action of the authorities concerned, any real property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the authority under this chapter.

(Formerly: Acts 1951, c.281, s.18; Acts 1957, c.281, s.1.) As amended by Acts 1978, P.L.6, SEC.17; Acts 1980, P.L.74, SEC.251; Acts 1981, P.L.41, SEC.56; P.L.109-1983, SEC.24.

IC 8-15-2-19
Removal of tolls

Sec. 19. (a) The authority may, after adopting a resolution and after receiving the governor's approval, at any time determine under IC 8-23-7 that a toll road project constructed or operated by the authority, other than a toll road project that is subject to a public-private agreement under IC 8-15.5, should become a part of the system of state highways free of tolls or become a tollway under IC 8-15-3.

(b) Any resolution as to any project described in subsection (a) shall not become effective until all bonds to which the revenues of any project were pledged for payment, together with all interest thereon, is paid, or a sufficient amount for the payment of all bonds and the interest thereon to maturity is set aside in trust for the benefit of bondholders.

(c) Until any resolution is adopted by the authority under subsection (a) and becomes effective as provided in subsection (b), and subject to the terms of any public-private agreement under

IC 8-15.5, any project constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the project and levy and collect tolls as provided in this chapter. Tolls on any project may be continued after the date of the payment of the principal of and interest on bonds issued for the construction of that project.
(Formerly: Acts 1951, c.281, s.19; Acts 1971, P.L.99, SEC.6.) As amended by Acts 1980, P.L.74, SEC.252; P.L.109-1983, SEC.25; P.L.386-1987(ss), SEC.12; P.L.18-1990, SEC.132; P.L.47-2006, SEC.16.

IC 8-15-2-20
Study of toll road projects

Sec. 20. (a) The department shall expend out of any funds available for the purpose such money as may be necessary for the study of any toll road project or projects and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study.

(b) All such expenses incurred by the department before the issuance of toll road revenue bonds under the provisions of this chapter shall be paid by the department and charged to the appropriate toll road project or projects, and the department shall keep proper records and accounts showing each amount so charged.

(c) Upon the sale of toll road revenue bonds for any project or projects, the fund so expended by the department in connection with such project or projects shall be reimbursed to the department from the proceeds of bonds. If any project or projects for which a study has been made is abandoned for any reason, then the costs of any such study or studies shall be paid out of any uncommitted funds of the authority, and if not so paid, the cost of any such study or studies shall be included in any subsequent issue of bonds for any other project or projects unless such inclusion would so increase the amount of bonds to be issued that in the judgment of the authority such inclusion would render the bonds unsaleable.

(d) In conducting any study of the feasibility of a toll road project, the department shall include an investigation of the economic effect of the construction of a highway on the communities served by that highway. The department shall determine the extent of the economic enhancement that would result from the construction of a toll road project for the purpose of quantifying the enhancement.
(Formerly: Acts 1951, c.281, s.20; Acts 1971, P.L.99, SEC.7.) As amended by Acts 1980, P.L.74, SEC.253; P.L.109-1983, SEC.26; P.L.68-1988, SEC.14.

IC 8-15-2-21
Supplemental nature of chapter

Sec. 21. This chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and

shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers existing on March 7, 1951; provided, however, that the issuance of toll road revenue bonds or toll road revenue refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.
(Formerly: Acts 1951, c.281, s.21.) As amended by P.L.66-1984, SEC.57.

IC 8-15-2-22
Construction of chapter

Sec. 22. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.
(Formerly: Acts 1951, c.281, s.22.) As amended by P.L.66-1984, SEC.58.

IC 8-15-2-23
Additional powers relating to bonds

Sec. 23. (a) The authority, in addition to the other powers conferred upon it under this chapter, may do the following:

(1) Provide for refunding or advance refunding of any outstanding bonds by the issuance of bonds to refund outstanding bonds and to pay any redemption premiums and the costs of refunding whenever the authority shall find that it is in the public interest for any one (1) or more of the following reasons to proceed with such refunding or advance refunding:

(A) To modify or effect release from restrictive covenants applicable to outstanding bonds which may impede any additional financing by the authority.

(B) To effect a benefit to the authority because:

(i) a net savings to the authority will be effected; or

(ii) the net present value of principal and interest payments on the revenue refunding bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

(C) To purchase outstanding bonds tendered to the authority at less than the then applicable redemption price.

IC 8-9.5-8-10 does not apply to the issuance of refunding bonds under this subdivision, except that before the authority may issue refunding bonds it must obtain the approval of the Indiana department of transportation and the budget agency. Bonds may be issued under clauses (A), (B), and (C) separately, or in combination with bonds under either or both of the other parts. However, the total of any issue under clause (C) shall not exceed the total purchase price of any tendered bonds and the costs of refunding. Also, bonds issued under clauses (A), (B), and (C) may be combined with an issue for any toll road project

or toll road projects. Prior to any issue under clause (C), the authority may seek tenders upon such notice as it deems appropriate, conditioned upon the issuance of bonds by the authority in its discretion after a review of the number of bonds tendered and the tender price.

(2) Subject to IC 8-9.5-8-10, issue bonds, either junior to or of equal priority with any outstanding bonds, to finance a toll road project or toll road projects and to pledge to the payment of such bonds the net revenues of such toll road project or toll road projects and of any other toll road project or toll road projects, regardless of when constructed. Any such pledge shall not be superior to any existing pledge of revenues to the payment of any outstanding bonds. In any such issue of bonds, interest costs for the period of construction and to such time as adequate revenues are estimated to be available for payment of such interest may be included in the amount of such issue as a part of the project cost and capitalized as a part of such issue. Bonds authorized under subdivision (1) may be combined with bonds authorized under this subdivision in a single issue. Any bonds issued after June 30, 1974, may be equally and ratably secured by the revenues pledged.

(3) Continue to levy and collect tolls on any toll road project, regardless of when constructed, in an amount sufficient to maintain and operate such road, and pay and discharge the obligations of any bonds issued on account of such project or any bonds issued under subdivision (1) and any bonds issued under subdivision (2) for any other toll road project or toll road projects constructed after June 30, 1974.

(b) The procedures for fixing tolls and issuing and selling bonds established in this chapter shall apply to the exercise of any powers under this section, except that any bonds issued under subsection (a)(1)(A) may be exchanged with the holders of outstanding bonds for bonds of equal maturity value if the authority finds such exchange a desirable method of achieving the result contemplated in subsection (a)(1)(A). Any bonds issued under this section may be sold at private or negotiated sale if the authority so determines. The authority need not comply with the requirements of any other law applicable to the issuance of bonds other than those set forth in this chapter and IC 8-9.5-8-10. This section shall be regarded as conferring additional and supplemental powers upon the authority and not to be in derogation of any other powers, and to the extent of any inconsistency between this section and any other provision of this chapter, this section shall prevail.

(Formerly: Acts 1974, P.L.34, SEC.1.) As amended by Acts 1980, P.L.74, SECS.254, 255; P.L.109-1983, SEC.27; P.L.18-1990, SEC.133.

IC 8-15-2-24

Feasibility study of construction of additional interchanges along toll roads

Sec. 24. (a) The authority shall cause a study to be made as to the feasibility of construction of additional interchanges along toll roads constructed or operated by the authority, and near population and traffic generating centers, including but not limited to, cities of the second class as defined by law.

(b) All such studies shall be made by the consulting engineer or engineers and the traffic engineer or engineers retained from time to time by the authority in connection with other of its duties under this chapter.

(c) Each study when completed shall be provided to the Indiana department of transportation.

As added by Acts 1976, P.L.31, SEC.1. Amended by Acts 1978, P.L.6, SEC.18; Acts 1980, P.L.74, SEC.256; P.L.109-1983, SEC.28; P.L.18-1990, SEC.134.

IC 8-15-2-25

Separate contracts for similar purposes under IC 8-15-2-5(7) restricted; bidding requirement

Sec. 25. Unless the authority publicly declares an emergency, it may not during any six (6) month period make separate contracts or agreements with another party for similar purposes under section 5(7) of this chapter without advertising for and accepting public bids, if the aggregate cost of the separate contracts or agreements is more than ten thousand dollars ($10,000).

As added by Acts 1977, P.L.112, SEC.2. Amended by Acts 1980, P.L.74, SEC.257; Acts 1982, P.L.6, SEC.9; Acts 1982, P.L.62, SEC.11; P.L.109-1983, SEC.29.

IC 8-15-2-25.6

Repealed

(Repealed by P.L.109-1983, SEC.50.)

IC 8-15-2-26

Actions violating rights of holders or owners prohibited

Sec. 26. Notwithstanding any other provision of this chapter, the authority may not take actions that would violate the rights of any holders or owners of outstanding bonds of the authority.

As added by P.L.48-1986, SEC.5.

IC 8-15-2-27

Funds generated by tolls; exclusive uses

Sec. 27. (a) Except as provided in subsection (b), and notwithstanding any other provision of this chapter, funds generated by tolls or any other means from a toll road project that was in existence and in use on or before January 1, 1986, shall be used exclusively for purposes that are authorized and described in this

chapter.

(b) If the authority enters into a public-private agreement with respect to a toll road project under IC 8-15.5, funds generated by tolls or any other means from that project shall be used as provided in IC 8-15.5.

As added by P.L.48-1986, SEC.6. Amended by P.L.47-2006, SEC.17.

IC 8-15-2-28

Exercise of certain powers by operator

Sec. 28. If the authority is a party to a public-private agreement under IC 8-15.5, the authority may authorize the operator under that agreement to exercise any or all of the powers specified in sections 1, 6, 18, and 24 of this chapter, subject to the terms of that agreement.

As added by P.L.47-2006, SEC.18.

IC 8-15-2-29

Display of United States flag

Sec. 29. A United States flag shall be displayed at the primary administrative building of the Indiana Toll Road.

As added by P.L.47-2006, SEC.19.

IC 8-15-3
Chapter 3. Tollways

IC 8-15-3-1
"Cost"

Sec. 1. As used in this chapter, "cost" (as applied to a tollway or any part of a tollway) includes the following:

(1) The cost of construction, including bridges over or under other public roads and railroads.

(2) The cost of acquisition of all real property, rights-of-way, rights, easements, and interests acquired by the department for construction.

(3) The cost of demolishing or removing any building or structure on acquired real property, including the cost of acquiring any real property to which buildings or structures may be moved.

(4) The cost of diverting highways, interchanges of highways, and access roads to private property, including the cost of real property or easements.

(5) The cost of all machinery and equipment.

(6) The cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, and estimates of costs and revenues.

(7) Other expenses that are necessary or incidental to the construction, reconstruction, or conversion of the tollway and the placing of the tollway in operation.

(8) Administrative expenses.

(9) Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a tollway under this chapter.

(10) The repayment of a grant from a federal agency that the department itself is authorized to repay under section 19 of this chapter in connection with a tollway.

(11) The cost of conversion of a state highway to a tollway under IC 8-23-7-22.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.135.

IC 8-15-3-2
"Department"

Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.136.

IC 8-15-3-2.5
"Operator"

Sec. 2.5. "Operator" refers to one (1) or more private individuals or entities that enter into a public-private agreement to do one (1) or more of the following with respect to one (1) or more tollways:

(1) Planning.
(2) Design.
(3) Development.
(4) Construction.
(5) Reconstruction.
(6) Maintenance.
(7) Repair.
(8) Financing.
(9) Operation.

A public entity may provide services to an operator as a subcontractor or subconsultant without affecting the private status of the operator and the entity's or operator's ability to enter into a public-private agreement.
As added by P.L.47-2006, SEC.20.

IC 8-15-3-3
"Owner"

Sec. 3. As used in this chapter, "owner" includes any individual, partnership, association, limited liability company, or corporation having title or interest in any property right, easement, or interest acquired by this chapter.
As added by P.L.386-1987(ss), SEC.13. Amended by P.L.8-1993, SEC.146.

IC 8-15-3-3.5
"Public-private agreement"

Sec. 3.5. "Public-private agreement" has the meaning set forth in IC 8-15.7-2-15.
As added by P.L.47-2006, SEC.21.

IC 8-15-3-4
"Public road"

Sec. 4. As used in this chapter, "public road" includes any public highway, road, and street in the state (including any toll road or tollway), whether maintained by the state, a county, a city, a town, or any other political subdivision or body corporate and politic separate from the state but exercising powers constituting essential government functions.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-5
"Revenue"

Sec. 5. As used in this chapter, "revenue" means any toll, rental, gift, grant, appropriation, money, or other funds or property coming into the possession or under the control of the department under this

chapter.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-6
"State highway"

Sec. 6. As used in this chapter, "state highway" means a public road for which the department is responsible under IC 8-23-2-4.1(4).
As added by P.L.386-1987(ss), SEC.13. Amended by P.L.1-2002, SEC.37.

IC 8-15-3-7
"Tollway"

Sec. 7. As used in this chapter, "tollway" includes:

(1) an express highway, limited access facility, superhighway, bridge, tunnel, or motor way, including express lanes and managed lanes, constructed under this chapter or IC 8-15.7 or, subject to section 10 of this chapter, converted to a tollway under IC 8-23-7-22;

(2) any bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service station, or administration, storage, or other buildings or facilities, including temporary facilities and buildings, facilities, and structures that will not be tolled, that the department considers appurtenant to or necessary or desirable for the financing, construction, operation, or maintenance of one (1) or more of the items described in subdivision (1);

(3) any subsequent improvement, betterment, enlargement, extension, or reconstruction of one (1) or more items described in this section, including any nontolled part, that are separately designated by name or number;

(4) a project connecting the state of Indiana with an adjacent state; or

(5) any combination of items or projects described in subdivisions (1) through (4).

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.137; P.L.47-2006, SEC.22; P.L.85-2010, SEC.2; P.L.163-2011, SEC.2.

IC 8-15-3-8
"Transient lodging facility"

Sec. 8. As used in this chapter, "transient lodging facility" means accommodations for overnight or temporary habitation. The term includes a hotel, motel, motor court, lodge, or inn.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-9
Location of tollway; approval; powers of department

Sec. 9. (a) Subject to subsection (e), the governor must approve the location of any tollway.

(b) The department may, in any combination, plan, design, develop, construct, reconstruct, maintain, repair, police, finance, and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may, in any combination, plan, design, develop, construct, reconstruct, improve, finance, operate, repair, or maintain public improvements such as roads and streets, sewer lines, water lines, and other utilities if these improvements are:

(1) adjacent or appurtenant to a tollway; or

(2) necessary or desirable for the financing, construction, operation, or maintenance of a tollway.

(d) The department may, in any combination, plan, design, develop, construct, reconstruct, improve, maintain, repair, operate, or finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) is adjacent to, appurtenant to, or interchanges with a tollway; or

(2) intersects with a road or street that interchanges with a tollway.

(e) Before the governor, the department, or an operator may carry out any of the following activities under this chapter, the general assembly must enact a statute authorizing that activity:

(1) Approve the location of a tollway other than a tollway that is approved before July 1, 2011.

(2) Impose tolls on motor vehicles for use of Interstate Highway 69.

(f) Notwithstanding subsection (e), during the period beginning July 1, 2011, and ending June 30, 2021, the general assembly is not required to enact a statute authorizing the governor, the department, or an operator to approve the location of a tollway with respect to the following projects:

(1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).

(2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.

(3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006,

SEC.23; P.L.85-2010, SEC.3; P.L.163-2011, SEC.3; P.L.119-2012, SEC.93; P.L.94-2015, SEC.2.

IC 8-15-3-10
Conversion of state highway to tollway

Sec. 10. The department (subject to complying with IC 8-23-7-22) may convert a state highway to a tollway.
As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.138.

IC 8-15-3-11
Rules; use of tollways and streets

Sec. 11. The department may establish rules for the use of tollways, public improvements, or arterial streets or roads.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-12
Fixing and collecting tolls

Sec. 12. The department may fix, revise, charge, collect, retain, and use tolls for transit over each tollway or part of a tollway. The tolls and the setting of toll rates are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state.
As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.139; P.L.47-2006, SEC.24.

IC 8-15-3-13
Acquisition of property

Sec. 13. The department may acquire in the name of the state, by purchase or otherwise, on the terms and conditions and in the manner that the department considers proper or by the exercise of the right of condemnation as prescribed by this chapter, that public or private property (including public parks, playgrounds, or reservations, including parts of them or rights in them, rights-of-way, property rights, easements, and interests) that the department considers necessary for carrying out this chapter.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-14
Sale, transfer, or conveyance of property

Sec. 14. The department may sell, transfer, and convey any real property, any interest in real property, or any part of real property (whether acquired by purchase, condemnation, or otherwise, and whether the land or interest had been public or private) when it is no longer needed for purposes of this chapter.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-15

Transfer or lease of property

Sec. 15. The department may transfer to the tollway or lease, license, or otherwise transfer to the authority or the operator of a tollway any real property or interest in real property acquired by it under section 13 or 31 of this chapter, IC 8-23-7, or otherwise that is necessary, desirable, or convenient for the financing, construction, maintenance, and operation of any tollway or part of a tollway, or as otherwise required under this chapter.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.140; P.L.47-2006, SEC.25.

IC 8-15-3-16

Ingress and egress points

Sec. 16. (a) Except as provided in subsection (b), the department may designate the locations and establish, limit, and control points of ingress and egress from each tollway as necessary or desirable to:

(1) ensure the proper operation and maintenance of the tollway;

(2) finance the tollway;

(3) prohibit entrance to the tollway from any point that is not designated as an entrance; and

(4) provide for and permit the interconnection of a tollway with a toll road that is leased or operated by the department.

(b) The department may not grant ingress to or egress from any tollway, service area, or toll collection area having direct access to the tollway for the operation of transient lodging facilities, including the service areas on which are located service stations and restaurants and toll plazas and paved parts of the right-of-way.

(c) The department shall erect at all points of ingress and egress suitable signs facing traffic from each direction on the tollway. These signs must designate the number and other designations, if any, of all United States or state highways of ingress or egress, the names of all Indiana municipalities having a population of at least five thousand (5,000) within a distance of seventy-five (75) miles on the roads of ingress or egress, and the distance in miles to those designated municipalities.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.26.

IC 8-15-3-17

Contracts, leases, and other agreements

Sec. 17. The department may make and enter into all leases, licenses, conveyances, contracts, and agreements necessary or incidental to the performance of the department's duties and the execution of the department's powers under this chapter and IC 8-15.7.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.27.

IC 8-15-3-18
Employees, consultants, and contractors

Sec. 18. The department may employ consulting engineers, superintendents, managers, other engineers, construction experts, financial advisers, accounting experts, attorneys, and other consultants, contractors, employees, and agents necessary to carry out this chapter or IC 8-15.7, and fix their compensation.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.28.

IC 8-15-3-19
Grants; aid; contributions

Sec. 19. The department may receive and accept in any combination from any federal, state, or local agency, subject to IC 8-23-3, loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, and grants for or in aid of the planning, design, construction, financing, repair, rehabilitation, expansion, improvement, operation, or maintenance of all or part of any tollway, and receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which those loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, grants, or contributions are made. The department may distribute any part of loan proceeds, proceeds from lines of credit, proceeds from credit guarantees, and grants received under this section to an operator as permitted by the terms of the loan, line of credit, credit guarantee, or grant. The department, the authority, or an operator, as required by a public-private agreement, shall repay any loan, line of credit, credit guarantee, or grant from a federal, state, or local agency, if a repayment is necessary to free the department from restrictions that the department determines to be in the public interest to remove.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.29.

IC 8-15-3-20
Expenditures or loans for public improvements

Sec. 20. The department may establish fees, charges, terms, or conditions for any expenditures, loans, or other form of financial participation in connection with public improvements on arterial streets and roads that are financed with tollway funds.

As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-21
Acceptance of gifts, bequests, loans, or revenue sharing

Sec. 21. The department may accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, and any other financing and assistance from any source and agree to and comply

with conditions attached to it. Subject to the conditions agreed to by the department, the department may distribute any gifts, devises, bequests, grants, loans, appropriations, revenue sharing, and any other financing and assistance received under this section to an operator, as set forth in a public-private agreement.
As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.30.

IC 8-15-3-22
Power of department

Sec. 22. (a) The department has any power with respect to tollways that it has in connection with state highways.

(b) The department may do all acts and things necessary or proper to carry out this chapter.
As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-23
Exercise of power; exemption from taxation or assessments

Sec. 23. (a) The exercise of the powers granted by this chapter to the department or the authority must be in all respects for:

(1) the benefit of the people of Indiana;

(2) the increase of the commerce and prosperity of Indiana; and

(3) the improvement of the health and living conditions of the people of Indiana.

(b) Since the operation and maintenance of a tollway by the department or the authority constitutes the performance of essential governmental functions, neither the department nor the authority is required to pay any taxes or assessments upon a tollway or any property acquired or used by the department under this chapter or IC 8-15.7 or upon the income from a tollway.

(c) The operator under a public-private agreement is not required to pay taxes or assessments upon a tollway, any property or property interest acquired by the operator under a public-private agreement, or any possessory interest in the tollway or in property granted or created by the public-private agreement under this chapter or IC 8-15.7.

(d) An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in:

(1) a tollway; or

(2) property granted or created by the public-private agreement;

is entitled to the exemption from gross retail tax and use tax provided under IC 6-2.5-4-9(c) and IC 6-2.5-3-2(c), respectively, with respect to that tangible personal property.
As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.31; P.L.181-2016, SEC.32.

IC 8-15-3-24

Tolls and charges; fixing and collecting; deposits

Sec. 24. (a) Except as provided in subsection (b), the department may:

(1) fix, revise, charge, and collect tolls, fees, or charges for:

(A) the use of a tollway or any part of a tollway, including the right-of-way adjoining the paved part of the tollway;

(B) placing on a tollway or part of a tollway telephone, telegraph, electric light, cable, communication, gas, water, sewer, or power lines;

(C) the initiation, administration, and maintenance of customer accounts, late payment procedures, credit card and other electronic transactions, and enforcement actions for collection of unpaid amounts; and

(D) equipment used by customers in connection with electronic tolling, including transponders;

(2) fix the terms, conditions, and rates of charge for use of a tollway; and

(3) retain and use tolls, fees, or charges collected in accordance with this article.

(b) A toll or charge may not be made by the department for the following:

(1) The operation of temporary lodging facilities located upon or adjacent to a tollway.

(2) Placing in, on, along, over, or under a tollway any telephone, telegraph, electric light, cable, communication, gas, water, sewer, or power lines, equipment, or facilities that are necessary to serve establishments located on the tollway or that are necessary to interconnect any public utility facilities on one (1) side of the tollway with those on the other side.

(c) The department may fix the tolls for a tollway by establishing maximum amounts and may provide that tolls or any maximum tolls established, and any increases or decreases to those tolls or maximum tolls, may be based on the indices or methodologies that the department considers appropriate. The department may set an increased toll for any class of traffic for any lane or other part of a tollway if the department determines that an increased toll is necessary or appropriate for financing the tollway or to reduce traffic congestion, increase mobility, improve connectivity, promote fuel conservation, achieve operating efficiencies, or promote public safety. The department shall specify the times or conditions under which an increased toll will be imposed. A reduced rate of toll is not allowed within a class, except:

(1) through the use of commutation or other tickets or privileges based upon frequency or volume of use;

(2) as permitted under an electronic tolling program;

(3) as permitted under a managed lane program under section 27.5 of this chapter;

(4) as necessary, desirable, or appropriate for financing the

tollway;

(5) on a part of a tollway designated by the department, in its discretion, as an area free of tolls;

(6) as determined appropriate by the department; or

(7) as permitted under a public-private agreement.

(d) A person that passes a toll gate or other area of a tollway where a toll, charge, or fee is due without paying that amount commits a Class C infraction.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.32.

IC 8-15-3-25

Preservation of contracts

Sec. 25. All contracts executed by the department shall be preserved in the principal office of the department.

As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-26

Rules; traffic control; property protection; law enforcement access

Sec. 26. (a) The department may adopt rules under IC 4-22-2 for the following:

(1) The control and regulation of traffic on a tollway.

(2) The protection and preservation of property under the department's or operator's jurisdiction and control.

(3) The maintenance and preservation of good order within the property under the department's or operator's control.

(b) Rules adopted under this chapter must provide that law enforcement officers be afforded ready access, while in the performance of their official duties, to all property under the department's jurisdiction without the payment of tolls.

(c) A person who violates a rule adopted under this section commits a Class C infraction.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.47-2006, SEC.33.

IC 8-15-3-27

Adoption of rules; traffic controls

Sec. 27. Notwithstanding IC 9, the department may adopt rules under IC 4-22-2 for the following:

(1) Establishing weight and size limitations for vehicles using a tollway, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights must apply to the department in writing for an application for a special hauling permit. The application must be received at least seven (7) days before the time of desired entry. A permit, if granted, shall be given to the applicant in duplicate, properly completed, and numbered. The driver of the vehicle must

have a copy to present to the toll attendant on duty at the point of entry to the tollway.

(B) The department shall assess a fee for issuing a special hauling permit. In assessing the fee, the department shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the speed at which a vehicle may be driven on a tollway, including a minimum speed and a maximum speed not in excess of the maximum provided in IC 9 for the interstate defense network of dual highways.

(3) Designating one-way traffic lanes on a tollway.

(4) Determining the manner of operation of vehicles entering and leaving traffic lanes on a tollway.

(5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing vehicles on a tollway.

(6) Determining the establishment and enforcement of traffic control signs and signals for vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a tollway.

(7) Determining the limitation of entry to and exit from a tollway to designated entrances and exits.

(8) Determining the limitation on use of a tollway by pedestrians and aircraft and by vehicles of a type specified in the rules.

(9) Regulating commercial activity on tollways, including the following:

(A) The offering or display of goods or services for sale.

(B) The posting, distributing, or displaying of signs, advertisements, or other printed or written material.

(C) The operation of a mobile or stationary public address system.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.40-2000, SEC.1; P.L.23-2001, SEC.1.

IC 8-15-3-27.5

Rules restricting use of lanes

Sec. 27.5. (a) The rules adopted under section 26 or 27 of this chapter may include restrictions on the use of one (1) or more lanes on any part of a tollway as necessary, appropriate, or desirable for financing the tollway or to reduce congestion, increase mobility, promote fuel conservation, achieve operating efficiencies, or promote public safety. The restrictions may include limiting use of one (1) or more lanes to private vehicles, high occupancy vehicles, vehicles that participate in an electronic tolling program, trucks, commercial

vehicles, special fuel vehicles, transit vehicles, or vehicles that pay a higher toll for exclusive use of a dedicated lane. The rules may require a person eligible to use a restricted lane to obtain the permit specified by the department or an operator, as permitted under a public-private agreement.

(b) The department may require that an electronic device or other identification device specified by the department or by an operator as permitted under a public-private agreement be maintained in a vehicle using a restricted lane on a tollway.

(c) The department may construct barriers or implement other design, construction, or operational features to implement a managed lane, express lane, or other program under this section.

As added by P.L.47-2006, SEC.34.

IC 8-15-3-27.7

Rules concerning electronic tolling

Sec. 27.7. (a) The rules adopted under section 26 or 27 of this chapter may establish an electronic tolling program. The rules must provide at least the following:

(1) A participant must enter into a written agreement containing the terms and conditions approved by the department.

(2) An agreement must require the participant to do the following:

(A) Establish the account specified by the department and maintain the balance of funds in the account specified by the department.

(B) Hold and use any device provided to register use of a tollway that is chargeable to the participant's account in the manner specified in the rules and participant's agreement.

(C) Pay the fees, charges, and tolls specified by the department or an operator, as permitted under a public-private agreement.

(D) Comply with any other necessary or appropriate terms and conditions specified by the department or an operator, as permitted under a public-private agreement.

(3) A method for resolving disputed charges with account holders, including an agreement by the account holder to hold the department and its agents harmless for the payment of any unpaid financial obligation incurred by the account holder.

(4) The program will comply with all applicable federal and state laws, regulations, and rules regulating credit transactions between the entity holding the account and the account holder.

(5) Notice will be provided to the participant of all federal and state privacy, credit, and other laws, regulations, and policies applicable to an account and the program.

(b) The department may establish reasonable fees and charges to be charged to account holders and business entities participating in the electronic tolling program and to recover costs of administration,

account initiation and maintenance, late payments, credit card and other electronic transactions, enforcement, and improvement of the program. The fees and charges shall be deposited in the appropriate special funds account for the tollways covered by the program, as specified by the department, or used, retained, or deposited as permitted under a public-private agreement.

(c) The identifying credit and tollway use information of an electronic tolling program participant may not be used by the department or an operator for commercial purposes not related to the tollway.

As added by P.L.47-2006, SEC.35.

IC 8-15-3-28

Violations of rule; size and weight violations

Sec. 28. (a) A person who violates a rule adopted under section 27 of this chapter commits a Class C infraction.

(b) A violation of a weight limitation established by rule under section 27 of this chapter is:

(1) a Class B infraction if the total of all excess weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; or

(2) a Class A infraction if the total of all excess weight under those limitations is more than ten thousand (10,000) pounds.

(c) It is a defense to the charge of violating a weight limitation that the total of all excess weight under that limitation is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle that violates a size or weight limitation for a period of not more than ninety (90) days. Upon the conviction of a person for a violation of a weight or size limitation, the court may recommend suspension of a current chauffeur's license only if the violation is committed knowingly.

As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-29

Condition and repair of tollways

Sec. 29. Each tollway shall be maintained and kept in good condition and repair by the department.

As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-30

Restoration or repair of damaged property

Sec. 30. All public and private property damaged or destroyed in carrying out this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made for it.

As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-31
Lease, grant, or conveyance of property by political subdivision or public agency

Sec. 31. Notwithstanding any other law, each county, city, town, township, and other political subdivision and public agency of the state may lease, lend, grant, or convey to the state at the request of the department, upon reasonable and fair terms and conditions, and without the necessity for an advertisement, order of court, or other formal action (other than the regular and formal action of the departments concerned), any real property for the purposes of this chapter.

As added by P.L.386-1987(ss), SEC.13.

IC 8-15-3-32
Conversion of tollways to state highways

Sec. 32. Subject to any public-private agreement that applies to a tollway, including terms applicable to the financing of the tollway, the department may, after issuing an order and after receiving the governor's approval, at any time determine that a tollway under its jurisdiction should become a part of the system of state highways free of tolls.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.141; P.L.47-2006, SEC.36.

IC 8-15-3-33
Studies of tollway; additional interchanges

Sec. 33. (a) The department may expend any funds available for the study of a tollway and may use the department's engineering and other resources, including consulting engineers and traffic engineers, to conduct this study.

(b) The department shall make studies of the feasibility of construction of additional interchanges along tollways near population and traffic generating centers. These studies shall be made by consulting engineers and traffic engineers who are retained by the department in connection with its other duties under this chapter.

As added by P.L.386-1987(ss), SEC.13. Amended by P.L.18-1990, SEC.142.

IC 8-15-3-34
Employment of police officers

Sec. 34. The department may arrange for the use and employment of police officers to police a tollway. The police officers employed under this section are vested with all necessary police powers to enforce state laws. A police officer employed under this section has the same powers within the property limits of a tollway as a law enforcement officer (as defined in IC 35-31.5-2-185) within the law enforcement officer's jurisdiction. A warrant of arrest issued by the

proper authority of the state may be executed within the property limits of the tollway by a police officer employed by the department or an operator.
As added by P.L.47-2006, SEC.37. Amended by P.L.114-2012, SEC.17.

IC 8-15-3-35
Exercise of certain powers by authority or operator

Sec. 35. (a) If a public-private agreement is entered into under IC 8-15.7 with respect to a project, the department may authorize:

(1) the authority to exercise all or a part of the powers of the department under this chapter necessary or desirable to accomplish the purposes of this chapter or IC 8-15.7; and

(2) the operator under the public-private agreement to exercise all or a part of the powers of the department under sections 9, 16, 29, and 30 of this chapter under the public-private agreement.

(b) The department may authorize the authority to exercise all or a part of the powers of the department under this chapter necessary or desirable to accomplish the purposes of this chapter.
As added by P.L.47-2006, SEC.38.

IC 8-15.5

ARTICLE 15.5. PUBLIC-PRIVATE AGREEMENTS FOR TOLL ROAD PROJECTS

IC 8-15.5-1

Chapter 1. General Provisions

IC 8-15.5-1-1

Supplemental nature of powers conferred by article

Sec. 1. The powers conferred by this article are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-1-2 Version a

Complete authority for public-private agreements; limitations

Note: This version of section effective until 3-24-2016. See also following version of this section, effective 3-24-2016.

Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority, a private entity, and, where applicable, a governmental entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Before the authority or the department may issue a request for proposals for or enter into a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a toll road project, the general assembly must adopt a statute authorizing the imposition of tolls. However, during the period beginning July 1, 2011, and ending June 30, 2021, and notwithstanding subsection (c), the general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement to authorize an operator to impose tolls for the operation of motor vehicles on all or part of the following projects:

(1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).

(2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on

July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.

(3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

(c) Before the authority or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

(1) Imposing tolls on motor vehicles for use of Interstate Highway 69.

(2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.

(d) The general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement for a freeway project.

(e) The authority may enter into a public-private agreement for a facility project if the general assembly, by statute, authorizes the authority to enter into a public-private agreement for the facility project.

(f) As permitted by subsection (e), the general assembly authorizes the authority to enter into public-private agreements for the following facility projects:

(1) A state park inn and related improvements in an existing state park located in a county with a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000).

(2) Communications systems infrastructure, including:

(A) towers and associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the towers to function as part of the communications system;

(B) any equipment necessary, proper, or convenient to transmit and receive voice and data communications; and

(C) any other necessary, proper, or convenient elements of the communications system.

(3) Larue D. Carter Memorial Hospital in Indianapolis.

(g) The authority shall transfer money received from an operator under a lease agreement for communications systems infrastructure under subsection (f)(2) to the state bicentennial capital account established under IC 4-12-1-14.9.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.4;

P.L.163-2011, SEC.4; P.L.119-2012, SEC.94; P.L.205-2013, SEC.136; P.L.91-2014, SEC.17; P.L.94-2015, SEC.3; P.L.213-2015, SEC.103; P.L.149-2016, SEC.38.

IC 8-15.5-1-2 Version b

Complete authority for public-private agreements; state park improvements; communications systems infrastructure; limitations

Note: This version of section effective 3-24-2016. See also preceding version of this section, effective until 3-24-2016.

Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority, a private entity, and, where applicable, a governmental entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Before the authority or the department may issue a request for proposals for or enter into a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a toll road project, the general assembly must adopt a statute authorizing the imposition of tolls. However, during the period beginning July 1, 2011, and ending June 30, 2021, and notwithstanding subsection (c), the general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement to authorize an operator to impose tolls for the operation of motor vehicles on all or part of the following projects:

(1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).

(2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.

(3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

(c) Before the authority or an operator may carry out any of the following activities under this article, the general assembly must

enact a statute authorizing that activity:

(1) Imposing tolls on motor vehicles for use of Interstate Highway 69.

(2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.

(d) The general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement for a freeway project.

(e) The authority may enter into a public-private agreement for a facility project if the general assembly, by statute, authorizes the authority to enter into a public-private agreement for the facility project.

(f) As permitted by subsection (e), the general assembly authorizes the authority to enter into public-private agreements for the following facility projects:

(1) A state park inn and related improvements in an existing state park located in a county with a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000).

(2) Communications systems infrastructure, including:

(A) towers and associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the towers to function as part of the communications system;

(B) any equipment necessary, proper, or convenient to transmit and receive voice and data communications; and

(C) any other necessary, proper, or convenient elements of the communications system.

(3) Larue D. Carter Memorial Hospital in Indianapolis.

(g) The following apply to a public-private agreement for communications systems infrastructure under subsection (f)(2):

(1) The authority may:

(A) use the procedures set forth in IC 8-15.5-4; or

(B) at the authority's option and in its sole discretion, negotiate an agreement with a single offeror.

The authority must issue a request for information before entering into negotiations with a single offeror. If an agreement is negotiated with a single offeror, IC 8-15.5-4-11 and IC 8-15.5-4-12 are the only sections in IC 8-15.5-4 that apply.

(2) This article, and any other applicable laws with respect to establishing, charging, and collecting user fees, including IC 8-15.5-7, do not apply, and the operator may establish, charge, and collect user fees as set forth in the public-private agreement.

(3) Notwithstanding IC 8-15.5-5-2(2) providing that all

improvements and real property must be owned by the authority in the name of the state or by a governmental entity, or both, the public-private agreement may provide that any improvements on any real property interests may be owned by the authority, a governmental entity, an operator, or a private entity.

(4) The authority shall transfer money received from an operator under a public-private agreement to the state bicentennial capital account established under IC 4-12-1-14.9.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.4; P.L.163-2011, SEC.4; P.L.119-2012, SEC.94; P.L.205-2013, SEC.136; P.L.91-2014, SEC.17; P.L.94-2015, SEC.3; P.L.213-2015, SEC.103; P.L.149-2016, SEC.38; P.L.181-2016, SEC.33.

IC 8-15.5-1-3

Findings by general assembly

Sec. 3. The general assembly finds and determines that:

(1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads, or the maintenance and expansion of other facilities used by the state or other governmental entities, and therefore alternative funding sources should be developed to supplement public revenue sources;

(2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1);

(3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article;

(4) public-private agreements entered into by private entities and the Indiana finance authority under this article should allow for:

(A) transparency, oversight, and public information sharing;

(B) compliance with all state and federal environmental laws; and

(C) fairness for local jurisdictions when negotiating the public-private agreements.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.5; P.L.213-2015, SEC.104.

IC 8-15.5-2
Chapter 2. Definitions

IC 8-15.5-2-1
Application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-2-2
"Authority"
Sec. 2. "Authority" refers to the Indiana finance authority.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-2-3
"Department"
Sec. 3. "Department" refers to:
(1) the Indiana department of transportation for freeway projects and toll road projects; or
(2) the appropriate governmental entity, state agency, or instrumentality, whichever applies, for a facility project that is the subject of a public-private agreement under this article.
As added by P.L.47-2006, SEC.39. Amended by P.L.213-2015, SEC.105.

IC 8-15.5-2-3.2
"Facility project"
Sec. 3.2. "Facility project" means a project to plan, design, acquire, construct, reconstruct, equip, improve, extend, expand, lease, operate, repair, manage, maintain, or finance any of the following that are or will be owned by or leased in the name of the state or the authority and are the subject of a public-private agreement under this article:
(1) A state park inn and related improvements in an existing state park located in a county with a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000).
(2) Communications systems infrastructure, including:
(A) towers and associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the towers to function as part of the communications system;
(B) any equipment necessary, proper, or convenient to transmit and receive voice and data communications; and
(C) any other necessary, proper, or convenient elements of the communications system.
(3) Larue D. Carter Memorial Hospital in Indianapolis.
As added by P.L.213-2015, SEC.106.

IC 8-15.5-2-3.3
"Freeway project"

Sec. 3.3. (a) "Freeway project" means any nontolled, new or existing road, street, express highway, limited access facility, superhighway, or motorway for which a public-private agreement is entered into, including all bridges, tunnels, overpasses, interchanges, entrance plazas, approaches, other public ways, and administration, storage, and other buildings and facilities considered necessary or desirable by the authority for the operation of the freeway project.

(b) The term includes the following:

(1) All property, rights, easements, and interests that may be acquired by the authority for the construction or the operation of the freeway project.

(2) Any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing freeway project.

(3) A project connecting Indiana to an adjacent state.

As added by P.L.205-2013, SEC.137.

IC 8-15.5-2-3.5
"Governmental entity"

Sec. 3.5. "Governmental entity" means:

(1) any state;

(2) any authority, board, bureau, commission, committee, agency, department, division, or other instrumentality established by any state, including a unit of local government; or

(3) any entity established by the laws of another state in which the state of Indiana has been invited to participate.

As added by P.L.85-2010, SEC.6. Amended by P.L.91-2014, SEC.18.

IC 8-15.5-2-4
"Offeror"

Sec. 4. "Offeror" means a private entity that has submitted a proposal for a public-private agreement under this article.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-2-5
"Operator"

Sec. 5. "Operator" means a private entity that has entered into a public-private agreement with the authority.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-2-6
"Private entity"

Sec. 6. "Private entity" means any individual, sole proprietorship, corporation, limited liability company, joint venture, general partnership, limited partnership, nonprofit entity, or other private legal entity. A governmental entity may provide services to a private

entity without affecting the private status of the private entity and the ability to enter into a public-private agreement.
As added by P.L.47-2006, SEC.39. Amended by P.L.91-2014, SEC.19.

IC 8-15.5-2-7
"Project"
Sec. 7. "Project" means any of the following:
(1) A toll road project.
(2) A freeway project.
(3) A facility project.
As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.138; P.L.213-2015, SEC.107.

IC 8-15.5-2-8
"Public-private agreement"
Sec. 8. "Public-private agreement" means an agreement under this article between a private entity and the authority under which the private entity, acting on behalf of the authority (and, where applicable, a governmental entity) as lessee, licensee, or franchisee, will plan, design, acquire, construct, reconstruct, equip, improve, extend, expand, lease, operate, repair, manage, maintain, or finance a project.
As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.139; P.L.91-2014, SEC.20; P.L.213-2015, SEC.108.

IC 8-15.5-2-9
"Request for proposals"
Sec. 9. "Request for proposals" means all materials and documents prepared by or on behalf of the authority to solicit proposals from offerors to enter into a public-private agreement.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-2-9.5
"Toll road project"
Sec. 9.5. "Toll road project" has the meaning set forth in IC 8-15-2-4(4).
As added by P.L.205-2013, SEC.140.

IC 8-15.5-2-9.7
"Unit of local government"
Sec. 9.7. "Unit of local government" means a:
(1) county;
(2) city;
(3) town; or
(4) township;
located in Indiana.
As added by P.L.91-2014, SEC.21.

IC 8-15.5-2-10
"User fees"

Sec. 10. "User fees" means the rates, tolls, or fees imposed for the use of, or incidental to, all or any part of a toll road project or a facility project under a public-private agreement.

As added by P.L.47-2006, SEC.39. Amended by P.L.213-2015, SEC.109.

IC 8-15.5-3

Chapter 3. Authority to Enter Into Public-Private Agreements

IC 8-15.5-3-0.3

Validity of certain actions

Sec. 0.3. (a) Actions taken with respect to:

(1) the issuance of a request for proposals;

(2) the determination of responsible and eligible offerors; and

(3) the preliminary selection of an operator by the authority;

for a public-private agreement before March 15, 2006, that would have been valid under this article, as added by P.L.47-2006, are legalized and validated.

(b) All agreements relating to a project that:

(1) is located within a metropolitan planning area (as defined by 23 U.S.C. 134); and

(2) connects the state of Indiana with the commonwealth of Kentucky;

are hereby legalized and declared valid if entered into before April 15, 2013.

(c) All proceedings and any action taken at a proceeding concerning the making, execution, or approval of an agreement described in subsection (b) are fully legalized and validated.

As added by P.L.220-2011, SEC.202. Amended by P.L.205-2013, SEC.141.

IC 8-15.5-3-1

Power to enter into public-private agreement

Sec. 1. Subject to the other provisions of this article, the authority, a governmental entity, and a private entity may enter into a public-private agreement with respect to a project. Subject to the requirements of this article, a public-private agreement may provide that the private entity is partially or entirely responsible for any combination of the following activities with respect to the project:

(1) Planning.

(2) Design.

(3) Acquisition.

(4) Construction.

(5) Reconstruction.

(6) Improvement.

(7) Extension or expansion.

(8) Operation.

(9) Repair.

(10) Management.

(11) Maintenance.

(12) Financing.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.142; P.L.91-2014, SEC.22.

IC 8-15.5-4

Chapter 4. Selection of Operator by Request for Proposals

IC 8-15.5-4-0.5

Public-private agreement for communications systems infrastructure; single offeror; exemption from certain requirements of chapter

Sec. 0.5. If a public-private agreement for communications systems infrastructure is negotiated with a single offeror under IC 8-15.5-1-2(g)(1)(B), the requirements of this chapter, except sections 11 and 12 of this chapter, do not apply.

As added by P.L.181-2016, SEC.34.

IC 8-15.5-4-1

Request for proposals required

Sec. 1. Before entering into a public-private agreement under this article, the authority must issue a request for proposals as set forth in this chapter. A request for proposals for a project may be issued by the authority in one (1) or more phases and may include a request for qualifications.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.143.

IC 8-15.5-4-1.5

Required studies; public hearing

Sec. 1.5. (a) This section applies only to a toll road project and not to a freeway project or a facility project.

(b) The authority may not issue a request for proposals for a toll road project under this article unless the authority has received a preliminary feasibility study and an economic impact study for the project from the department.

(c) The economic impact study must, at a minimum, include an analysis of the following matters with respect to the proposed project:

(1) Economic impacts on existing commercial and industrial development.

(2) Potential impacts on employment.

(3) Potential for future development near the project area, including consideration of locations for interchanges that will maximize opportunities for development.

(4) Fiscal impacts on revenues to local units of government.

(5) Demands on government services, such as public safety, public works, education, zoning and building, and local airports.

The authority shall post a copy of the economic impact study on the authority's Internet web site and shall also provide copies of the study to the governor and the legislative council (in an electronic format under IC 5-14-6).

(d) After completion of the economic impact study, the authority

must conduct a public hearing on the results of the study in the county seat of the county in which the proposed project would be located. At least ten (10) days before each public hearing, the authority shall:

(1) post notice of the public hearing on the authority's Internet web site;

(2) publish notice of the public hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county; and

(3) include in the notices under subdivisions (1) and (2):

(A) the date, time, and place of the hearing;

(B) the subject matter of the hearing;

(C) a description of the purpose of the economic impact study;

(D) a description of the proposed project and its location; and

(E) a statement concerning the availability of the study on the

authority's Internet web site.

At the hearing, the authority shall allow the public to be heard on the economic impact study and the proposed project.

As added by P.L.85-2010, SEC.7. Amended by P.L.205-2013, SEC.144; P.L.91-2014, SEC.23; P.L.213-2015, SEC.110.

IC 8-15.5-4-2

Contents of request for proposals

Sec. 2. A request for proposals issued by the authority must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

(2) A statement that a proposal must be accompanied by evidence of financial responsibility as considered appropriate and satisfactory by the authority.

(3) A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

(4) A statement concerning any other information that the authority may consider in evaluating the proposals.

(5) A statement that, except as otherwise required by law or under order from a court with jurisdiction, the authority may not disclose the contents of proposals during:

(A) discussions; or

(B) negotiations;

with eligible offerors to other eligible offerors.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-4-3

Notice of request for proposals

Sec. 3. Notice of a request for proposals shall be given by publication in accordance with IC 5-3-1.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-4-4

Discussions with offerors

Sec. 4. As provided in a request for proposals, discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-4-5

Fair and equal treatment of offerors

Sec. 5. Eligible offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-4-6

Access to contents of proposals

Sec. 6. (a) The authority may not disclose the contents of proposals during discussions or negotiations with eligible offerors.

(b) The authority may, in its discretion in accordance with IC 5-14-3, treat as confidential all records relating to discussions or negotiations between the authority and eligible offerors if those records are created while discussions or negotiations are in progress.

(c) Notwithstanding subsections (a) and (b), and with the exception of parts that are confidential under IC 5-14-3, the terms of the selected offer negotiated under this article shall be available for inspection and copying under IC 5-14-3 after negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the authority shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-4-7

Negotiations with offerors

Sec. 7. (a) The authority shall negotiate with one (1) or more responsible offerors who submit proposals that are determined to be reasonably capable of being selected for a public-private agreement and may seek to obtain a final offer from one (1) or more responsible offerors.

(b) In determining whether one (1) or more responsible offerors are reasonably capable of being selected for a public-private

agreement, the authority must consider all the following:

(1) The responsible offeror's expertise, qualifications, competence, skills, and know-how to perform its obligations under the proposed public-private agreement in accordance with the public-private agreement.

(2) The financial strength of the responsible offeror, including its capitalization.

(3) The experience of the responsible offeror in other similar projects and the quality of the responsible offeror's past or present performance on other similar or equivalent projects.

(4) The integrity, background, and reputation of the responsible offeror, including the absence of criminal, civil, or regulatory claims or actions against the responsible offeror.

(c) The requirements set forth in subsection (b) also apply to the approval by the authority of any successor or replacement operator under the public-private agreement after the execution of the public-private agreement under section 11 of this chapter.

(d) In making its determination under subsection (b) or (c), the authority shall consider the offeror or operator as well as any private entity that controls the actions of the offeror or operator.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.145.

IC 8-15.5-4-8

Preliminary selection of offeror or termination of process

Sec. 8. After the final offers from responsible offerors have been negotiated under section 7 of this chapter, the authority shall:

(1) make a preliminary selection of an offeror as the operator for the project, whose final offer is referred to in this article as the "selected offer"; or

(2) terminate the request for proposal process.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.146.

IC 8-15.5-4-9

Public hearing on preliminary selection and agreement

Sec. 9. (a) If the authority makes a preliminary selection of an operator under section 8 of this chapter, the authority shall schedule a public hearing on the preliminary selection and the terms of the public-private agreement for the project. The hearing shall be conducted in the county seat of any Indiana county in which the proposed project is to be located.

(b) At least ten (10) days before the public hearing, the authority shall post on its Internet web site:

(1) the proposal submitted by the offeror that has been preliminarily selected as the operator for the project, except for those parts of the proposal that are confidential under this article; and

(2) the proposed public-private agreement for the project.

(c) At least ten (10) days before the public hearing, the authority shall:

(1) post notice of the public hearing on the authority's Internet web site; and

(2) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the Indiana county in which the proposed project is to be located.

(d) The notices required by subsection (c) must include the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A description of the project and of the public-private agreement to be awarded.

(4) The identity of the offeror that has been preliminarily selected as the operator for the project.

(5) The address and telephone number of the authority.

(6) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under this chapter, the following are available on the authority's Internet web site and are also available for public inspection and copying at the principal office of the authority during regular business hours:

(A) The selected offer.

(B) An explanation of the basis upon which the preliminary selection was made.

(C) The proposed public-private agreement for the project.

(e) At the hearing, the authority shall allow the public to be heard on the preliminary selection of the operator for the proposed project and the terms of the public-private agreement for the proposed project.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.8; P.L.205-2013, SEC.147; P.L.91-2014, SEC.24.

IC 8-15.5-4-10

Access to selected offer

Sec. 10. (a) Subject to section 6 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before the hearing scheduled under section 9 of this chapter.

(b) At the hearing, the authority shall allow the public to be heard on the preliminary selection.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-4-11

Designation of operator; publication of notice; execution of public-private agreement

Sec. 11. (a) After the applicable procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the project. The authority shall publish notice of the designation of the operator for the project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the project, the authority may execute the public-private agreement with that operator.

(d) The budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the authority's determination is submitted for review.

As added by P.L.47-2006, SEC.39. Amended by P.L.163-2011, SEC.5; P.L.205-2013, SEC.148; P.L.181-2016, SEC.35.

IC 8-15.5-4-12

Action to contest validity of public-private agreement

Sec. 12. Any action to contest the validity of a public-private agreement or any underlying agreement related to the public-private project that is entered into under this article may not be brought after the fifteenth day following the publication of the notice of the designation of an operator under the public-private agreement as provided in section 11 of this chapter.

As added by P.L.47-2006, SEC.39. Amended by P.L.91-2014, SEC.25.

IC 8-15.5-4-13

Disclosure of contents of proposals

Sec. 13. The authority shall disclose the contents of all proposals, except the parts of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 8 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-5

Chapter 5. Terms and Conditions of Public-Private Agreements

IC 8-15.5-5-1

Public-private agreement by operator; approval by governor

Sec. 1. (a) Before developing or operating a project, a private entity that has been selected as the operator of a project under this article shall enter into a public-private agreement with the authority setting forth the rights and duties of the operator under this article.

(b) A public-private agreement entered into under this article must be approved by the governor before its execution.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.149.

IC 8-15.5-5-2

Required provisions of public-private agreement

Sec. 2. A public-private agreement entered into under this article must provide for the following:

(1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.

(2) Provisions for a:

(A) lease, franchise, or license of the project and the real property owned by the authority upon which the project is located or is to be located; or

(B) management agreement or other contract to operate the project and the real property owned by the authority upon which the project is located or is to be located;

for a predetermined period. The public-private agreement must provide for ownership of all improvements and real property by the authority in the name of the state or by a governmental entity, or both.

(3) Monitoring of the operator's maintenance practices by the authority and the taking of actions by the authority that it considers appropriate to ensure that the project is properly maintained.

(4) The basis upon which user fees that may be collected by the operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Grounds for termination of the public-private agreement by the authority or the operator.

(7) The date of termination of the operator's authority and duties under this article.

(8) Procedures for amendment of the agreement.

(9) Provisions requiring the completion of all environmental analyses of the project required by state and federal law in the manner and at the times required by the appropriate state and

federal agencies.

(10) An expedited method for resolving disputes between or among the authority, the parties to the public-private agreement, and units of local government that contain any part of the project, as required by IC 8-15.5-10-8.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.9; P.L.205-2013, SEC.150; P.L.91-2014, SEC.26.

IC 8-15.5-5-3

Other permitted provisions of public-private agreement

Sec. 3. In addition to the requirements of section 2 of this chapter, a public-private agreement may include additional provisions concerning the following:

(1) Review and approval by the authority of the operator's plans for the development and operation of the project.

(2) Inspection by the authority of construction of or improvements to the project.

(3) Maintenance by the operator of a policy or policies of public liability insurance (copies of which shall be filed with the authority, accompanied by proofs of coverage) or self-insurance, each in a form and amount satisfactory to the authority to insure coverage of tort liability to the public and employees and to enable the continued operation of the project.

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the authority.

(5) Filing by the operator, on a periodic basis, of appropriate traffic reports in a form acceptable to the authority.

(6) Payments to the operator. These payments may consist of one (1) or more of the following:

(A) The retention by the operator of the user fees collected by the operator in the operation and management of a toll road project or a facility project, if applicable.

(B) Payments made to the operator by the authority.

(C) Other sources of payment or revenue to the operator, if any.

(7) Financing obligations of the operator and the authority, including entering into agreements for the benefit of the financing parties.

(8) Apportionment of expenses between the operator and the authority.

(9) The rights and duties of the operator, the authority, and other state and local governmental entities with respect to use of the project, including the state police department and other law enforcement and public safety agencies.

(10) Arbitration or other dispute resolution mechanisms or remedies for the settlement of claims and other disputes arising under the agreement.

(11) Payment of money to either party upon default or delay, or

upon termination of the public-private agreement, with the payments to be used:

(A) in the form of liquidated damages to compensate the operator for demonstrated unamortized costs, lost profits, or other amounts as provided in the agreement;

(B) to retire or refinance indebtedness related to the project or the public-private agreement; or

(C) for any other purpose mutually agreeable to the operator and the authority.

(12) Indemnification of the operator by the authority under conditions specified in the agreement.

(13) Assignment, subcontracting, or other delegation of responsibilities of the operator or the authority under the agreement to third parties, including other private entities, the department, and other state agencies.

(14) Sale or lease to the operator of personal property related to the project.

(15) Provisions for private commercial development or private use for a facility project.

(16) Other lawful terms and conditions to which the operator and the authority mutually agree.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.151; P.L.213-2015, SEC.111.

IC 8-15.5-5-4

Financing of obligations by operator; no state or local debt or pledge

Sec. 4. (a) The operator may finance its obligations with respect to the project and the public-private agreement in the amounts and upon the terms and conditions determined by the operator.

(b) The operator may:

(1) issue debt, equity, or other securities or obligations;

(2) enter into sale and leaseback transactions; and

(3) secure any financing with a pledge of, security interest in, or lien on any user fees charged and collected for the use of a toll road project or a facility project and any property interest of the operator in a toll road project or a facility project.

However, any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.

(c) The operator may deposit any user fees charged and collected for the use of a toll road project or a facility project in a separate account held by a trustee or escrow agent for the benefit of the secured parties of the operator.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.152; P.L.213-2015, SEC.112.

IC 8-15.5-5-5
Public-private agreement with multiple entities

Sec. 5. Notwithstanding any contrary provision of this article, the authority may enter into a public-private agreement with multiple private entities or with another governmental entity, if the authority determines in writing that it is in the public interest to do so.

As added by P.L.47-2006, SEC.39. Amended by P.L.91-2014, SEC.27.

IC 8-15.5-5-6
Exercise of powers delegated or assigned by authority

Sec. 6. The department or any other state agency or governmental entity may perform any duties and exercise any powers of the authority under this article or the public-private agreement that have been assigned, subcontracted, or delegated to it by the authority.

As added by P.L.47-2006, SEC.39. Amended by P.L.91-2014, SEC.28.

IC 8-15.5-5-7
Freeway project; construction in sections

Sec. 7. A freeway project may be constructed or extended in sections as determined by the authority. Each separate section must be separately designated by a name or number, which must also apply to any freeway project to subsequently improve, better, enlarge, extend, or reconstruct the section.

As added by P.L.205-2013, SEC.153.

IC 8-15.5-5-8
Freeway project; excluded facilities

Sec. 8. Neither:

(1) the construction, maintenance, or operation of transient lodging facilities on or adjacent to a freeway project; nor

(2) a contract for any purpose described in subdivision (1);

is considered a freeway project.

As added by P.L.205-2013, SEC.154.

IC 8-15.5-5-9
Freeway project; user fees

Sec. 9. A freeway project is not subject to user fees otherwise authorized by this article.

As added by P.L.205-2013, SEC.155.

IC 8-15.5-6

Chapter 6. Construction and Operating Standards for Toll Road Projects

IC 8-15.5-6-1

Standards for plans and specifications

Sec. 1. The plans and specifications for each project constructed under this article must comply with:

(1) the authority's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and

(2) any other applicable state or federal standards.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.156.

IC 8-15.5-6-2

Compliance with certain laws

Sec. 2. Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.10; P.L.163-2011, SEC.6; P.L.205-2013, SEC.157; P.L.252-2015, SEC.21.

IC 8-15.5-6-3

Minority and women's business participation; Indiana businesses

Sec. 3. The operator or any contractor or subcontractor of the operator engaged in the construction of a project is subject to:

(1) 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; and

(2) the provisions that may be established by the authority in a public-private agreement with respect to awarding contracts to Indiana businesses (as defined in IC 5-22-15-20.5).

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.158.

IC 8-15.5-6-4

Authority to include freeway and toll road projects in the state highway system

Sec. 4. Each freeway project or toll road project constructed or operated in the state of Indiana under this article may be determined

by the department to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.159; P.L.91-2014, SEC.29; P.L.213-2015, SEC.113.

IC 8-15.5-6-5

Agreements for maintenance and other services

Sec. 5. An operator may enter into agreements for maintenance or other services under this article with the authority, the department, or other state agencies. The authority may:

(1) with the assistance of all applicable state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the authority is reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all necessary environmental permits), and preliminary design of projects under this article.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.160.

IC 8-15.5-7
Chapter 7. User Fees

IC 8-15.5-7-0.5
Applicability
Sec. 0.5. This chapter applies only to a toll road project or a facility project and not to a freeway project.
As added by P.L.213-2015, SEC.114.

IC 8-15.5-7-1
Power of authority to fix user fees
Sec. 1. (a) Notwithstanding any other statute, the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project or a facility project in accordance with the public-private agreement.
(b) In fixing the amounts referred to in subsection (a), the authority may:
(1) establish maximum amounts for the user fees; and
(2) subject to subsection (c), provide for increases or decreases of the user fees or the maximum amounts established based upon the indices, methodologies, or other factors that the authority considers appropriate.
(c) For a public-private agreement for a toll road project entered into after June 30, 2011, the department may not use a methodology based on:
(1) toll collection success rates; or
(2) other factors internal to the operator;
that could result in increases of the maximum amounts due to actual toll collection rates that are below estimated or anticipated toll collection rates.
As added by P.L.47-2006, SEC.39. Amended by P.L.163-2011, SEC.7; P.L.213-2015, SEC.115.

IC 8-15.5-7-2
Schedule of user fees
Sec. 2. A schedule of the current user fees shall be made available by the operator to any member of the public on request.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-3
User fees not subject to other regulation
Sec. 3. User fees established by the authority under this article are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state, or by any political subdivision.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-4
Criteria for establishment of user fees

Sec. 4. (a) User fees established by the authority under section 1 of this chapter for the use of a toll road project or a facility project must be nondiscriminatory.

(b) For a toll road project, the user fees may include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, or traffic congestion or such other means or classification as the authority determines to be appropriate.

(c) For a toll road project or a facility project, the user fees may:

(1) vary by time of day or year; or

(2) be based on one (1) or more factors considered relevant by the authority, which may include any combination of:

(A) the costs of:

(i) operation;

(ii) maintenance; and

(iii) repair and rehabilitation;

(B) debt service payments on bonds or other obligations;

(C) adequacy of working capital;

(D) depreciation;

(E) payment of user fees, any state, federal, or local taxes, or payments in lieu of taxes; and

(F) the sufficiency of income to:

(i) maintain the project in a sound physical and financial condition to render adequate and efficient service; and

(ii) induce an operator to enter into a public-private agreement.

As added by P.L.47-2006, SEC.39. Amended by P.L.213-2015, SEC.116.

IC 8-15.5-7-5

Collection of user fees by operator

Sec. 5. A public-private agreement may:

(1) grant an operator a license or franchise to charge and collect tolls or user fees for the use of the toll road project or facility project;

(2) authorize the operator to adjust the user fees charged and collected for the use of the toll road project or facility project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the authority under section 1 of this chapter;

(3) provide that any adjustment by the operator permitted under subdivision (2) may be based on such indices, methodologies, or other factors as described in the public-private agreement or section 1 of this chapter or as approved by the authority, as applicable;

(4) authorize the operator to charge and collect user fees through manual and nonmanual methods, and for a toll road project may include, but not be limited to, automatic vehicle

identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and

(5) authorize the collection of user fees charges by a third party.

As added by P.L.47-2006, SEC.39. Amended by P.L.163-2011, SEC.8; P.L.213-2015, SEC.117.

IC 8-15.5-7-6

Agreement concerning electronic toll collections on Indiana Toll Road

Sec. 6. (a) As used in this section, "Class 2 vehicle" means any vehicle with two (2) axles, including motorcycles.

(b) If the authority enters into a public-private agreement concerning the operation of the Indiana Toll Road, the authority shall enter into a written agreement with the operator concerning the implementation of electronic or nonmanual means of collecting user fees imposed on Class 2 vehicles.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-7

Collection of user fees after expiration of public-private agreement

Sec. 7. (a) After expiration of a public-private agreement, the authority may:

(1) continue to charge user fees for the use of the toll road project or facility project; or

(2) delegate to a third party the authority to continue to collect the user fees.

(b) Revenues collected under this section must first be used for operations and maintenance of the toll road project or facility project. Any revenues on toll road projects determined by the authority to be excess must be paid to the authority for deposit in the toll road fund established by IC 8-15.5-11.

As added by P.L.47-2006, SEC.39. Amended by P.L.213-2015, SEC.118.

IC 8-15.5-7-8

Actions to contest validity of user fees

Sec. 8. (a) The authority may fix user fees under this chapter by rule under IC 4-22-2-37.1. A rule adopted under this subsection expires on the expiration date stated in the rule.

(b) Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under subsection (a).

As added by P.L.47-2006, SEC.39. Amended by P.L.140-2013, SEC.9.

IC 8-15.5-8

Chapter 8. Taxation of Operators

IC 8-15.5-8-1

Property tax exemption

Sec. 1. Notwithstanding IC 4-4-11-36.1(b), IC 4-4-11-36.1(c), or any other law, a project and tangible personal property used exclusively in connection with a project that are:

(1) owned by the authority or a governmental entity and leased, franchised, licensed, or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator in connection with a project;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose and the property, and an operator's leasehold estate, franchise, license, and other interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.161; P.L.91-2014, SEC.30.

IC 8-15.5-8-1.5

Property tax exemption; projects involving an adjacent state or commonwealth

Sec. 1.5. Notwithstanding IC 4-4-11-36.1(b), IC 4-4-11-36.1(c), or any other law, any interest in a project, including all tangible personal property used exclusively in connection with a project, that is:

(1) owned by:

(A) the authority;

(B) an adjacent state or commonwealth; or

(C) a political subdivision or instrumentality of an adjacent state or commonwealth; and

(2) acquired, constructed, or otherwise provided in connection with a project by;

(A) an operator;

(B) an adjacent state or commonwealth; or

(C) a political subdivision or instrumentality of an adjacent state or commonwealth;

is considered to be public property devoted to an essential public and governmental function and purpose. This property, and a leasehold estate, franchise, license, or other interests in the property, is exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

As added by P.L.91-2014, SEC.31.

IC 8-15.5-8-2

Taxation of income received by operator

Sec. 2. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-8-3

Sales tax on purchases by operator

Sec. 3. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in the project is not exempt from the application of the gross retail or use tax under IC 6-2.5 with respect to such a purchase.

As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.162.

IC 8-15.5-9

Chapter 9. Records of Operators

IC 8-15.5-9-1

Access to records of operator

Sec. 1. Records that are provided by an operator to the authority that relate to compliance by an operator with the terms of a public-private agreement are subject to inspection and copying in accordance with IC 5-14-3.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-10

Chapter 10. Additional Powers of the Authority Concerning Toll Road Projects

IC 8-15.5-10-1

Cooperation by authority with other governmental entities

Sec. 1. The authority may exercise any powers provided under this article in participation or cooperation with the department or any other governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-10-2

Contracts necessary for performance of authority's or other governmental entity's duties

Sec. 2. (a) The authority may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's duties and the execution of the authority's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority and may be for any term of years and contain any terms that are considered reasonable by the authority.

(b) The department and any other governmental entity may make and enter into all contracts and agreements necessary or incidental to the performance of the duties and the execution of the powers granted to the department or the governmental entity in accordance with this article or the public-private agreement, including the transfer to the authority of the real property interests, fixtures, equipment, and improvements that are reasonably required for the project and the public-private agreement. These contracts or agreements are not subject to any approvals other than the approval of the department or governmental entity and may be for any term of years and contain any terms that are considered reasonable by the department or the governmental entity.

As added by P.L.47-2006, SEC.39. Amended by P.L.91-2014, SEC.32; P.L.213-2015, SEC.119.

IC 8-15.5-10-3

Payment of amounts owed from available funds; moral obligation

Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

(1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or

(2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds or refunding bonds under IC 4-4-11 to provide funds for any amounts identified under this article but is not required to comply with IC 8-9.5-8-10.

(d) If the agreement that is submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the agreement not later than ninety (90) days after the date the agreement is submitted for review.

As added by P.L.47-2006, SEC.39. Amended by P.L.163-2011, SEC.9; P.L.205-2013, SEC.163; P.L.213-2015, SEC.120.

IC 8-15.5-10-4

Delegation of certain powers to operator

Sec. 4. For purposes of this article, the authority may authorize an operator under a public-private agreement to perform any of its duties under IC 8-15-2-1, IC 8-15-2-6, IC 8-15-2-18, and IC 8-15-2-24.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-10-5

Powers under toll road statute and other laws; eminent domain

Sec. 5. (a) Subject to subsection (b), the authority may exercise any of its powers under IC 8-15-2 or any other provision of the Indiana Code as necessary or desirable for the performance of the authority's duties and the execution of the authority's powers under this article.

(b) For purposes of subsection (a), the following are governed by IC 8-15-2, IC 32-24, and any other applicable provision of the Indiana Code as in effect on January 1, 2010, and are not affected by amendments to those statutes enacted after December 31, 2009:

(1) The authority's use of the power of eminent domain to acquire property or interests in property for a project under this article.

(2) The rights of property owners who are affected by the authority's use of the power of eminent domain for a project under this article.

As added by P.L.47-2006, SEC.39. Amended by P.L.85-2010, SEC.11.

IC 8-15.5-10-6

Impairment of public-private agreement by authority prohibited

Sec. 6. The authority may not take any action under this chapter

that would impair the public-private agreement entered into under this article.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-10-7
Agreement with state police concerning law enforcement

Sec. 7. (a) The authority shall enter into an agreement between and among the operator, the authority, and the state police department concerning the provision of law enforcement assistance with respect to a toll road project that is the subject of a public-private agreement under this article.

(b) The authority shall enter into arrangements with the state police department related to costs incurred in providing law enforcement assistance with respect to a toll road project under this article.

(c) All law enforcement officers of the state and any political subdivision have the same powers and jurisdiction within the limits of a project as they have in their respective areas of jurisdiction, including the roads and highways of the state. These law enforcement officers shall have access to a project that is the subject of a public-private agreement to exercise their powers and jurisdiction.
As added by P.L.47-2006, SEC.39. Amended by P.L.205-2013, SEC.164.

IC 8-15.5-10-8
Expedited method for dispute resolution

Sec. 8. The authority shall establish an expedited method for resolving disputes between or among the authority, the parties to a public-private agreement, and units of local government that contain any part of the toll road project or facility project, and shall set forth that method in the public-private agreement.
As added by P.L.85-2010, SEC.12. Amended by P.L.213-2015, SEC.121.

IC 8-15.5-11
Chapter 11. Toll Road Fund

IC 8-15.5-11-0.5
Applicability
Sec. 0.5. This chapter applies only to a toll road project and not to a facility project and not to a freeway project.
As added by P.L.213-2015, SEC.122.

IC 8-15.5-11-1
"Account"
Sec. 1. As used in this chapter, "account" refers to an account established within the fund.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-11-2
"Fund"
Sec. 2. As used in this chapter, "fund" refers to the toll road fund established by section 3 of this chapter.
As added by P.L.47-2006, SEC.39.

IC 8-15.5-11-3
Establishment of fund; administration; accounts; investment
Sec. 3. (a) The toll road fund is established to provide funds to:
(1) pay or defease certain bonds in the manner provided by this chapter;
(2) pay amounts owed by the authority in connection with the execution and performance of a public-private agreement under this article, including operating expenses of the authority; and
(3) make distributions to the next generation trust fund and the major moves construction fund.
(b) The authority shall hold, administer, and manage the fund.
(c) Expenses of administering the fund shall be paid from money in the fund.
(d) The fund consists of the following:
(1) Money received from an operator under a public-private agreement.
(2) Appropriations, if any, made by the general assembly.
(3) Grants and gifts intended for deposit in the fund.
(4) Interest, premiums, gains, or other earnings on the fund.
(5) Amounts transferred to the fund under subsection (i).
(6) Amounts transferred to the fund under IC 8-14-14-6(a)(5).
(e) The authority shall establish the following separate accounts within the fund:
(1) The bond retirement account.
(2) The administration account.
(3) The eligible project account.
(f) Money in the fund shall be deposited, paid, and secured in the

manner provided by IC 4-4-11-32. Notwithstanding IC 5-13, the authority shall invest the money in the fund that is not needed to meet the obligations of the fund in the manner provided by an investment policy established by resolution of the authority.

(g) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(h) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(i) As soon as practicable after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall determine the total balance remaining in all toll road funds and accounts established under IC 8-15-2. Subject to any applicable trust indentures securing toll road bonds, the authority may retain from those funds and accounts the amounts necessary to pay outstanding obligations with respect to the operation of the Indiana Toll Road incurred before the effective date of the public-private agreement, and shall transfer all remaining balances in the toll road funds and accounts to the fund.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-11-4

Allocations to accounts and other funds

Sec. 4. (a) Before any allocations are made from the fund under this chapter, the authority shall determine:

(1) the extent to which outstanding bonds issued by the authority under IC 8-14.5-6 or IC 8-15-2 should be repaid, defeased, or otherwise retired;

(2) the total amount necessary to repay, defease, or otherwise retire the bonds selected by the authority for repayment, defeasance, or retirement; and

(3) the total amount necessary to pay the amounts owed by the authority related to the execution and performance of a public-private agreement under this article, including establishing reserves, plus the amount necessary to establish an escrow account to implement a written agreement entered into under IC 8-15.5-7-6 to fund reductions in, or refunds of, user fees imposed on Class 2 vehicles.

The authority shall make a separate determination of the amount described in subdivision (3) for each public-private agreement. The amount described in subdivision (3) is payable solely from money received by the authority under the public-private agreement for which the amounts owed were incurred, and are not payable from lease payments received under IC 8-9.5 or IC 8-14.5.

(b) Before making any allocations from the fund under subsection

(c) or (d), the authority shall allocate the amount determined under subsection (a)(2) to the bond retirement account. Money in this account may be used only for the purpose described in section 3(a)(1) of this chapter.

(c) After making the allocation required by subsection (b) and before making the allocations required by subsection (d), the authority shall allocate the amount determined under subsection (a)(3) to the administration account. Money in this account may be used only for the purpose described in section 3(a)(2) of this chapter.

(d) After making the allocations required by subsections (b) and (c), the remaining money received during each state fiscal year under a public-private agreement under this article shall be allocated to the eligible project account. Money in this account may be used only for the purposes described in section 3(a)(3) of this chapter. Within thirty (30) days after a public-private agreement concerning the Indiana Toll Road has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted, the authority shall transfer:

(1) five hundred million dollars ($500,000,000) of the money in the eligible project account to the next generation trust fund established under IC 8-14-15; and

(2) the remainder of the money in the eligible project account to the major moves construction fund.

In addition, any amounts transferred to the fund under section 3(i) of this chapter after the date described in this subsection shall be transferred to the major moves construction fund.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-11-5

Distributions from eligible project account

Sec. 5. The money allocated to the eligible project account must be used to make distributions to the next generation trust fund and the major moves construction fund, as provided by section 4 of this chapter.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-11-6

Expediting permits, licenses, and approvals

Sec. 6. The authority shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for toll road projects under this article.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-12

Chapter 12. Prohibited Local Action

IC 8-15.5-12-1

Impairment of public-private agreement by political subdivision prohibited

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would have the effect of impairing a public-private agreement under this article.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13

Chapter 13. Prohibited Political Contributions

IC 8-15.5-13-1

Application of definitions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-2

"Candidate"

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-3

"Committee"

Sec. 3. As used in this chapter, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-4

"Officer"

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-5

Determination of interest in operator

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds at least a one

percent (1%) interest in an operator.

(4) The person is a political action committee of an operator.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-6

Certain contributions attributed to operator

Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-7

Prohibition of contributions to candidate or committee

Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

As added by P.L.47-2006, SEC.39.

IC 8-15.5-13-8

Level 6 felony for violation

Sec. 8. A person who knowingly or intentionally violates this chapter commits a Level 6 felony.

As added by P.L.47-2006, SEC.39. Amended by P.L.158-2013, SEC.134.

IC 8-15.7

ARTICLE 15.7. PUBLIC-PRIVATE PARTNERSHIPS

IC 8-15.7-1

Chapter 1. General Provisions

IC 8-15.7-1-1

Findings by general assembly

Sec. 1. The general assembly finds the following:

(1) There is a public need for timely development and operation of transportation facilities in Indiana that address the needs identified by the department, through the department's transportation plan and otherwise, by accelerating project delivery, improving safety, reducing congestion, increasing mobility, improving connectivity, increasing capacity, enhancing economic efficiency, promoting economic development, or any combination of those methods.

(2) This public need may not be wholly satisfied by existing methods of procurement and project delivery in which transportation facilities are developed, financed, or operated.

(3) Authorizing private entities to do all or part of the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of one (1) or more transportation facilities may result in the availability of the transportation facilities to the public in a more timely, more efficient, or less costly fashion, thereby serving the public safety and welfare.

(4) Public-private agreements entered into by private entities and the department under this article should allow for:

(A) transparency, oversight, and public information sharing;

(B) compliance with all state and federal environmental laws; and

(C) fairness for local jurisdictions when negotiating the public-private agreements.

As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.13.

IC 8-15.7-1-2

Public purpose served by certain actions

Sec. 2. An action, other than an approval by the authority or the department under IC 8-15.7-4, serves the public purpose of this article if the action facilitates the timely development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, or operation of a qualifying project.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-1-3

Intent to encourage investment and grant flexibility

Sec. 3. It is the intent of this article to:

(1) encourage investment in Indiana by private entities that facilitates the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of transportation facilities; and

(2) grant public and private entities the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-1-4

Liberal construction; control over inconsistent laws

Sec. 4. The powers conferred by this article shall be liberally construed in order to accomplish their purposes and are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-1-5

Complete authority for public-private agreements; limitations

Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article. However, this article may not be construed to:

(1) limit the power of the authority, the department, or a private entity to enter an agreement; or

(2) impose any procedural or substantive requirements on the authority, the department, or a private entity;

concerning a project (as defined by IC 8-15.5-2-7) carried out under IC 8-15.5.

(b) Notwithstanding any other law, before the department, the authority, or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

(1) Subject to subsection (d), and after June 30, 2011, issuing a request for proposals for, or entering into, a public-private agreement concerning a project.

(2) Imposing user fees on motor vehicles for use of Interstate Highway 69.

(c) Notwithstanding subsection (b) or any other law, the department or the authority may enter into a public-private agreement

concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4). Such an agreement is subject to review and appropriation by the general assembly. However, this subsection does not prohibit the department from:

(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or

(2) issuing a request for qualifications or a request for proposals, or both, under IC 8-15.7-4 for such a project.

(d) Notwithstanding subsection (b), during the period beginning July 1, 2011, and ending June 30, 2021, the general assembly is not required to enact a statute authorizing the department, the authority, or an operator to issue a request for proposals for, or enter into, a public-private agreement for the following projects:

(1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).

(2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.

(3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

As added by P.L.47-2006, SEC.40. Amended by P.L.203-2007, SEC.5; P.L.85-2010, SEC.14; P.L.163-2011, SEC.10; P.L.119-2012, SEC.95; P.L.205-2013, SEC.165; P.L.94-2015, SEC.4.

IC 8-15.7-1-6

Conformity with this article

Sec. 6. To the extent that this article permits or requires the authority, the department, or a private entity to carry out any law other than this article under a public-private agreement, the action shall be carried out in conformity with this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2
Chapter 2. Definitions

IC 8-15.7-2-1
Application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-2
"Affected jurisdiction"
Sec. 2. "Affected jurisdiction" means the following:
(1) Any county, city, or town in which all or a part of a qualifying project is located.
(2) Any other public entity directly affected by the qualifying project.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-3
"Authority" or "Indiana finance authority"
Sec. 3. "Authority" or "Indiana finance authority" refers to the Indiana finance authority established by IC 4-4-11-4.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-4
"Department"
Sec. 4. "Department" refers to the Indiana department of transportation.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-5
"Develop" or "development"
Sec. 5. "Develop" or "development" means to do one (1) or more of the following:
(1) Plan.
(2) Design.
(3) Develop.
(4) Lease.
(5) Acquire.
(6) Install.
(7) Construct.
(8) Reconstruct.
(9) Rehabilitate.
(10) Extend.
(11) Expand.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-6

"Highway, street, or road"

Sec. 6. "Highway, street, or road" has the meaning set forth in IC 8-23-1-23.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-7

"Law enforcement officer"

Sec. 7. "Law enforcement officer" has the meaning set forth in IC 35-31.5-2-185.

As added by P.L.47-2006, SEC.40. Amended by P.L.114-2012, SEC.18.

IC 8-15.7-2-8

"Maintenance"

Sec. 8. "Maintenance" includes ordinary maintenance, repair, rehabilitation, capital maintenance, maintenance replacement, and any other categories of maintenance that may be designated by the department.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-9

"Offeror"

Sec. 9. "Offeror" means a private entity that has submitted a qualification submittal or a proposal for a public-private agreement under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-10

"Operate" or "operation"

Sec. 10. "Operate" or "operation" means to do one (1) or more of the following:

(1) Maintain.
(2) Improve.
(3) Equip.
(4) Modify.
(5) Otherwise operate.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-11

"Operator"

Sec. 11. "Operator" means a private entity that has entered into a public-private agreement with the department to provide services to or on behalf of the department.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-12

"Political subdivision"

Sec. 12. "Political subdivision" has the meaning set forth in

IC 36-1-2-13.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-12.5
"Governmental entity"

Sec. 12.5. "Governmental entity" means:

(1) any state;

(2) any authority, board, bureau, commission, committee, department, division, or other instrumentality established by any state; or

(3) any entity established by the laws of another state in which the state of Indiana has been invited to participate.

As added by P.L.85-2010, SEC.15.

IC 8-15.7-2-13
"Private entity"

Sec. 13. "Private entity" means any combination of one (1) or more individuals, corporations, general partnerships, limited liability companies, limited partnerships, joint ventures, business trusts, nonprofit entities, or other business entities that are parties to a proposal for a qualifying project or a public-private agreement related to a qualifying project. A public agency may provide services to an operator as a subcontractor or subconsultant without affecting the private status of the private entity and the entity's or operator's ability to enter into a public-private agreement.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-14
"Project"

Sec. 14. (a) Subject to IC 8-15.7-1-5, "project" means all or part of the following:

(1) A limited access facility (as defined in IC 8-23-1-28).

(2) A tollway.

(3) Roads and bridges.

(4) Passenger and freight railroad systems, including:

(A) the costs of environmental impact studies;

(B) property, equipment, and appurtenances necessary to operate a railroad, including lines, routes, roads, rights-of-way, easements, licenses, permits, track upgrades, rail grade crossings, locomotives, passenger cars, freight cars, and other railroad cars of any type or class; and

(C) other costs that the department determines are necessary to develop a passenger or freight railroad system in Indiana.

(5) All or part of a bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service area, or administration, storage, or other building or facility, including temporary facilities and buildings or facilities

and structures that will not be tolled, that the department determines is appurtenant, necessary, or desirable for the development, financing, or operation of the facilities described in subdivisions (1) through (4).

(6) An improvement, betterment, enlargement, extension, or reconstruction of all or part of any of the facilities described in this section, including a nontolled part, that is separately designated by name or number.

(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.

As added by P.L.47-2006, SEC.40. Amended by P.L.203-2007, SEC.6.

IC 8-15.7-2-15
"Public-private agreement"

Sec. 15. "Public-private agreement" means the public-private agreement between the operator and the department that relates to any combination of the development, financing, or operation of a qualifying project and is entered into under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-16
"Qualifying project"

Sec. 16. "Qualifying project" means one (1) or more projects developed, financed, or operated by an operator under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-17
"Request for proposals"

Sec. 17. "Request for proposals" means all materials and documents prepared by or on behalf of the department to solicit proposals from offerors to enter into a public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-18
"Request for qualifications"

Sec. 18. "Request for qualifications" means all materials and documents prepared by or on behalf of the department to solicit qualification submittals from offerors to enter into a public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-19
"Revenues"

Sec. 19. "Revenues" means all revenues, including any combination of:

(1) income;

(2) earnings and interest;
(3) user fees;
(4) lease payments;
(5) allocations;
(6) federal, state, and local appropriations, grants, loans, lines of credit, and credit guarantees;
(7) bond proceeds;
(8) equity investments; or
(9) other receipts;

arising out of or in connection with a qualifying project, including the development, financing, and operation of a qualifying project. The term includes money received as grants, loans, lines of credit, credit guarantees, or otherwise in aid of a qualifying project from the federal government, the state, a political subdivision, or any agency or instrumentality of the federal government, the state, or a political subdivision.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-20
"Tollway"

Sec. 20. "Tollway" has the meaning set forth in IC 8-15-3-7.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-21
"Transportation plan"

Sec. 21. "Transportation plan" has the meaning set forth in IC 8-23-1-41.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-2-22
"User fees"

Sec. 22. "User fees" means the rates, tolls, or fees imposed for use of, or incidental to, all or part of a qualifying project under a public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-3

Chapter 3. Formation of an Agreement

IC 8-15.7-3-1

Power to enter into public-private agreement

Sec. 1. Subject to IC 8-15.7-1-5, the department may exercise the powers granted by this article to carry out:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, and operation;

of all or part of one (1) or more projects through public-private agreements with one (1) or more private entities. The parties to a public-private agreement that relates to a tollway or a project that otherwise charges user fees may exercise any of the powers granted to the party under IC 8-15-3. The department may use the revenues arising out of one (1) project or public-private agreement for all or part of the development, financing, and operation of any part of one (1) or more other projects through public-private agreements with one (1) or more private entities or as otherwise considered appropriate by the department.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-3-2

Powers of operator; regulation of user fees

Sec. 2. An operator has:

(1) all powers allowed by law generally to a private entity having the same form of organization as the operator; and

(2) the power to develop, finance, and operate the qualifying project and impose user fees in connection with the use of the qualifying project.

Tolls or user fees may not be imposed by the operator except as set forth in a public-private agreement. User fees and the setting of user fee rates are not subject to supervision or regulation by any commission, board, bureau, or agency of the state or any municipality, other than the department to the extent set forth in the public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-3-3

Acquisition of property interests for qualifying project

Sec. 3. The operator may own, lease, or acquire any property interest or other right to develop, finance, or operate the qualifying project.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-3-4

Establishment of user classifications and enforcement of rules by operator

Sec. 4. In operating the qualifying project, the operator may do the following:

(1) Make user classifications as permitted in the public-private agreement.

(2) As permitted in the public-private agreement or otherwise with the consent of the department, make and enforce reasonable rules to the same extent that the department may make and enforce rules with respect to a similar project.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-3-5

Participation by small, minority, women's, disadvantaged, and Indiana businesses

Sec. 5. The department shall establish a program to facilitate participation in qualifying projects by:

(1) small businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(2) businesses certified under IC 4-13-16.5 as a minority business enterprise;

(3) businesses certified under IC 4-13-16.5 as a women's business enterprise;

(4) businesses treated as disadvantaged business enterprises under federal or state law; and

(5) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-4

Chapter 4. Procurement Process

IC 8-15.7-4-1

Request for proposals; required studies; public hearing

Sec. 1. (a) The department may request proposals from private entities for all or part of the development, financing, and operation of one (1) or more projects.

(b) If all or part of the project will consist of a tollway, the department shall take the following steps before the commencement of the procurement process under this chapter:

(1) Except as provided by subsection (c), the department shall cause to be prepared a preliminary feasibility study and an economic impact study on that part of the project consisting of a tollway by a firm or firms internationally recognized in the preparation of studies or reports on the financial feasibility and economic impact of proposed toll road projects. Before the preparation of the preliminary feasibility study and the economic impact study, the department must conduct a public hearing on the proposed studies in the county seat of the county in which the proposed project would be located. At least ten (10) days before each public hearing, the authority shall:

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the public hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county in which the proposed project would be located; and

(C) include in the notices under clauses (A) and (B):

(i) the date, time, and place of the hearing;

(ii) the subject matter of the hearing;

(iii) a description of the purpose of the proposed preliminary feasibility study and economic impact study; and

(iv) a description of the proposed project and its location.

At the hearing, the department shall allow the public to be heard on the proposed studies and the proposed project.

(2) The preliminary feasibility study must be based upon a public-private financial and project delivery structure. The economic impact study must, at a minimum, include an analysis of the following matters with respect to the proposed project:

(A) Economic impacts on existing commercial and industrial development.

(B) Potential impacts on employment.

(C) Potential for future development near the project area, including consideration of locations for interchanges that will maximize opportunities for development.

(D) Fiscal impacts on revenues to local units of government.

(E) Demands on government services, such as public safety, public works, education, zoning and building, and local airports.

The department shall post copies of the preliminary feasibility study and the economic impact study on the department's Internet web site and shall also provide copies of the studies to the governor and to the legislative council (in an electronic format under IC 5-14-6).

(3) After the completion of the preliminary feasibility study and the economic impact statement, the department shall schedule a public hearing on the proposed project and the studies in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. At least ten (10) days before the public hearing, the department shall:

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county; and

(C) include the following in the notices under clauses (A) and (B):

(i) The date, time, and place of the hearing.

(ii) The subject matter of the hearing.

(iii) A description of the proposed project, its location, the part of the project consisting of a tollway, and, consistent with the assessments reached in the preliminary feasibility study, the estimated total cost of the acquisition, construction, installation, equipping, and improving of the proposed project, as well as the part of the project consisting of a tollway.

(iv) The address and telephone number of the department.

(v) A statement concerning the availability of the preliminary feasibility study and the economic impact study on the department's Internet web site.

(4) At the hearing, the department shall allow the public to be heard on the proposed project, the preliminary feasibility study, and the economic impact study.

(5) After the completion of the public hearings described in subdivision (3), the department shall submit the preliminary feasibility study and the economic impact study to the budget committee for its review before the commencement of the procurement process under this chapter. If the preliminary feasibility study or the economic impact study submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the preliminary feasibility study and the economic impact study not later than ninety (90) days after the date the preliminary feasibility study and the economic impact study are submitted for review.

(c) The following provisions apply if the department determines that a feasibility study for the Illiana Expressway that was prepared before March 15, 2010, meets the requirements of subsection (b) concerning the preparation of a preliminary feasibility study:

(1) The department is not required to prepare an additional preliminary feasibility study.

(2) The requirement under subsection (b)(1) for a public hearing before preparation of a preliminary feasibility study does not apply. However, the requirement under subsection (b)(1) for a public hearing on the economic impact study does apply.

(3) The feasibility study prepared before March 15, 2010, is considered to be the preliminary feasibility study for purposes of subsection (b)(3) through (b)(5).

As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.16; P.L.163-2011, SEC.11.

IC 8-15.7-4-2

Competitive proposal procedure; request for qualifications; public hearing on preliminary selection and agreement

Sec. 2. (a) This section establishes the competitive proposal procedure that the department shall use to enter into a public-private agreement with an operator under this article.

(b) The department may pursue a competitive proposal procedure using a request for qualifications and a request for proposals process or proceed directly to a request for proposals.

(c) If the department elects to use a request for qualifications phase, it must provide a public notice of the request for qualifications, for the period considered appropriate by the department, before the date set for receipt of submittals in response to the solicitation. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, submittals in response to the solicitation may be solicited directly from potential offerors.

(d) The department shall evaluate qualification submittals based on the requirements and evaluation criteria set forth in the request for qualifications.

(e) If the department has undertaken a request for qualifications phase resulting in one (1) or more prequalified or shortlisted offerors, the request for proposals shall be limited to those offerors that have been prequalified or shortlisted.

(f) If the department has not issued a request for qualifications and intends to use only a one (1) phase request for proposals procurement, the department must provide a public notice of the request for proposals for the period considered appropriate by the department, before the date set for receipt of proposals. The department shall provide the notice by posting in a designated public

area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, proposals may be solicited directly from potential offerors.

(g) The department shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the department of the request for proposals to potential offerors. The request for proposals must:

(1) indicate in general terms the scope of work, goods, and services sought to be procured;

(2) contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement and the qualifying project;

(3) specify the factors, criteria, and other information that will be used in evaluating the proposals;

(4) specify any requirements or goals for use of:

(A) minority business enterprises and women's business enterprises certified under IC 4-13-16.5;

(B) disadvantaged business enterprises under federal or state law;

(C) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations; and

(D) businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(5) if all or part of the project will consist of a tollway, require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, as set forth in the request for proposals, and permit any offeror to submit one (1) or more alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway;

(6) contain or incorporate by reference the other applicable contractual terms and conditions; and

(7) contain or incorporate by reference any other provisions, materials, or documents that the department considers appropriate.

If the draft of the request for proposals submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the draft of the request for proposals not later than ninety (90) days after the date the draft request for proposals is submitted for review.

(h) The department shall determine the evaluation criteria that are appropriate for each project and shall set those criteria forth in the request for proposals. The department may use a selection process that results in selection of the proposal offering the best value to the public, a selection process that results in selection of the proposal offering the lowest price or cost or the highest payment to, or revenue sharing with, the department, or any other selection process that the department determines is in the best interests of the state and

the public.

(i) The department shall evaluate proposals based on the requirements and evaluation criteria set forth in the request for proposals.

(j) The department may select one (1) or more offerors for negotiations based on the evaluation criteria set forth in the request for proposals. If the department believes that negotiations with the selected offeror or offerors are not likely to result in a public-private agreement, or, in the case of a best value selection process, no longer reflect the best value to the state and the public, the department may commence negotiations with other responsive offerors, if any, and may suspend, terminate, or continue negotiations with the original offeror or offerors. If negotiations are unsuccessful, the department shall terminate the procurement, may not award the public-private agreement, and may commence a new procurement for a public-private agreement. If the department determines that negotiations with an offeror have been successfully completed, the department shall, subject to the other requirements of this article, award the public-private agreement to the offeror.

(k) Before awarding a public-private agreement to an operator, the department shall schedule a public hearing on the preliminary selection of the operator and the terms of the proposed public-private agreement. The hearing shall be conducted in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. The department shall do the following:

(1) At least ten (10) days before the public hearing, post on the department's Internet web site:

(A) the proposal submitted by the offeror that has been preliminarily selected as the operator for the project, except for those parts of the proposal that are confidential under this article; and

(B) the proposed public-private agreement for the project.

(2) At least ten (10) days before the public hearing:

(A) post notice of the public hearing on the department's Internet web site; and

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county that would be an affected jurisdiction for purposes of the proposed project.

(3) Include the following in the notices required by subdivision (2):

(A) The date, time, and place of the hearing.

(B) The subject matter of the hearing.

(C) A description of the agreement to be awarded.

(D) The recommendation that has been made to award the agreement to an identified offeror or offerors.

(E) The address and telephone number of the department.

(F) A statement indicating that, subject to section 6 of this

chapter, and except for those portions that are confidential under IC 5-14-3, the following are available on the department's Internet web site and are also available for public inspection and copying at the principal office of the department during regular business hours:

(i) The selected offer.

(ii) An explanation of the basis upon which the preliminary selection was made.

(iii) The proposed public-private agreement for the project.

(l) At the hearing, the department shall allow the public to be heard on the preliminary selection of the operator and the terms of the proposed public-private agreement.

(m) When the terms and conditions of multiple awards are specified in the request for proposals, awards may be made to more than one (1) offeror.

As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.17; P.L.163-2011, SEC.12.

IC 8-15.7-4-3

Designation of operator; publication of notice; execution of public-private agreement; action to contest validity

Sec. 3. (a) After the procedures required in this chapter have been completed, the department shall make a determination as to whether the successful offeror should be designated as the operator for the project and shall submit its decision to the governor and the budget committee.

(b) After review of the department's determination by the budget committee, the governor may accept or reject the determination of the department. If the governor accepts the determination of the department, the governor shall designate the successful offeror as the operator for the project. The department shall publish notice of the designation of the operator one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the successful offeror as the operator for the project, the department may execute the public-private agreement.

(d) An action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of the operator under the public-private agreement under subsection (b).

(e) If the department's determination submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the determination is submitted for review.

As added by P.L.47-2006, SEC.40. Amended by P.L.163-2011, SEC.13.

IC 8-15.7-4-4

Use of work product from unsuccessful proposal

Sec. 4. The department may pay a stipulated amount to an unsuccessful offeror that submits a responsive proposal in response to a request for proposals under this chapter, in exchange for the work product contained in that proposal. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount:

(1) the department and the unsuccessful offeror jointly own the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the proposal, project design, and project financial plan; and

(2) the use by the unsuccessful offeror of any part of the work product contained in the proposal is at the sole risk of the unsuccessful offeror and does not confer liability on the department.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-4-5

Power to withdraw or modify request, seek revised proposals, or decline to award a public-private agreement

Sec. 5. In addition to any other rights under this article, in connection with any procurement under this chapter, the department may:

(1) withdraw a request for qualifications or a request for proposals at any time and, in its discretion, publish a new request for qualifications or request for proposals;

(2) decline to award a public-private agreement for any reason;

(3) request clarifications to any qualification submittal or request for proposals or seek one (1) or more revised proposals or one (1) or more best and final offers;

(4) modify the terms, provisions, and conditions of a request for qualification, request for proposals, technical specifications, or form of public-private agreement during the pendency of a procurement; and

(5) interview offerors.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-4-6

Disclosure of contents of proposals

Sec. 6. (a) The department may not disclose the contents of proposals during discussions or negotiations with potential offerors.

(b) The department may, in its discretion in accordance with IC 5-14-3, treat as confidential all records relating to discussions or negotiations between the department and potential offerors if those records are created while discussions or negotiations are in progress.

(c) Notwithstanding subsections (a) and (b), and with the exception of portions that are confidential under IC 5-14-3, the terms of the selected offer negotiated under this article shall be available for inspection and copying under IC 5-14-3 after negotiations with the offerors have been completed.

(d) When disclosing the terms of the selected offer under subsection (c), the department shall certify that the information being disclosed accurately and completely represents the terms of the selected offer.

(e) The department shall disclose the contents of all proposals, except the parts of the proposals that may be treated as confidential in accordance with IC 5-14-3, when either:

(1) the request for proposal process is terminated under section 5 of this chapter; or

(2) the public-private agreement has been executed and the closing for each financing transaction required to provide funding to carry out the agreement has been conducted.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-5

Chapter 5. Public-Private Agreements

IC 8-15.7-5-1

Public-private agreement by operator; provisions of agreement

Sec. 1. (a) Before beginning:

(1) the development;

(2) the financing;

(3) the operation; or

(4) any combination of the development, financing, or operation;

of a qualifying project, the operator must enter into a public-private agreement with the department. Subject to the other provisions of this article, the department and a private entity may enter into a public-private agreement with respect to a project. Subject to the requirements of this article, a public-private agreement may provide that the private entity, acting on behalf of the department or the authority, is partially or entirely responsible for any combination of developing, financing, or operating the qualifying project.

(b) The public-private agreement may, as determined appropriate by the department for the particular qualifying project, provide for all or part of the following:

(1) Delivery of performance and payment bonds or other performance security determined suitable by the department, including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the qualifying project, in the forms and amounts set forth in the public-private agreement or otherwise determined as satisfactory by the department to protect the department and payment bond beneficiaries who have a direct contractual relationship with the operator or a subcontractor of the operator to supply labor or material. A payment or performance bond or alternative form of performance security required under a public-private agreement shall not be required for the part of a public-private agreement that includes only design, planning, or financing services, the performance of preliminary studies, or the acquisition of real property.

(2) Review of plans for any development or operation, or both, of the qualifying project by the department.

(3) Inspection of any construction of or improvements to the qualifying project by the department or another entity designated by the department or under the public-private agreement to ensure that the construction or improvements conform to the standards set forth in the public-private agreement or are otherwise acceptable to the department.

(4) Maintenance of:

(A) one (1) or more policies of public liability insurance

(copies of which shall be filed with the department accompanied by proofs of coverage); or

(B) self-insurance;

each in the form and amount required by the public-private agreement or otherwise satisfactory to the department as reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.

(5) If operations are included within the operator's obligations under the public-private agreement, monitoring of the maintenance practices of the operator by the department or another entity designated by the department or under the public-private agreement, and the taking of the actions that the department finds appropriate to ensure that the qualifying project is properly maintained.

(6) Reimbursement to be paid to the department as set forth in the public-private agreement for services provided by the department.

(7) Filing of appropriate financial statements and reports as set forth in the public-private agreement or as otherwise in a form acceptable to the department on a periodic basis.

(8) Compensation or payments to the operator, attorneys, bankers, financial advisors, or other professionals. Compensation or payments may include one (1) or more of the following:

(A) A development fee, payable on a lump sum basis, progress payment basis, time and materials basis, or any other basis considered appropriate by the department.

(B) An operations fee, payable on a lump sum basis, time and material basis, periodic basis, or any other basis considered appropriate by the department.

(C) All or part of the revenues, if any, arising out of operation of the qualifying project.

(D) A maximum rate of return on investment or return on equity or a combination of the two (2).

(E) In kind services, materials, property, equipment, or other items.

(F) Compensation in the event of any termination.

(G) A cash payment to pay part of the project cost.

(H) Other compensation set forth in the public-private agreement or otherwise considered appropriate by the department.

(9) Compensation or payments to the department, if any. Compensation or payments may include one (1) or more of the following:

(A) A concession payment, lease payment, or other fee, which may be payable in a lump sum, on a periodic basis, or on any other basis considered appropriate by the department.

(B) Sharing of revenues, if any, from the operation of the qualifying project.

(C) Payment for any services, materials, equipment, personnel, or other items provided by the department to the operator under the public-private agreement or in connection with the qualifying project.

(D) Other compensation set forth in the public-private agreement or otherwise considered appropriate by the department.

(10) The date and terms of termination of the operator's authority and duties under this article, and circumstances under which the operator's authority and duties may be terminated before that date.

(11) Reversion of the qualifying project to the department at the termination or expiration of the public-private agreement.

(12) Rights and remedies of the department if the operator defaults or otherwise fails to comply with the terms of the public-private agreement.

(c) A public-private agreement may not provide that the state or the department is responsible for any debt incurred by an operator in connection with the delivery of a project.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-1.5

Additional required provisions of agreement

Sec. 1.5. In addition to the other requirements of this article, a public-private agreement entered into under this article must include the following:

(1) A requirement for the completion of all environmental analyses of the project required by state and federal law in the manner and at the times required by the appropriate state and federal agencies.

(2) A requirement for ownership by the department in the name of the state of Indiana of:

(A) all the real property on which the project is located; and

(B) all of the improvements on that real property.

(3) An expedited method for resolving disputes between or among the department, the parties to the public-private agreement, and affected jurisdictions, as required by IC 8-15.7-12-2.

As added by P.L.85-2010, SEC.18.

IC 8-15.7-5-2

User fees

Sec. 2. (a) The department may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a qualifying project in accordance with the public-private agreement. In fixing these amounts, the department may:

(1) establish maximum amounts for the user fees; and

(2) subject to subsection (b), provide for increases or decreases of the maximum amounts based upon the indices, methodologies, or other factors that the department considers appropriate.

(b) For a public-private agreement entered into after June 30, 2011, the department may not use a methodology based on:

(1) toll collection success rates; or

(2) other factors internal to the operator;

that could result in increases of the maximum amounts due to actual toll collection rates that are below estimated or anticipated toll collection rates.

(c) User fees established by the department for the use of a qualifying project must be nondiscriminatory and may:

(1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, traffic congestion, or other means or classification that the department determines to be appropriate;

(2) vary by time of day or year; and

(3) be based on one (1) or more factors considered relevant by the department, which may include any combination of:

(A) lease payments;

(B) financing costs and charges;

(C) debt repayment, including principal and interest;

(D) costs of development;

(E) costs of operation;

(F) working capital;

(G) reserves;

(H) depreciation;

(I) compensation to the operator;

(J) compensation to the department; and

(K) other costs, expenses, and factors set forth in the public-private agreement or otherwise considered appropriate by the department.

(d) A public-private agreement may:

(1) authorize the operator to adjust the user fees for the use of the qualifying project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the department under this chapter;

(2) provide that any adjustment by the operator permitted under subdivision (1) may be based on indices, methodologies, or other factors described in subsection (a) or (b), as applicable;

(3) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the department, global positioning systems and photo or video based toll collection enforcement

systems; and

(4) authorize the collection of user fees by a third party.

(e) A schedule of the current user fees shall be made available by the operator to any member of the public on request. User fees and the setting of user fee rates are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state or any municipality, except to the extent set forth in the public-private agreement.

(f) Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees.

As added by P.L.47-2006, SEC.40. Amended by P.L.163-2011, SEC.14.

IC 8-15.7-5-3

Grants or loans for qualifying project

Sec. 3. In the public-private agreement, the department may agree to make grants or loans for the development or operation, or both, of the qualifying project from amounts received from the federal government, any agency or instrumentality of the federal government, or any state or local agency.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-4

Additional provisions of public-private agreement

Sec. 4. The public-private agreement must incorporate the duties of the operator under this article and may contain the other terms and conditions that the department determines serve the public purpose of this article. The public-private agreement may contain provisions under which the department or the authority agrees to provide notice of default and cure rights for the benefit of the operator and the persons or entities described in the public-private agreement that are providing financing for the qualifying project. The public-private agreement may contain any other lawful term or condition to which the operator and the department mutually agree, including provisions regarding change orders, dispute resolution, required upgrades to the qualifying project, tolling policies, changes and modifications to the qualifying project, unavoidable delays, or provisions for a loan or grant of public funds for the development or operation, or both, of one (1) or more qualifying projects.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-5

Distribution of payments received by department under public-private agreement

Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided

by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

(1) major moves construction fund established under IC 8-14-14;

(2) department for deposit in the state highway fund established by IC 8-23-9-54;

(3) alternative transportation construction fund established under IC 8-14-17; or

(4) operator or the authority for debt reduction.

As added by P.L.47-2006, SEC.40. Amended by P.L.203-2007, SEC.7.

IC 8-15.7-5-6
Takeover of qualifying project upon termination of public-private agreement

Sec. 6. (a) Upon the termination or expiration of the public-private agreement, including a termination for default, the department may take over the qualifying project and succeed to all of the right, title, and interest in the qualifying project. The department may agree to accept the qualifying project subject to any liens on revenues previously granted by the operator to any person providing financing for the qualifying project.

(b) If the department elects to take over a qualifying project, the department may do all or part of the following:

(1) Develop, finance, or operate the project.

(2) Impose, collect, retain, and use user fees, if any, for the project.

(c) The department may use any revenues collected under this section for any of the following purposes or any other authorized use under this article:

(1) Making payments to individuals or entities in connection with the financing of the qualifying project.

(2) Paying development costs of the project.

(3) Paying current operation costs of the project or facilities, including compensation to the department for the services of the department in operating the qualifying project.

(4) Paying the operator for any compensation or payment owing upon termination.

(d) The full faith and credit of the state or any political subdivision or the authority is not pledged to secure any financing of the operator by the election to take over the qualifying project. Assumption of development or operation, or both, of the qualifying project does not obligate the state or any political subdivision or the authority to pay any obligation of the operator.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-7
Amendment of public-private agreement

Sec. 7. Any changes in the terms of the public-private agreement agreed to by the parties shall be added to the public-private agreement by written amendment.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-8
Public-private agreement with multiple entities
Sec. 8. Notwithstanding any other provision of this article, the department may enter into a public-private agreement with multiple private entities if the department determines in writing that it is in the public interest to do so.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-9
Public-private agreement for phases or segments of project
Sec. 9. The public-private agreement may provide for all or part of the development, financing, or operation of phases or segments of the qualifying project.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-5-10
Memoranda of understanding for implementation of public-private agreement
Sec. 10. The department may enter into one (1) or more memoranda of understanding with respect to the implementation and administration of a public-private agreement. The memoranda may provide that the department has responsibility for, and shall administer and oversee certain aspects of the implementation of, the public-private agreement under this article, including:

(1) undertaking any oversight and monitoring of the operator as provided under the public-private agreement;
(2) reviewing plans for development and operation, as applicable, as provided under the public-private agreement;
(3) granting or denying all consents and approvals as provided under the public-private agreement, except for consents and approvals relating to financial matters that the department is not permitted to grant or deny under applicable law, in which case the authority shall execute the consents and approvals prepared by the department;
(4) receiving all development, operations, and financial reports prepared by the operator or others, as provided under the public-private agreement;
(5) preparing, negotiating, and executing any change orders and amendments to the public-private agreement;
(6) issuing other written correspondence and communications on behalf of the authority as provided under the public-private agreement;
(7) preparing and issuing noncompliance letters and reports,

warning notices, and default letters to the operator as provided under the public-private agreement; and

(8) exercising rights and remedies for a breach or default by the operator as provided under the public-private agreement, except for rights and remedies relating to financial matters that the department is not permitted to exercise under applicable law, in which case the authority shall exercise the rights and remedies.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-6

Chapter 6. Development and Operations Standards for Projects

IC 8-15.7-6-1

Standards for plans and specifications

Sec. 1. The plans and specifications, if any, for each project developed under this article must comply with:

(1) the department's standards for other projects of a similar nature, except as otherwise provided in the public-private agreement; and

(2) any other applicable state or federal standards.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-6-2

Compliance with certain laws

Sec. 2. Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.19; P.L.163-2011, SEC.15; P.L.252-2015, SEC.22.

IC 8-15.7-6-3

Projects subject to certain state highway standards

Sec. 3. Each project constructed or operated under this article is considered to be part of the state highway system designated under IC 8-23-4-2 for purposes of identification, maintenance standards, and enforcement of traffic laws.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-6-4

Agreements for maintenance and other services

Sec. 4. An operator may enter into agreements for maintenance or other services under this article with the department and other local or state agencies. The department may:

(1) with the assistance of all applicable local and state agencies, establish a unified permitting and licensing process for the processing and issuance of all necessary permits and licenses for projects under this article, including, but not limited to, all environmental permits and business and tax licenses; and

(2) provide other services for which the department may be reimbursed, including, but not limited to, preliminary planning, environmental certification (including the procurement of all

necessary environmental permits), right-of-way acquisition, utility relocations and adjustments, and preliminary design of projects under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-6-5

Expediting permits, licenses, and approvals

Sec. 5. The department shall seek the cooperation of federal and local agencies to expedite all necessary federal and local permits, licenses, and approvals necessary for projects under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-7

Chapter 7. Taxation of Operators

IC 8-15.7-7-1

Property tax exemption

Sec. 1. A project under this article and tangible personal property used exclusively in connection with a project that are:

(1) owned by the authority or the department and leased, licensed, financed, or otherwise conveyed to an operator; or

(2) acquired, constructed, or otherwise provided by an operator on behalf of the authority or the department;

under the terms of a public-private agreement are considered to be public property devoted to an essential public and governmental function and purpose. The property, and an operator's leasehold estate or interests in the property, are exempt from all ad valorem property taxes and special assessments levied against property by the state or any political subdivision of the state.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-7-2

Sales tax exemption for certain purchases

Sec. 2. An operator or any other person purchasing tangible personal property for incorporation into or improvement of a structure or facility constituting or becoming part of the land included in a project is entitled to the exemption from gross retail tax and use tax provided under IC 6-2.5-4-9(c) and IC 6-2.5-3-2(c), respectively, with respect to that tangible personal property.

As added by P.L.47-2006, SEC.40. Amended by P.L.181-2016, SEC.36.

IC 8-15.7-7-3

Taxation of income received by operator

Sec. 3. Income received by an operator under the terms of a public-private agreement is subject to taxation in the same manner as income received by other private entities.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-8

Chapter 8. Financial Arrangements

IC 8-15.7-8-1

Acts by authority or department concerning federal, state, or local credit assistance

Sec. 1. The authority or the department may do any combination of applying for, executing, or endorsing applications submitted by private entities to obtain federal, state, or local credit assistance for qualifying projects developed, financed, or operated under this article, including grants, loans, lines of credit, and guarantees.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-8-2

Acts by authority or department concerning federal, state, or local assistance; contracts

Sec. 2. The authority or the department may take any action authorized by this article to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this article and may enter into any contracts required to receive the assistance.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-8-3

Grants or loans by authority or department from amounts received from governmental entities

Sec. 3. The authority or the department may agree to make grants or loans for any combination of the development, financing, or operation of a qualifying project from amounts received from the federal, state, or local government or any agency or instrumentality of the federal, state, or local government.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-8-4

Financing terms determined by public-private agreement

Sec. 4. The financing of a qualifying project may be in the amounts and upon the terms and conditions that are determined by the parties to the public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-8-5

Powers of operator, authority, and department to finance qualifying project

Sec. 5. For the purpose of financing a qualifying project, the operator and the authority or the department may do the following:

(1) Propose to use all or part of the revenues available to them.

(2) Enter into grant agreements.

(3) Access any designated transportation trust funds.

(4) Access any other funds available to the authority or the

department and the operator.

(5) Accept grants from the authority, the ports of Indiana, any other state infrastructure bank, or any other agency or entity.

As added by P.L.47-2006, SEC.40. Amended by P.L.98-2008, SEC.50.

IC 8-15.7-8-6

Powers of authority to finance qualifying project

Sec. 6. (a) For the purpose of financing a qualifying project, the authority may enter into agreements, leases, or subleases with the department or an operator, or both, and do the following:

(1) Issue bonds, debt, or other obligations under IC 4-4-11, IC 8-15-2, or IC 8-15.7-9.

(2) Enter into loan agreements or other credit facilities.

(3) Secure any financing with a pledge of, security interest in, or lien on all or part of a property subject to the agreement, including all of the party's property interests in the qualifying project.

(4) Subject to review by the budget committee established in IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3:

(A) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay costs incurred under a public-private agreement; or

(B) otherwise create a moral obligation of the state to pay all or part of any costs incurred by the authority under a public-private agreement.

(b) The department and an operator may transfer any interest in property that the department or operator has to the authority to secure the financing.

(c) If items submitted for review under subsection (a)(4) provide for any tolls, the budget committee shall hold a meeting and conduct a review of the items not later than ninety (90) days after the date the items are submitted for review.

As added by P.L.47-2006, SEC.40. Amended by P.L.163-2011, SEC.16.

IC 8-15.7-8-7

Use of public funds to finance qualifying project

Sec. 7. Public funds may be used for the purpose of financing a qualifying project and may be mixed and aggregated with funds provided by or on behalf of the operator or other private entities.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-8-8

Use of private activity bonds to finance qualifying project

Sec. 8. For the purpose of financing a qualifying project, the

authority and the operator may apply for, obtain, issue, and use private activity bonds available under any federal law or program.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-8-9
Debt issued for qualifying project not a debt or pledge of the state or a political subdivision

Sec. 9. Any bonds, debt, other securities, or other financing issued for the purposes of this article shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision.
As added by P.L.47-2006, SEC.40.

IC 8-15.7-9

Chapter 9. Issuance of Debt by Authority

IC 8-15.7-9-1

Issuance of bonds or notes

Sec. 1. (a) The authority may, by resolution, issue and sell bonds or notes of the authority for the purpose of providing funds to carry out the provisions of this article with respect to the development, financing, or operation of a project or projects or the refunding of any bonds or notes, together with any costs associated with a transaction.

(b) Bonds or notes issued under this chapter shall be issued in accordance with IC 8-14.5-6 except that the bonds or notes are not required to comply with IC 8-14.5-6-2, IC 8-14.5-6-3, or IC 8-14.5-6-5(b).

As added by P.L.47-2006, SEC.40.

IC 8-15.7-9-2

Leases with the department or operator

Sec. 2. (a) The authority may enter into a lease with the department or the operator, or both, of a project or projects financed under this chapter. The department may lease a project financed under this chapter to the authority or an operator under a public-private agreement.

(b) A lease of a project to the department under this chapter must comply with IC 8-14.5-5 except that:

(1) the lease is not required to comply with IC 8-14.5-5-3(a)(1); and

(2) notwithstanding IC 8-14.5-5-2(a)(2), a lease under this chapter may be extended from biennium to biennium, with the extensions not to exceed a lease term of seventy-five (75) years unless the department gives notice of nonextension at least six (6) months before the end of the biennium, in which event the lease expires at the end of the biennium in which the notice is given.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-9-3

Sources for payment of lease rentals by department

Sec. 3. The department shall pay lease rentals for leases that the department has entered into under this chapter that secure bonds issued under this chapter from any legally available revenues, including:

(1) payments received from an operator;

(2) federal highway revenues, subject to the limitations in IC 8-14.5-7;

(3) distributions from the state highway fund; and

(4) other funds available to the department for such purpose.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-9-4
Bonds or notes not a debt of the state

Sec. 4. The bonds or notes issued under this chapter:

(1) constitute the corporate obligations of the authority;

(2) do not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation; and

(3) are payable solely as to both principal and interest from:

(A) the revenues from a lease to the department, if any;

(B) proceeds of bonds or notes, if any;

(C) investment earnings on proceeds of bonds or notes; or

(D) other funds available to the authority for such purpose.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-10

Chapter 10. Acquisition of Property

IC 8-15.7-10-1

Dedication of public property for qualifying project

Sec. 1. (a) A public entity may dedicate any property interest that it has for public use as a qualifying project if the public entity finds that dedication of the property interest will serve the public purpose of this article. In connection with the dedication, a public entity may convey any property interest that the public entity has to the operator, subject to the:

(1) conditions imposed by general law governing conveyances; and

(2) provisions of this article;

for the consideration that the public entity considers appropriate.

(b) Consideration for a transfer under this section may include an agreement with the operator to develop, finance, or operate the qualifying project. The property interests that the public entity may convey to the operator in connection with a dedication under this section may include licenses, franchises, easements, or any other right or interest that the public entity considers appropriate.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-10-2

Leases, licenses, easements, and other grants

Sec. 2. The authority, the department, and an operator may enter into the leases, licenses, easements, and other grants of property interests that the department determines necessary to carry out this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-11

Chapter 11. Law Enforcement

IC 8-15.7-11-1

Jurisdiction of law enforcement officers

Sec. 1. All law enforcement officers of the state and of each affected jurisdiction have the same powers and jurisdiction within the limits of the qualifying project as they have in their respective areas of jurisdiction.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-11-2

Access to qualifying project by law enforcement officers

Sec. 2. Law enforcement officers shall have access to the qualifying project at any time for the purpose of exercising the law enforcement officer's powers and jurisdiction. This authority does not extend to the private offices, buildings, garages, and other improvements of the operator to any greater degree than the police power extends to any other private buildings and improvements.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-11-3

Application of traffic and motor vehicle laws

Sec. 3. (a) The traffic and motor vehicle laws of Indiana or, if applicable, any local jurisdiction apply to conduct on a qualifying project to the same extent as they apply to conduct on similar projects in Indiana or the local jurisdiction.

(b) Punishment for infractions and offenses shall be as prescribed by law for conduct occurring on similar projects in Indiana or the local jurisdiction.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-12

Chapter 12. Resolution of Disputes

IC 8-15.7-12-1

Jurisdiction of department to adjudicate certain matters

Sec. 1. The department has exclusive jurisdiction to adjudicate all matters specifically committed to the department's jurisdiction by this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-12-2

Expedited method for dispute resolution

Sec. 2. The department shall establish an expedited method for resolving disputes between or among the department, the parties to a public-private agreement, and affected jurisdictions, and shall set forth that method in the public-private agreement.

As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.20.

IC 8-15.7-12-3

Powers of department with respect to claims

Sec. 3. The department may pay, pursue, mediate, and settle any claim arising out of a public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-12-4

Arbitration or alternative dispute resolution

Sec. 4. A public-private agreement may permit a party to the agreement to submit any claim arising under the agreement to arbitration or alternative dispute resolution under IC 34-57.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-13

Chapter 13. Term of Agreement; Reversion of Property to State

IC 8-15.7-13-1

Maximum term of public-private agreement

Sec. 1. The term of a public-private agreement, including all extensions, may not exceed seventy-five (75) years. For purposes of measuring the term, the term begins on the date on which operations of a part of the qualifying project by the operator commences.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-13-2

Termination date

Sec. 2. The department shall terminate the operator's authority and duties under the public-private agreement on the date set forth in the public-private agreement.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-13-3

Reversion of qualifying project to department

Sec. 3. Upon termination of the public-private agreement, the authority and duties of the operator under this article cease, except for any duties and obligations that extend beyond the termination as set forth in the public-private agreement, and the qualifying project reverts to the department and shall be dedicated to the department for public use.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-14

Chapter 14. Additional Powers of the Authority and the Department With Respect to Qualifying Projects

IC 8-15.7-14-1

Cooperation by authority or department with other governmental entities

Sec. 1. The authority or the department may exercise any powers provided under this article in participation or cooperation with any governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-14-2

Contracts necessary for performance of duties

Sec. 2. The authority or the department may make and enter into all contracts and agreements necessary or incidental to the performance of the authority's or department's duties and the execution of the authority's or department's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the authority or the department, as applicable, and may be for any term of years and contain any terms that are considered reasonable by the authority or the department.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-14-3

Payment of amounts owed from available funds

Sec. 3. The authority or the department may pay the costs incurred under a public-private agreement entered into under this article from any funds legally available to the authority or the department under this article or any other statute.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-14-4

Delegation of certain powers to operator

Sec. 4. For purposes of this article, the department may authorize an operator under a public-private agreement to perform any of its duties under IC 8-15-3-9, IC 8-15-3-16, IC 8-15-3-29, IC 8-15-3-30, and IC 8-15-3-33.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-14-5

Powers under tollway statute; delegation of powers to authority; eminent domain

Sec. 5. (a) Subject to subsection (b), the department may exercise any of its powers under IC 8-15-3 as necessary or desirable for the performance of its duties and the execution of its powers under this

article. In connection with or in anticipation of the exercise by the authority of any powers granted to the authority by this article, the department may authorize the authority to exercise all or part of the powers of the department under this article as necessary or desirable to accomplish the purposes of this article.

(b) For purposes of subsection (a):

(1) the department's or the authority's use of the power of eminent domain to acquire property or interests in property for a project under this article; and

(2) the rights of property owners who are affected by the authority's use of the power of eminent domain for a project under this article;

are governed by IC 8-15-3, IC 8-23-7, IC 32-24, and any other applicable provision of the Indiana Code as in effect on January 1, 2010, and are not affected by amendments to those statutes enacted after December 31, 2009.

As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.21.

IC 8-15.7-14-6

Impairment of public-private agreement prohibited

Sec. 6. The authority or the department may not take any action under this chapter that would impair the public-private agreement entered into under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-14-7

Agreement with state police concerning law enforcement

Sec. 7. (a) The department shall enter into an agreement between and among the operator, the department, and the state police department concerning the provision of law enforcement assistance with respect to a qualifying project that is the subject of a public-private agreement under this article.

(b) The department may enter into arrangements with the state police department related to costs incurred in providing law enforcement assistance under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-15

Chapter 15. Prohibited Local Action

IC 8-15.7-15-1

Impairment of public-private agreement by political subdivision prohibited

Sec. 1. A political subdivision (as defined in IC 36-1-2-13) may not take any action that would impair a public-private agreement under this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16

Chapter 16. Prohibited Political Contributions

IC 8-15.7-16-1

Application of definitions

Sec. 1. The definitions in IC 3-5-2 apply to this chapter to the extent they do not conflict with the definitions in this article.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-2

"Candidate"

Sec. 2. As used in this chapter, "candidate" refers to any of the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-3

"Committee"

Sec. 3. As used in this chapter, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of representatives of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-4

"Officer"

Sec. 4. As used in this chapter, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-5

Determination of interest in operator

Sec. 5. For purposes of this chapter, a person is considered to have an interest in an operator if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in an operator.

(2) The person is an officer of an operator.

(3) The person is an officer of a person that holds at least a one

percent (1%) interest in an operator.

(4) The person is a political action committee of an operator.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-6

Certain contributions attributed to operator

Sec. 6. An operator is considered to have made a contribution if a contribution is made by a person who has an interest in the operator.

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-7

Prohibition of contributions to candidate or committee

Sec. 7. An operator or a person who has an interest in an operator may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the operator is a party to a public-private agreement entered into under this article.

(2) The three (3) years following the final expiration or termination of the public-private agreement described in subdivision (1).

As added by P.L.47-2006, SEC.40.

IC 8-15.7-16-8

Level 6 felony for violation

Sec. 8. A person who knowingly or intentionally violates this chapter commits a Level 6 felony.

As added by P.L.47-2006, SEC.40. Amended by P.L.158-2013, SEC.135.

IC 8-16

ARTICLE 16. BRIDGES AND TUNNELS

IC 8-16-1

Chapter 1. Operation and Financing of State Bridges to Adjoining States

IC 8-16-1-0.1

Definitions

Sec. 0.1. As used in this chapter:

"Authority" refers to the Indiana finance authority established under IC 4-4-11.

"Department" refers to the Indiana department of transportation.

As added by Acts 1980, P.L.74, SEC.259. Amended by P.L.109-1983, SEC.30; P.L.68-1988, SEC.15; P.L.18-1990, SEC.143; P.L.235-2005, SEC.117.

IC 8-16-1-0.5

Applicability

Sec. 0.5. This chapter does not apply to a project under IC 8-15.5 or IC 8-15.7 that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

As added by P.L.85-2010, SEC.22.

IC 8-16-1-1

Powers of authority

Sec. 1. (a) The authority shall have the power:

(1) to make and enter into all contracts or agreements; and

(2) to do all things necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(b) The authority may employ engineering, architectural, and construction experts, inspectors, and such other employees as may be necessary in its opinion to implement this chapter and fix their compensation, all of whom shall do such work as the authority may direct. All expenses so incurred by the authority shall be paid solely from funds provided under the authority of this chapter.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

(Formerly: Acts 1939, c.79, s.1; Acts 1965, c.249, s.1.) As amended by Acts 1980, P.L.74, SEC.260; P.L.109-1983, SEC.31; P.L.235-2005, SEC.118.

IC 8-16-1-2

Power and authority; "bridge" defined

Sec. 2. (a) The authority is authorized and empowered to construct, to acquire by purchase or otherwise, or to condemn in the manner prescribed by IC 8-23-7 highway bridges and the approaches thereto over and across any river or stream forming the boundary between Indiana and any adjoining state whenever the bridge or any part thereof or the approach thereto will extend within Indiana, and to enlarge, extend and improve such bridges. This chapter shall apply although such river may be located either partially or solely within the territorial limits of such adjoining state.

(b) The authority is further authorized and empowered to construct toll roads or highways, together with such approaches, avenues of access, fills, causeways, connecting bridges, or ferries, as shall be necessary, appurtenant, or incidental to such bridge, ferry, or ferries, from or to any place or places within the state of Indiana, or to places in adjoining states, and to enlarge, extend, and improve such toll roads or highways. Any toll road or highway shall be deemed to be necessary, appurtenant, or incidental to such bridge if it connects any such bridge with either a federal interstate highway, a federal highway, or a state highway, or any one (1) or more of such highways. Said toll roads or highways may be constructed:

(1) as separate projects or as combined projects; or

(2) in conjunction with the construction or acquisition of an interstate bridge or bridges authorized by this chapter, as a combined project.

(c) The authority may enter into agreements with the department for the construction or operation or maintenance of any such necessary, appurtenant, or incidental toll road or highway.

(d) The authority may enter into contracts or agreements with the department and any combination of the appropriate departments of any other states, whereby the department will assume the control, management, maintenance, upkeep and repair of any bridge, as defined in this section, and levy and collect tolls for the use thereof, whenever:

(1) any such bridge has been constructed by an agency of the state or an agency of the state as a joint project with any other state or states; and

(2) such bridge has been constructed by participation with the federal government under such terms as shall permit the state or states to recover its contribution of the cost of the bridge by the collection of tolls for the use thereof.

(e) The authority may also provide in such contracts or agreements as provided in subsection (d) to:

(1) retain from the tolls so collected an amount sufficient to cover its administrative costs, the costs of the repair, maintenance, and upkeep of the bridge; and

(2) pay the remainder of the tolls to the participating states as reimbursement of their contribution of the cost of the bridge.

(f) Whenever the term "bridge" is used in this chapter, said term

shall mean such interstate bridges or such toll roads or highways severally as separate projects or collectively to any two (2) or more of such interstate bridges or toll roads or highways as combined projects. All of the provisions of this chapter relating to bridges shall apply fully to such interstate bridges or such toll roads or highways as separate projects or to any combination of two (2) or more of such interstate bridges or toll roads or highways as combined projects. However, any engineers appointed or employed in connection with any toll roads or highways shall be designated by the authority or department subject to such approval of the purchasers of any revenue bonds issued pursuant to this chapter as may be provided in the proceedings authorizing the issuance of such revenue bonds.
(Formerly: Acts 1939, c.79, s.2; Acts 1941, c.217, s.1; Acts 1951, c.296, s.1; Acts 1959, c.191, s.1; Acts 1971, P.L.100, SEC.1.) As amended by Acts 1980, P.L.74, SEC.261; P.L.109-1983, SEC.32; P.L.18-1990, SEC.144.

IC 8-16-1-3
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-16-1-4
Studies regarding interstate bridges
Sec. 4. (a) Subject to IC 8-9.5-8-5, the authority is authorized to inquire into the necessity and existing need for the construction, or acquisition by purchase or otherwise or by condemnation, of any interstate bridge between the state of Indiana and any adjoining state over any stream which forms the boundary between the state of Indiana and any such state; or the enlargement, extension of, or improvement of such bridge. For the purpose of such inquiry, the authority may employ engineers, construction experts, and inspectors and fix their compensation.
(b) The authority may cause to be made by competent engineers traffic estimates and reports and pay therefor such compensation as may have been fixed by contract or agreement.
(c) The authority:
(1) shall view and examine the site of any bridge proposed to be built;
(2) shall view and examine any bridge proposed to be acquired under authority of this chapter; and
(3) may subpoena witnesses and hear evidence under oath upon any question necessary in the determination of the question of whether the acquisition or condemnation of such bridge already constructed or the construction of any bridge proposed to be built is necessary in the public interest.
(d) All expenses incurred under this section shall be paid solely from funds provided under the authority of this chapter.
(Formerly: Acts 1939, c.79, s.4; Acts 1941, c.217, s.2.) As amended

by Acts 1980, P.L.74, SEC.262; P.L.109-1983, SEC.33.

IC 8-16-1-5
Construction of interstate bridges

Sec. 5. Subject to IC 8-9.5-8-5, if the authority shall determine that the construction of an interstate bridge or the acquisition by purchase or otherwise or by condemnation of any interstate bridge already constructed or its approaches, or the enlargement, extension, or improvement of any such bridges or their approaches, under this chapter, is necessary and advisable in the public interest and will be a convenience, necessity, and a benefit, the chairman of the authority shall issue an order finding and determining that the construction of such an interstate bridge or the acquisition by purchase or otherwise or by condemnation of any interstate bridge already constructed, or the enlargement, extension, or improvement thereof will be in the public interest and convenience and necessity.

(Formerly: Acts 1939, c.79, s.5; Acts 1941, c.217, s.3.) As amended by Acts 1980, P.L.74, SEC.263; P.L.109-1983, SEC.34.

IC 8-16-1-6
Authority to purchase land or structures

Sec. 6. The authority is authorized to purchase in the state of Indiana and in any adjoining state, solely from funds provided under the authority of this chapter, such lands, structures, rights-of-way, franchises, easements, or other interests in lands, including lands under water, riparian rights of any person, railroad, or other public or private corporations or municipality, necessary for the building or acquiring, by purchase or otherwise, of said bridges and approaches thereto upon such terms, prices, or consideration as may be considered by it to be reasonable, and can be agreed upon between it and the owner or owners, title thereto to be taken in the name of the state of Indiana.

(Formerly: Acts 1939, c.79, s.6.) As amended by Acts 1980, P.L.74, SEC.264; P.L.109-1983, SEC.35.

IC 8-16-1-7
Preexisting ferry operations

Sec. 7. (a) Prior to the opening for public use of any bridge, the construction of which is authorized by this chapter, the authority shall:

(1) purchase the ferry, equipment, franchises, rights, and privileges used in connection with the operation of any ferry which has been in continuous operation for at least fifteen (15) years prior thereto and which is located within two (2) miles of the site of said bridge; and

(2) pay the owner therefor a fair cash value.

(b) In the event the authority and the owner of such ferry shall be unable to agree upon a fair cash value, the valuation of such property

shall be determined in the manner provided by law for the condemnation of property for appropriate county purposes by counties. In the event the owner of such ferry shall not agree to the establishment of such valuation according to the method specified in this subsection, then in such event, the authority shall not be required to purchase such assets from the owner of the ferry.
(Formerly: Acts 1939, c.79, s.6a; Acts 1957, c.192, s.1.) As amended by Acts 1980, P.L.74, SEC.265; P.L.109-1983, SEC.36.

IC 8-16-1-8
Condemnation

Sec. 8. (a) Whenever it is necessary to condemn property for the purpose of constructing any portion of the bridges or the approaches, or securing rights-of-way for the approaches, the authority may condemn any interest, franchises, easements, rights, or privileges, land, or improvements which may be necessary for the purpose of constructing the bridges, the approaches, or the rights-of-way leading to the approaches.

(b) Condemnations shall be in the name of the authority and the method shall be governed by IC 8-23-7. The authority is empowered to exercise the powers of eminent domain as conferred upon the authority by an act of Congress of the United States.

(c) No payments of award in any condemnation proceedings or for the costs of proceedings under this chapter or the expenses thereof shall be made except from funds provided under authority of this chapter.

(d) Title to property condemned shall be taken in the name of the state.

(e) Nothing in this section shall apply to the acquisition of any toll bridge constructed before March 9, 1939.
(Formerly: Acts 1939, c.79, s.7.) As amended by Acts 1980, P.L.74, SEC.266; P.L.109-1983, SEC.37; P.L.18-1990, SEC.145.

IC 8-16-1-9
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-16-1-10
Plans and specifications; submission; letting of contracts for construction

Sec. 10. (a) Before any bridge shall be constructed under the provisions of this chapter, the authority shall prepare profiles, plans and specifications, and estimates for the construction of such bridge or bridges as they shall designate for construction under the provisions of this chapter.

(b) Following the preparation of profiles, plans and specifications, and estimates as provided in subsection (a), the authority shall give notice of the time, place, terms, and conditions for the letting of the

contracts for the construction of such bridge or bridges, as is provided by law for the giving of notices for the construction of highways by the department.

(c) The authority shall let the contracts for the construction of such bridge or bridges under this chapter in the same manner and under the same conditions as are fixed by law for the letting of contracts for the construction of highways by the department.

(Formerly: Acts 1939, c.79, s.7b; Acts 1941, c.217, s.5.) As amended by Acts 1980, P.L.74, SEC.267; P.L.109-1983, SEC.38; P.L.18-1990, SEC.146.

IC 8-16-1-11
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-16-1-12
Control over bridges

Sec. 12. The authority shall:

(1) operate, maintain, manage, and control such bridges in their entirety;

(2) fix the rate of tolls;

(3) establish bylaws and, under IC 4-22-2, rules and regulations for the use and operation of said bridges; and

(4) select such employees as it deems necessary and fix their compensation.

(Formerly: Acts 1939, c.79, s.8.) As amended by Acts 1980, P.L.74, SEC.268; P.L.109-1983, SEC.39.

IC 8-16-1-13
Damage to public ways or public works

Sec. 13. Any public ways or public works damaged or destroyed by reason of the building of such bridges or approaches shall be restored or repaired by the authority and placed in their original condition as near as practicable.

(Formerly: Acts 1939, c.79, s.9.) As amended by Acts 1980, P.L.74, SEC.269; P.L.109-1983, SEC.40.

IC 8-16-1-14
Revenue bonds

Sec. 14. (a) Subject to IC 8-9.5-8-10, the authority is authorized to provide funds for each and every purpose of this chapter by the issuance of bridge revenue bonds of the state, the principal and interest of which bonds shall be payable solely from the revenues of the bridge to be constructed or acquired by purchase from the proceeds of such bonds. Such revenue bonds:

(1) shall bear interest at a rate or rates approved by the authority payable on such day as specified in the resolution or any trust agreement;

(2) shall mature in not more than thirty (30) years from their date or dates; and

(3) may be made redeemable at the option of the authority, at not more than the par value thereof and a premium of five percent (5%) under such terms and conditions as the authority may fix prior to the issuance of such bonds.

(b) The authority shall:

(1) provide the form of such bonds;

(2) fix the denomination or denominations of such bonds; and

(3) fix the place or places of payment of the principal and interest thereof.

(c) The bonds shall be executed by the manual or facsimile signature of the chairman of the authority and sealed and attested by the manual or facsimile signature of the public finance director. The coupons shall bear the facsimile signature of the chairman. The authority may also provide for authentication of the bonds by a trustee or fiscal agent.

(d) The said bonds shall be exempt from taxation by the state of Indiana and by the municipalities and political subdivisions thereof.

(e) The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) Such bonds shall be sold in such manner, either at public or private sale, as the authority may determine to be for the best interests, taking into consideration the financial responsibility of the purchaser and the terms and conditions of the purchase and especially the availability of the proceeds of the bonds when required for payment of the cost of the bridge, by the authority. Such sale shall be at not less than ninety cents ($.90) on the dollar and accrued interest, and the proceeds of such bonds shall be used solely for the payment of the bridge costs, and expenses incident thereto as authorized by this chapter, and shall be disbursed by said authority as provided in this chapter. If the proceeds of the sale of such bonds shall exceed such costs, any surplus remaining therefrom shall be paid into the fund provided in section 16 of this chapter for payment of the principal and interest of said bonds.

(g) The authority shall have the right to purchase any bonds so issued by it that may be outstanding at the market price, but not exceeding one hundred five dollars ($105) for each one hundred dollars ($100) of par value and accrued interest nor exceeding the price at which the same shall in the same year be redeemable, with the consent of the holders of such bonds, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

(h) Prior to the preparation of definitive bonds the authority may under like restrictions issue temporary bonds, with or without

coupons, exchangeable for definitive bonds upon the issuance of the latter.

(i) The authority may enter into an agreement with any trust company as trustees for the holders of such bonds, setting forth the duties of the authority in respect to:

(1) the construction, maintenance, operation, and insurance of any such bridge;

(2) the conservation and application of all funds;

(3) the insurance of moneys on hand or on deposit; and

(4) the rights and remedies of said trustee and the holders of such bonds, restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds of a corporation.

(j) Said trust agreement may:

(1) contain such provisions for protecting and enforcing the rights and remedies of the trustee and the bondholders as may be reasonable and proper in the judgment of the authority, and also a provision for approval by the original bond purchasers of the appointment of consulting engineers and of the security given by the bridge contractors and by any bank or trust company in which the proceeds of bonds or bridge tolls or other moneys of the authority shall be deposited; and

(2) provide that no contract for construction shall be made without the approval of the consulting engineers.

(k) Such trust agreement may contain such further provisions as in the judgment of the authority will best accomplish the purposes of this chapter, with respect to:

(1) the fixing, maintaining, and collecting of tolls;

(2) the deposit, safeguarding, and disposition of the revenues derived from such bridge;

(3) the application of revenues;

(4) the determination and establishment of priorities in the disbursement of such revenues;

(5) the establishment of reserve funds to secure the prompt payment of the principal of and the interest on said bonds;

(6) the limitation of the amount of expenses of the authority chargeable to said revenues; and

(7) such other matters as in the judgment of the authority are proper and suitable.

(l) The bonds issued under this section shall be a first lien on all revenues of the bridge on account of which they are issued, subject only to such prior charges as may be provided in such trust agreement or in the resolution authorizing their issuance. The bonds may be issued without any other proceedings or happening or any other conditions or things than those proceedings, conditions, and things which are specified and required by this chapter or by the Constitution of the State of Indiana.

(Formerly: Acts 1939, c.79, s.10; Acts 1951, c.296, s.2; Acts 1955,

c.323, s.1; Acts 1971, P.L.100, SEC.2.) As amended by Acts 1980, P.L.74, SEC.270; P.L.109-1983, SEC.41; P.L.162-2007, SEC.33.

IC 8-16-1-15
Payment of interest or principal

Sec. 15. (a) In any resolution or trust agreement providing for the issuance of revenue bonds pursuant to section 14 of this chapter, the authority may further covenant and agree that moneys deposited in the Indiana interstate bridge fund from revenues of other bridges as reimbursement to such fund will be used to pay the interest on or principal of such bonds due but unpaid if, at any time, the available revenues of the bridge to be constructed or acquired by purchase from the proceeds of such bonds are not sufficient to pay such interest or principal. Any coupons or bonds so paid from moneys in the Indiana interstate bridge fund shall be held uncancelled by the authority as a part of the Indiana interstate bridge fund until the amount represented by such coupons or bonds is reimbursed to the fund as provided in this section. Any revenues of the bridge constructed or acquired by purchase from the bond issue of which the coupons or bonds held in the Indiana interstate bridge fund are a part and which are received thereafter and are not required to pay the cost of maintaining, repairing, and operating such bridge or to pay principal and interest on other bonds of the issue or to maintain the sinking fund or any other reserves, if any, at the level prescribed in the resolution or trust agreement, shall be applied to reimbursement of the Indiana interstate bridge fund in an amount not exceeding the amount represented by such coupons or bonds. Such revenues shall be applied first to coupons and then to bonds and in each case in their numerical order. Whenever the Indiana interstate bridge fund is reimbursed for the amount of any coupon or bond, such coupon or bond shall be cancelled. A coupon or bond shall not bear interest for the period held as part of the Indiana interstate bridge fund and the fund shall be deemed to be fully reimbursed for any coupon or bond when it receives the face amount of any such coupon or bond.

(b) If the authority agrees and covenants as provided in this section in connection with more than one (1) issue of revenue bonds, a bond issue bearing an earlier date than another bond issue shall have priority as to payment of principal and interest from the Indiana interstate bridge fund. However, so long as the revenues of any bridge are sufficient to pay principal and interest due and owing on the bonds issued for the purpose of constructing or acquiring such bridge, moneys in the Indiana interstate bridge fund may be used as provided in this section to pay the principal and interest on any other bond issue even though such bond issue bears a subsequent date.

(c) Nothing contained in this section shall be construed as permitting the use of money in said fund derived from state appropriations for these purposes, and the books of account of the authority that disclose the amounts in said fund from various sources

shall be open for inspection by the general public. Any expenditures from the Indiana interstate bridge fund pursuant to section 18 of this chapter shall first be made from money in said fund derived from sources other than reimbursement from revenues of other bridges.
(Formerly: Acts 1939, c.79, s.10a; Acts 1963, c.274, s.1.) As amended by Acts 1980, P.L.74, SEC.271; P.L.109-1983, SEC.42.

IC 8-16-1-16
Duty to fix, maintain, and collect tolls for use of bridges

Sec. 16. (a) The authority shall fix, maintain, and collect tolls for the use of any bridge constructed or acquired by purchase pursuant to this chapter (except in the case of a bridge constructed or acquired under authority of section 21 of this chapter) until all bonds payable from the revenues of such bridge have been retired and the interest paid thereon and the Indiana interstate bridge fund or any other fund or funds of the state have been fully reimbursed for amounts expended from such funds for the construction, acquisition, enlargement, extension, or improvement of such bridge. However, after bonds are retired, interest is paid, and all funds are fully reimbursed as required by this subsection, the authority may continue to fix, maintain, and collect tolls for the use of the bridge.

(b) The rate of such tolls shall at all times be fixed and maintained by the authority so as to provide funds sufficient to:

(1) pay the cost of maintaining, repairing, and operating such bridge, including a prorated share of the expenses of the authority based upon the gross receipts from all bridges constructed or acquired by purchase by the authority under the provisions of this chapter;

(2) pay the principal of and the interest on all bonds in accordance with the terms thereof payable from the revenues of such bridge;

(3) reimburse each year the Indiana interstate bridge fund or any other funds of the state for expenditures made for the construction, acquisition, enlargement, extension, or improvement of such bridge in an amount equal to four percent (4%) of:

(A) the original amount of such expenditures; less

(B) any part of such amount reimbursed to such fund or funds by the issuance of bonds pursuant to section 20 of this chapter; and

(4) pay interest on amounts so expended from any such funds at such rate as may be deemed proper by the authority.

(Formerly: Acts 1939, c.79, s.11; Acts 1955, c.323, s.2.) As amended by Acts 1980, P.L.74, SEC.272; P.L.109-1983, SEC.43; P.L.386-1987(ss), SEC.14.

IC 8-16-1-17
Repealed

(Repealed by P.L.386-1987(ss), SEC.22.)

IC 8-16-1-17.1
Toll bridge becoming state highway or tollway; reimbursement of funds; conveyances

Sec. 17.1. (a) The authority may, after adopting a resolution and after receiving the governor's approval, determine under IC 8-23-7 that any toll bridge constructed or operated by the authority should become a part of the system of state highways free of tolls or become a tollway under IC 8-15-3.

(b) A resolution adopted under subsection (a) becomes effective when:

(1) all bonds to which the revenues of the toll bridge were pledged for payment, together with all interest, is paid, or a sufficient amount for the payment of all those bonds and the interest to maturity is set aside in trust for the benefit of bondholders; and

(2) to the extent authorized by the authority as provided in subsection (d), the Indiana interstate bridge fund or any other fund of the state is reimbursed for amounts expended from the fund for the purposes of this chapter, even if those expenditures were not made in connection with the bridge.

(c) Until a resolution is adopted by the authority under subsection (a) and becomes effective under subsection (b), any toll bridge constructed by the authority or its predecessors remains under the jurisdiction of the authority and the authority shall continue to maintain and operate the toll bridge and levy and collect tolls as provided in this chapter. Subject to any agreement entered into by the Secretary of Transportation of the United States, acting by and through the federal highway administrator, and the state, acting by and through the department, tolls on any project may be continued from the date of the payment of the principal of and interest on bonds issued for the construction of the toll bridge.

(d) The authority may use revenue received from tolls under subsection (c) to reimburse the Indiana interstate bridge fund or any other state fund for an expenditure made for the purposes of this chapter, whether or not the expenditure was made in connection with the bridge from which the tolls were received. Before reimbursing any fund under this subsection, the authority shall provide for the cost of maintaining, repairing, or operating the toll bridge. If the authority decides to make a reimbursement under this subsection, it shall first fully reimburse all other eligible funds before it may reimburse the interstate bridge fund. After the interstate bridge fund is reimbursed, the authority may transfer revenue received from tolls under subsection (c) to the state for deposit in the state highway fund for use as provided by law.

(e) If the authority adopts a resolution under subsection (a) that becomes effective under subsection (b), the toll bridge becomes the

property of the state without a deed of conveyance, and the bridge comes under the jurisdiction and control of the department as part of the Indiana state highway system or as a tollway, as designated in the resolution.

As added by P.L.386-1987(ss), SEC.15. Amended by P.L.18-1990, SEC.147.

IC 8-16-1-18

Indiana interstate bridge fund

Sec. 18. (a) A special and distinct fund is created to be known as the Indiana interstate bridge fund. Such fund shall be:

(1) held in the name of the authority; and

(2) administered by the authority.

All expenditures therefrom shall be made by the authority.

(b) Except as provided in section 15 of this chapter, expenditures from the fund shall be made only for the purpose of:

(1) paying the cost of constructing or acquiring, by purchase or condemnation, highway bridges and the approaches thereto, which may be constructed or acquired by authority of this chapter; or

(2) paying the cost of enlarging, extending, or improving any such bridge or the approaches thereto.

The costs specified in subdivisions (1) and (2) shall include the expense of all engineering, architectural, legal, and other expert service rendered to the authority and other preliminary and incidental expenses. Such payments may be made as such costs are incurred or such services rendered.

(c) Any income from such fund or any part of the principal not pledged to the payment of bonds issued by the authority may be used for the purposes set forth in section 4 of this chapter, and the fund shall be reimbursed for any such expenditures out of the proceeds of any bonds issued for the construction or acquisition of any bridge on account of which such expenditures were made.

(Formerly: Acts 1939, c.79, s.13a; Acts 1947, c.340, s.1; Acts 1963, c.274, s.2; Acts 1971, P.L.100, SEC.3.) As amended by Acts 1980, P.L.74, SEC.274; P.L.109-1983, SEC.45.

IC 8-16-1-19

Collection of tolls; reimbursement of funds

Sec. 19. (a) Whenever any bridge is constructed or acquired under this chapter, and the cost thereof paid in whole or in part from the Indiana interstate bridge fund, it shall be the duty of the authority (except in the case of a bridge constructed or acquired under authority of section 21 of this chapter) to fix, maintain, and collect tolls for the use of such bridge from the time of the completion thereof in accordance with section 16 of this chapter.

(b) All revenues from a bridge in excess of those required by section 16 of this chapter shall be applied to reimbursement of the

Indiana interstate bridge fund in the order and manner provided so that such funds may be fully reimbursed as rapidly as the revenues of such bridge permit.
(Formerly: Acts 1939, c.79, s.13b; Acts 1947, c.340, s.2; Acts 1955, c.323, s.5.) As amended by Acts 1980, P.L.74, SEC.275; P.L.109-1983, SEC.46; P.L.386-1987(ss), SEC.16.

IC 8-16-1-20
Bridge revenue bonds; reimbursing bridge fund

Sec. 20. Subject to IC 8-9.5-8-8, the authority is authorized to issue from time to time its bridge revenue bonds for the purpose of reimbursing, in whole or in part, the Indiana interstate bridge fund and any other fund or funds of the state, for sums disbursed for the construction, acquisition, enlargement, extension, or improvement of a bridge under this chapter or for such purpose in combination with any one (1) or more of the purposes authorized by section 14 of this chapter. Such bonds shall be issued in the manner, shall be of the character, and shall be secured and paid as set out in section 14 of this chapter. The authority may sell such bonds in the manner provided in section 14 of this chapter.
(Formerly: Acts 1939, c.79, s.13c; Acts 1947, c.340, s.3; Acts 1955, c.323, s.6.) As amended by Acts 1980, P.L.74, SEC.276; P.L.109-1983, SEC.47.

IC 8-16-1-21
Bridges substantially funded by other governmental agencies; title

Sec. 21. (a) Whenever the authority shall construct or acquire a bridge under authority of section 2 of this chapter, and a substantial part of the cost of such construction or acquisition is contributed by:

(1) the government of the United States or any agency thereof;
(2) another state;
(3) any agency or authority existing under the laws of any other state; or
(4) any political or municipal subdivision thereof or any public corporation thereof;

then the authority is authorized to pay the share of the entire cost of such purchase or acquisition to be borne by it or by the state of Indiana from the Indiana interstate bridge fund. Any such bridge may be operated as a free bridge without the imposition of any tolls for the use thereof and no reimbursement need be made to the fund.

(b) The authority is authorized to enter into such contracts and agreements as it may deem necessary and proper in relation to the construction or acquisition of any such bridge with:

(1) the government of the United States or any agency thereof; or
(2) any other state, state agency or authority, or political or municipal subdivision or public corporation;

which shall so contribute to the cost of the construction or

acquisition of any such bridge. Title to any such bridge shall be taken in the name of the state of Indiana and it shall be maintained by the authority.
(Formerly: Acts 1939, c.79, s.13d; Acts 1947, c.340, s.4.) As amended by Acts 1980, P.L.74, SEC.277; P.L.109-1983, SEC.48.

IC 8-16-1-21.5
Repealed
(Repealed by P.L.109-1983, SEC.50.)

IC 8-16-1-22
Jurisdiction of authority
Sec. 22. The authority shall have no authority or jurisdiction over any bridge not constructed or acquired by it.
(Formerly: Acts 1939, c.79, s.14.) As amended by P.L.109-1983, SEC.49.

IC 8-16-1-23
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-16-1-24
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-16-1-25
Construction of law
Sec. 25. Sections 2, 4, 5, 9, 10, and 11 of this chapter shall be construed as supplemental to any other statute and shall not repeal or affect any other section of this chapter except as specifically provided, and in the event of any conflict with any other section of this chapter, said other section shall govern and control.
(Formerly: Acts 1941, c.217, s.7.) As amended by P.L.66-1984, SEC.59.

IC 8-16-1-26
Bridge constructed under chapter and crossing Wabash River
Sec. 26. (a) This section applies only to a bridge that:
(1) was constructed under this chapter; and
(2) crosses the Wabash River.
(b) Notwithstanding any other provisions of this chapter, a bridge subject to this section does not become a part of the system of state highways free of tolls or a tollway under IC 8-15-3 when bonds are retired and all funds fully reimbursed.
(c) Money collected for the use of a bridge subject to this section shall be allocated to the authority and used for the following purposes:
(1) Operation of the toll bridge facility.

(2) Maintenance of the toll bridge facility.

(3) A reserve fund for future toll bridges over the Ohio River to be located within the same county in which the bridge subject to this section is located.

As added by P.L.386-1987(ss), SEC.17.

IC 8-16-1-27

Bob Cummings Lincoln Trail Bridge at Cannelton

Sec. 27. (a) This section applies to the Bob Cummings Lincoln Trail Bridge at Cannelton.

(b) This subsection applies notwithstanding sections 16, 17.1, and 19 of this chapter. On January 1, 1988, without a deed of conveyance, the bridge becomes the property of the state, toll free, and a part of the state highway system.

(c) The department shall negotiate with Kentucky for the purpose of making an agreement for the maintenance of the bridge.

(d) The agreement described in this section must include the terms of the agreement set forth in the NINETEENTH provision of the interstate agreement entitled "AGREEMENT FOR CONSTRUCTION OF BRIDGES OVER THE OHIO RIVER IN THE MAUCKPORT, INDIANA-BRANDENBURG, KENTUCKY AREA AND THE CANNELTON, INDIANA-HAWESVILLE, KENTUCKY AREA AND APPROACHES THERETO" (approved August 8, 1963), to the effect that when one (1) or both of the bridges described in the agreement become toll free, the costs of the maintenance program shall be borne fifty percent (50%) by the Commonwealth of Kentucky and fifty percent (50%) by the state of Indiana.

(e) The agreement described in this section must provide that the bridge shall be maintained through a program to preserve, repair, and restore the bridge with its elements to its original designed or accepted standard, and to offset the effects of weather, organic growth, deterioration (aging, material failure, design and construction faults), traffic wear, damage, and vandalism. The bridge's elements include such items as travelway surfaces, shoulders, roadsides, drainage, drainage facilities, signs, markings, lighting, and fixtures. The maintenance program must include bridge inspection, snow and ice removal, cleaning, painting, repairing, and replacement of rails, floors, stringers, and beams.

(f) Notwithstanding subsection (b), after December 31, 1987, and until Indiana and Kentucky make an agreement as described in this section, the toll for an automobile is twenty-five cents ($0.25). The department shall set tolls for vehicles other than automobiles that are:

(1) at rates that when added to the revenue from automobile tolls will yield enough revenue to offset the operating costs of the bridge; and

(2) are proportionate to the tolls for vehicles other than

automobiles that are in effect on April 1, 1987.

As added by P.L.386-1987(ss), SEC.18. Amended by P.L.18-1990, SEC.148.

IC 8-16-1-28

Matthew E. Welsh Toll Bridge at Mauckport

Sec. 28. (a) This section applies to the Matthew E. Welsh Toll Bridge at Mauckport.

(b) This subsection applies notwithstanding sections 16, 17.1, and 19 of this chapter. On July 1, 1992, without a deed of conveyance, the bridge becomes the property of the state, toll free, and a part of the state highway system.

(c) The department shall negotiate with Kentucky for the purpose of making an agreement for the maintenance of the bridge.

(d) The agreement described in this section must include the terms of the agreement set forth in the NINETEENTH provision of the interstate agreement entitled "AGREEMENT FOR CONSTRUCTION OF BRIDGES OVER THE OHIO RIVER IN THE MAUCKPORT, INDIANA-BRANDENBURG, KENTUCKY AREA AND THE CANNELTON, INDIANA-HAWESVILLE, KENTUCKY AREA AND APPROACHES THERETO" (approved August 8, 1963), to the effect that when one (1) or both of the bridges described in the agreement become toll free, the cost of the program described in subsection (c) shall be borne fifty percent (50%) by the Commonwealth of Kentucky and fifty percent (50%) by the state of Indiana.

(e) The agreement described in this section must provide that the bridge shall be maintained through a program to preserve, repair, and restore the bridge with its elements to its original designed or accepted standard, and to offset the effects of weather, organic growth, deterioration (aging, material failure, design and construction faults), traffic wear, damage, and vandalism. The bridge's elements include such items as travelway surfaces, shoulders, roadsides, drainage, drainage facilities, signs, markings, lighting, and fixtures. The maintenance program must include bridge inspection, snow and ice removal, cleaning, painting, repairing, and replacement of rails, floors, stringers, and beams.

(f) Notwithstanding subsection (b), after June 30, 1992, and until Indiana and Kentucky make an agreement as described in this section, the bridge is not toll free and the rates in effect on June 30, 1992, continue to be in effect.

As added by P.L.386-1987(ss), SEC.19. Amended by P.L.18-1990, SEC.149.

IC 8-16-2
Chapter 2. Interstate Toll Bridges

IC 8-16-2-0.5
Applicability

Sec. 0.5. This chapter does not apply to a project under IC 8-15.5 or IC 8-15.7 that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

As added by P.L.85-2010, SEC.23.

IC 8-16-2-1
Authority to construct bridges

Sec. 1. The department is hereby authorized and empowered, in its discretion, to construct a highway bridge over and across any river or other stream forming the boundary-line between the state of Indiana and any state adjoining the state of Indiana, notwithstanding the waters of such rivers or streams may not at all times extend to or reach such boundary-line, whenever such bridge or any part thereof, including the approaches thereto as a part thereof, will be within the state of Indiana and will directly connect any state or interstate highway in existence or to be constructed within the state of Indiana with any interstate or other public highway in existence or to be constructed in such adjoining state, and although such river or stream may be located either partially or wholly within the territorial limits of such adjoining state; and that, in constructing and maintaining any such bridge, including the approaches thereto as a part thereof, and in providing the necessary personal and real property and easements in real property which may be required for the proper, effective and convenient location, construction and operation of any such bridge, the department is hereby authorized and empowered to use and expend so much of the funds provided, or to be provided, by law for its use as may be found by it to be reasonably necessary for such purposes.

(Formerly: Acts 1927, c.10, s.1.) As amended by Acts 1980, P.L.74, SEC.279.

IC 8-16-2-2
Federal consent to construct bridge

Sec. 2. Any such bridge may be so constructed across and over any such river or other stream at any point determined upon and designated by the department, but only with the consent and approval of and subject to the regulations of the proper authorities of the United States having jurisdiction in such matters, whenever such jurisdiction of the United States exists, and with the consent and approval of the proper authorities of such adjoining state or of the United States; and express authority is hereby conferred upon the department to build any necessary part of any such bridge, including

the approaches thereto as a part thereof, within the territorial limits of any such adjoining state and for that purpose to utilize any location or right of way provided by such adjoining state, within its boundaries, if such location and right of way be so provided; and if the United States or such adjoining state, or any duly constituted agency of either, shall acquire the necessary personal and real property and easements in real property situate in such adjoining state and suitable for use in the proper, effective and convenient location, construction and operation of such bridge, then and in that event the department is hereby authorized and empowered to take over and acquire, by contract or agreement, and make use of such personal and real property and easements in real property so situate in such adjoining state for the necessary purposes of the effective and convenient location, construction and operation of such bridge, and if unable to procure the necessary personal and real property and easements in real estate in such adjoining state by contract or agreement, after reasonable effort in that direction, then the department shall have the right and it is hereby authorized to take, in the name and on behalf of the state of Indiana, such proceedings for condemnation of such necessary personal and real property and easements in real property in such adjoining state as may be permitted or provided for by the laws of such adjoining state or by the laws of the United States.
(Formerly: Acts 1927, c.10, s.2.) As amended by Acts 1980, P.L.74, SEC.280.

IC 8-16-2-3
Authority to negotiate construction of bridges

Sec. 3. In addition to any and all other powers conferred upon it by this chapter, the department is hereby expressly authorized to negotiate with the proper authorities of any such adjoining state, and to contract for and procure the right to build, maintain and operate such bridge upon that part of any site which may be selected therefor and which shall lie within the boundaries of such adjoining state.
(Formerly: Acts 1927, c.10, s.3.) As amended by Acts 1980, P.L.74, SEC.281.

IC 8-16-2-4
Estimates of construction costs; issuance of bonds

Sec. 4. If the department shall, in its discretion, determine to construct any such bridge as in this chapter provided for, in accordance with the authority conferred by this chapter, the department shall ascertain and estimate, as nearly as is practicable, the probable cost of the location and construction of such bridge, including the approaches thereto as a part thereof, and including also in said estimated cost the cost of acquiring all necessary personal and real property and easements in real property, and shall certify the amount of such estimated cost, together with a copy of its order

expressing its determination to construct such bridge, to the county auditor of that county in Indiana in which such bridge, or any part thereof, considering the approaches thereto as a part thereof, is located; and thereupon such county, by and through its board of county commissioners, by appropriate resolution and order, shall forthwith issue and execute the negotiable bonds of such county, with proper interest coupons attached thereto, in an amount equal to one-fourth of such estimated cost of the location and construction of such bridge: Provided, That no county shall issue its bonds under the provisions of, or for any of the purposes contemplated in, this chapter in any amount in excess of one percent (1%) of the adjusted value of the taxable property within such county as determined under IC 36-1-15.

(Formerly: Acts 1927, c.10, s.4.) As amended by Acts 1980, P.L.74, SEC.282; P.L.6-1997, SEC.135.

IC 8-16-2-5

Issuance of bonds; redemption

Sec. 5. (a) Said bonds shall be issued in denominations of one thousand dollars ($1,000) each, except that one (1) bond may be for less than one thousand dollars ($1,000), and all shall be made payable to bearer at some designated bank in the state of Indiana and shall bear interest at any rate, payable semiannually. Said bonds shall be numbered in consecutive, numerical order and shall be so issued as to the maturity dates thereof that one-thirtieth part, as nearly as practicable, of all said bonds shall become due and be payable on the first day of December following the time allowed by law for the collection of the first tax levied for use in paying said bonds and the interest thereon, and a like amount of said bonds shall thereafter become due each year and on the same date each year until all become due and payable.

(b) Said bonds shall be issued and otherwise executed as the bonds of such county, shall be the bonds of and a direct obligation of such county, shall be signed by its board of county commissioners and sealed with the corporate seal of said county and attested by the county auditor of such county; but the lithograph signature of the auditor of such county shall be the only signature required upon the interest coupons attached to said bonds.

(c) Such bonds, or any part thereof, shall be subject to call and redemption by such county at any semiannual interest payment date after the expiration of five (5) years from the date of issue, and from time to time thereafter before maturity, at the par value thereof plus accrued interest, at the election of the board of county commissioners of such county.

(d) If said board of county commissioners shall determine to redeem any of said bonds prior to maturity, such bonds shall be redeemed in their numerical order and notice of such election to redeem prior to maturity shall be given by two (2) publications, one

(1) each week and on the same day of each week, in two (2) newspapers of general circulation, printed in the English language and published, one (1) at the city of Indianapolis and the other at the county seat of the county by which said bonds were issued, which publications shall be completed at least ten (10) days prior to the interest paying date on which any of said bonds are called for redemption. Said notice shall state the number or numbers of the bonds so called for redemption prior to maturity and otherwise identify and make certain the bonds so to be redeemed, and the bonds so called for redemption shall be redeemed and paid by such county at the time and place designated in such notice.

(e) If the bonds so called for redemption are not surrendered or tendered by the holders thereof for redemption at the time and place designated in said notice, such bonds shall not thereafter bear any interest, provided the county has on deposit at the time and place designated sufficient funds to redeem and pay such bonds, together with the accrued interest thereon.

(Formerly: Acts 1927, c.10, s.5.) As amended by Acts 1981, P.L.11, SEC.55.

IC 8-16-2-6

Bond sales

Sec. 6. When so executed, such bonds shall be sold as now provided by law for the sale of other county bonds, except that, in addition to any other notice required by law, such bonds shall be advertised in a public newspaper of general circulation published at the city of Indianapolis, Indiana; and the proceeds derived from the sale of such bonds shall be forthwith paid over by the county treasurer of such county to the treasurer of state of the state of Indiana, and shall become a part of the state highway funds of said state, to be used in the construction of such bridge and for no other purpose: Provided, That if the proceeds derived from the sale of such bonds shall amount to more than one-fourth of the actual cost of the construction of such bridge, the excess of such proceeds over and above one-fourth of the actual cost of the construction of such bridge shall, at the completion of such bridge, be repaid by the treasurer of state of the state of Indiana to such county and shall be used by such county in the payment of such bonds and the interest thereon and for no other purpose: Provided, further, That if, for any cause whatsoever, all or any part of said proceeds derived from the sale of any such bonds of such county shall not be actually used in the construction of such bridge, all of said proceeds not so used shall be repaid to such county and shall be used by it in the payment of such bonds and the interest thereon and for no other purpose; and if, at any time, the completion of any such bridge shall be abandoned, or shall be permanently or perpetually enjoined by decree of any court, from which no appeal is taken within the time of appeal allowed by law, and thereafter prosecuted with due diligence, or if the completion of

such bridge be rendered impracticable by natural causes or otherwise, then in any such event all funds derived from the sale of county bonds hereunder and placed with the treasurer of state, as herein provided, to be used as a part of the state highway funds of the state in the construction of such bridge, and not so used, shall thereupon, together with any and all depository interest which shall have accrued on such fund while in the possession of the treasurer of state, be returned at once by the treasurer of state to the said county, and shall be used by it in payment of such bonds so issued by it as aforesaid and the interest thereon and for no other purpose.
(Formerly: Acts 1927, c.10, s.6.)

IC 8-16-2-7
Tax levy

Sec. 7. For the purpose of raising money to pay said bonds and interest thereon, as provided in this chapter, the proper officers of every county issuing bonds under authority of this chapter shall, as soon as said bonds are sold and annually thereafter at the time the general tax levy is made, levy a tax, in addition to all other taxes authorized by law to be levied by such county, upon the property within said county subject to taxation, in such manner as to meet the principal and interest of said bonds as they become due, and such tax shall be levied and collected as other taxes are levied and collected, and shall be applied to the payment of such bonds and interest provided, that if any other funds provided by law for the payment of said bonds and interest shall come to the hands of the proper officer of said county and be available for payment on said bonds and interest, the tax in this section provided for may be abated to the extent only that such other funds provided by law may be actually available for payment of such bonds and interest at the time for making any such annual tax levy.
(Formerly: Acts 1927, c.10, s.7.) As amended by P.L.66-1984, SEC.60.

IC 8-16-2-8
Receipts from bond sale

Sec. 8. Upon receipt by the treasurer of state of the state of Indiana of the proceeds of the sale of any such county bonds as may be issued hereunder, such proceeds shall become a part of the state highway funds, subject only to the provisions and limitations as to repayment thereof in this chapter contained, and the department shall thereupon construct such bridge and the cost thereof shall be paid out of state highway funds.
(Formerly: Acts 1927, c.10, s.8.) As amended by Acts 1980, P.L.74, SEC.283.

IC 8-16-2-9
Bridge maintenance

Sec. 9. Such bridge shall be maintained by the department as other highway bridges are maintained by it, and the cost of such maintenance shall be paid out of the state highway funds, except as herein otherwise provided; but no part of the proceeds of the sale of bonds issued by any county hereunder shall ever be used for such maintenance.
(Formerly: Acts 1927, c.10, s.9.) As amended by Acts 1980, P.L.74, SEC.284.

IC 8-16-2-10
Dedication of bridges
Sec. 10. Any and every bridge which may be constructed under the provisions of this chapter shall be and hereby is dedicated as an instrument of interstate commerce for the equal use of all citizens of the United States and of any other persons who may be entitled to the use thereof.
(Formerly: Acts 1927, c.10, s.10.) As amended by P.L.66-1984, SEC.61.

IC 8-16-2-11
Tolls
Sec. 11. If and when authority so to do shall be granted and conferred by appropriate legislation by the Congress of the United States, the department shall charge toll, in accordance with the provisions of this chapter, for the use of any bridge constructed under the provisions of this chapter; and the department shall fix and establish the rates of toll to be paid for the use of such bridge, and for such purpose shall have authority to classify the users of such bridge into reasonable classes and to fix the rates of toll accordingly: Provided, however, That such right to charge toll, and also said rates of toll and the classification of the users of such bridge so fixed and established, shall be subject to the approval and control of the proper authorities of the United States, as provided by the acts of congress providing for the supervision or regulation of the taking of tolls over interstate bridges.
(Formerly: Acts 1927, c.10, s.11.) As amended by Acts 1980, P.L.74, SEC.285.

IC 8-16-2-12
Toll gates and toll collectors' houses; toll collector's bond
Sec. 12. The department shall erect upon, or adjacent to, any and every such bridge or its approaches, and within the territorial limits of the state of Indiana, all necessary and convenient toll-gates and toll-collectors' houses, and shall employ all necessary toll-collectors, who shall each, before entering upon the performance of his duties, execute his bond, payable to the state of Indiana, in the penal sum of one thousand dollars ($1,000), with surety to the approval of the department, and conditioned for the faithful performance of his

duties as such toll-collector and that he will faithfully account for and pay over according to law all moneys that may come to his hands as such toll-collector. All tolls collected by said toll-collectors shall be deposited daily in some state depository designated by the department to the credit of the treasurer of state of the state of Indiana as a toll fund to be used and disbursed as provided for in this chapter.
(Formerly: Acts 1927, c.10, s.12.) As amended by Acts 1980, P.L.74, SEC.286.

IC 8-16-2-13
Toll collectors; employment and compensation

Sec. 13. Such toll-collectors shall be selected, employed and paid in the same manner as other employees of the department are selected, employed and paid: Provided, That they shall be paid only out of said toll fund and their wages shall not be a charge upon the general funds of the department. Said toll-collectors shall be subject to the complete control of the department and to such regulations as it may prescribe governing their duties.
(Formerly: Acts 1927, c.10, s.13.) As amended by Acts 1980, P.L.74, SEC.287.

IC 8-16-2-14
Powers of toll collector

Sec. 14. Every toll-collector shall, by virtue of his employment, and while in the discharge of his duties, have full and complete police power, and shall be authorized to make arrests without a warrant for any violation in Indiana of the criminal laws of the state of Indiana, occurring in his presence.
(Formerly: Acts 1927, c.10, s.14.)

IC 8-16-2-15
Failure to pay toll

Sec. 15. It is a Class C infraction for a person to pass by any toll-gate established by the department in accordance with this chapter without the payment of the proper toll as prescribed by the department. It is a Class C infraction for a toll-collector to knowingly permit any person to pass such a toll-gate without the payment of the toll.
(Formerly: Acts 1927, c.10, s.15.) As amended by Acts 1978, P.L.2, SEC.856; Acts 1980, P.L.74, SEC.288; Acts 1981, P.L.108, SEC.3.

IC 8-16-2-16
Rules and regulations; posting

Sec. 16. The department shall have the right to make all reasonable rules and regulations governing the use of such bridge which are consistent with the provisions of this chapter and with the laws of the state of Indiana, and with the laws of such adjoining

state, and with any laws or regulations of the United States, applicable to the use of such bridges. It shall be the duty of the department to cause to be placed in full view, in legible and large letters, upon or in each of the tollhouses established by it upon said bridge or its approaches, all such rules and regulations adopted by it in accordance with the provisions of this chapter, and also the toll rates adopted for the use of such bridge.
(Formerly: Acts 1927, c.10, s.16.) As amended by Acts 1980, P.L.74, SEC.289; P.L.1-2009, SEC.71.

IC 8-16-2-17
Toll receipts

Sec. 17. The moneys derived from tolls taken for the use of such bridge shall be applied first to the payment of the expense of collecting such tolls. The net amount of such toll fund remaining after the payment of the expense of collecting such tolls shall be divided equally between the state of Indiana and the county in said state which has issued bonds in aid of the bridge from which the tolls were derived until each of said state and said county has received back an amount equal to the amount contributed by the county to the said bridge, together with interest thereon up to the time of repayment; and such net toll shall be used for no other purpose. Payment of such net toll shall be made semiannually, and it is hereby made the duty of the officer having custody of such net tolls to pay to such county its share thereof, ascertained as aforesaid, and to the state of Indiana its share thereof, ascertained as aforesaid, and all amounts so paid to such county shall be used by such county, when so received, in payment of its said bonds and interest so long as any of said bonds and interest remain outstanding and unpaid. All depository interest accruing on such fund, shall be added to and shall constitute a part of such fund.
(Formerly: Acts 1927, c.10, s.17.)

IC 8-16-2-18
Retirement of tolls

Sec. 18. Whenever such county, either from moneys derived from net tolls as aforesaid or from moneys paid by an adjoining state, or from both of such sources, shall have been repaid an amount equal to the amount of money contributed by such county to said state highway funds in aid of the construction of such bridge, including principal and interest, and when the state highway fund, either from money derived from net tolls as aforesaid, or from money paid by an adjoining state, or from both sources, shall have been paid an amount equal to the amount contributed by such county in aid of the construction of such bridge, plus interest thereon to the time of such repayment, then the right to take tolls on such bridge shall immediately cease and such bridge shall thereupon be declared to be and shall be a free bridge for use in interstate commerce between the

state of Indiana and such adjoining state. In no event, however, shall tolls be collected for a longer period of time than is permitted by any law of congress now in force or hereafter enacted regulating the collection of tolls on interstate bridges.
(Formerly: Acts 1927, c.10, s.18.)

IC 8-16-2-19
Contracts with adjoining states

Sec. 19. In the discharge of its duties under the provisions of this chapter, the department, as the agent and representative of the state of Indiana and in the name of the state of Indiana, is hereby authorized and empowered, both before and during the construction of any such bridge and after the completion thereof, to cooperate with and enter into a contract or contracts with such adjoining state, acting through any proper authorities or agents representing such adjoining state, to provide for the payment by such adjoining state of such part of the costs of the construction of such bridge, not exceeding one-half thereof, as may be agreed upon in such contract; and in such contract to also agree upon and determine the time and manner of the making by such adjoining state of such payment or payments and all other details in connection therewith: Provided, That any moneys paid to the state of Indiana by any such adjoining state as such adjoining state's agreed part of the cost of construction of any such bridge shall be applied by said state of Indiana to reimburse the state of Indiana and any county of the state of Indiana that shall have issued its bonds under the provisions of this chapter to aid in the construction of such bridge up to the amount in each case which is equal to the amount provided by said county for such purpose, plus interest thereon up to the time of repayment thereof, so far as the money so provided was actually used in and about the construction of such bridge; and all moneys so received and applied to reimburse any such county as aforesaid shall be first applied by said county in payment of any of its said bonds issued as aforesaid under the provisions of this chapter and which are then still outstanding and unpaid, until such bonds and the interest accrued thereon shall be paid in full.
(Formerly: Acts 1927, c.10, s.19.) As amended by Acts 1980, P.L.74, SEC.290.

IC 8-16-2-20
Acknowledgment of contributions by other states

Sec. 20. Upon the payment by any such adjoining state of any part of the cost of the construction of such bridge, the department is hereby authorized and directed to issue, in the name of the state of Indiana, to such adjoining state, a proper certificate or instrument of transfer or acknowledgment evidencing the amount contributed by such adjoining state and transferring to it title to a corresponding interest in such bridge, and thereafter the title to such bridge shall be

deemed to be vested jointly in the state of Indiana and the adjoining state so contributing to the cost of said bridge, and the interest of each thereof shall be deemed to be in proportion to the respective contributions so made by each one respectively.
(Formerly: Acts 1927, c.10, s.20.) As amended by Acts 1980, P.L.74, SEC.291.

IC 8-16-2-21
Maintenance contracts with other states
Sec. 21. The department is hereby expressly authorized and empowered to negotiate and contract with the proper authorities of such adjoining state in respect to the maintenance of any such bridge.
(Formerly: Acts 1927, c.10, s.21.) As amended by Acts 1980, P.L.74, SEC.292.

IC 8-16-2-22
Construction
Sec. 22. This chapter shall at all times be construed as supplemental to and in aid of all other statutes providing for the construction of highways and bridges.
(Formerly: Acts 1927, c.10, s.22.) As amended by P.L.66-1984, SEC.62.

IC 8-16-2-23
Appropriations and authorizations
Sec. 23. No appropriation of money or authorization of any bonds contemplated in this chapter by the county council shall be required.
(Formerly: Acts 1927, c.10, s.23.) As amended by P.L.66-1984, SEC.63.

IC 8-16-2-24
Compliance with other laws
Sec. 24. Except as otherwise expressly provided in this chapter, any county shall have the right to proceed under this chapter without complying with any other existing statute in effect on May 16, 1927.
(Formerly: Acts 1927, c.10, s.24.) As amended by P.L.66-1984, SEC.64.

IC 8-16-2-25
Assumption of debts
Sec. 25. Nothing contained in this chapter shall be so construed as to authorize the state or the department to assume any debt or obligation of any county which may aid or assist in the construction of any bridge contemplated under this chapter.
(Formerly: Acts 1927, c.10, s.25.) As amended by Acts 1980, P.L.74, SEC.293.

IC 8-16-2-26

Amendment of chapter

Sec. 26. The general assembly hereby reserves the right to amend or modify this chapter at any time that such amendment or modification may be deemed just and proper.

(Formerly: Acts 1927, c.10, s.26.) As amended by P.L.66-1984, SEC.65.

IC 8-16-3
Chapter 3. Cumulative Bridge Fund

IC 8-16-3-0.5
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-16-3-1
Authorization to provide fund
Sec. 1. Notwithstanding IC 8-18-8-5, all municipal corporations and county executives may provide a cumulative bridge fund to provide funds for the cost of construction, maintenance, and repair of bridges, approaches, and grade separations. However, in those counties in which a cumulative bridge fund has been established, the county executive is responsible for providing funds for all bridges, including those in municipalities, within the counties except those bridges on the state highway system. The county executive may use this fund for making county wide bridge inspection and safety ratings of all bridges in a county not on the state highway system. The inspection and safety ratings shall meet all the criteria of the National Bridge Inspection Standards promulgated by the Federal Highway Administration, U.S. Department of Transportation and shall be supervised and approved by a competent, qualified engineer, registered in the state.
(Formerly: Acts 1951, c.299, s.1; Acts 1957, c.76, s.1; Acts 1971, P.L.101, SEC.1; Acts 1973, P.L.72, SEC.1.) As amended by Acts 1977, P.L.113, SEC.1; P.L.86-1988, SEC.18; P.L.17-1995, SEC.8.

IC 8-16-3-1.5
Definitions
Sec. 1.5. As used in this chapter:
(1) "Bridge" means any structure designed to carry vehicular traffic over or under an obstacle to the normal flow of traffic and including any grade separation, culvert, or approach to a bridge.
(2) "Approach" means any part of a road or street which is required to make a bridge a viable part of a county road or city street system but which does not extend more than five hundred (500) feet from the bridge.
(3) "Construction" means both construction and reconstruction to a degree that new, supplementary, or substantially improved traffic service is provided and significant geometric or structural improvements are affected.
(4) "Cost" means all expenditures required to construct, maintain, or repair a bridge, including engineering, equipment, land acquisition, materials, contracts, and bond interest.
(5) "Municipal corporation" means a city or town.
As added by Acts 1977, P.L.113, SEC.2. Amended by P.L.8-1989,

SEC.54; P.L.104-1993, SEC.1.

IC 8-16-3-2
Repealed

(Repealed by P.L.17-1995, SEC.45.)

IC 8-16-3-3
Tax levy

Sec. 3. (a) To provide for the cumulative bridge fund, county executives and municipal legislative bodies may levy a tax in compliance with IC 6-1.1-41 not to exceed ten cents ($0.10) on each one hundred dollars ($100) assessed valuation of all taxable personal and real property within the county or municipality.

(b) The tax, when collected, shall be held in a special fund to be known as the bridge fund.

(c) An appropriation from the bridge fund may be made without the approval of the department of local government finance if:

(1) the county executive requests the appropriation; and

(2) the appropriation is for the purpose of constructing, maintaining, or repairing bridges, approaches, or grade separations.

(Formerly: Acts 1951, c.299, s.3; Acts 1975, P.L.92, SEC.1.) As amended by P.L.24-1986, SEC.33; P.L.86-1988, SEC.20; P.L.118-1989, SEC.1; P.L.17-1995, SEC.9; P.L.6-1997, SEC.136; P.L.90-2002, SEC.322.

IC 8-16-3.1

Chapter 3.1. Major Bridge Fund

IC 8-16-3.1-0.5

Definitions

Sec. 0.5. The definitions set forth in IC 8-16-3-1.5 apply throughout this chapter.

As added by P.L.182-2009(ss), SEC.264.

IC 8-16-3.1-1

"Eligible county"

Sec. 1. (a) As used in this chapter, "eligible county" means a county that has:

(1) a population of more than one hundred thousand (100,000) but less than seven hundred thousand (700,000); and

(2) a major obstruction between commercial or population centers which is capable of causing an economic hardship because of excess travel required to conduct a normal level of commerce between the two (2) centers.

A major obstruction which is a part of a county boundary or a state boundary does not qualify for the purpose of this chapter.

(b) As used in this chapter, "major bridge" means the following:

(1) A structure that is two hundred (200) or more feet in length and that is erected over a depression or an obstruction for the purpose of carrying motor vehicular traffic or other moving loads. However, the structure shall be one hundred (100) or more feet in length in a city having any of the following populations:

(A) More than sixty-five thousand (65,000) but less than seventy thousand (70,000).

(B) More than sixty thousand (60,000) but less than sixty-five thousand (65,000).

(C) More than thirty-one thousand (31,000) but less than thirty-one thousand five hundred (31,500).

(2) An underpass of any length that is designed to carry motor vehicle traffic or other moving loads.

(c) As used in this chapter, "major obstruction" means a physical barrier to the passage of motor vehicle traffic that inhibits the use of the customary highway construction techniques to bridge the barrier without use of a grade separation structure.

As added by Acts 1979, P.L.96, SEC.1. Amended by Acts 1982, P.L.1, SEC.28; P.L.86-1988, SEC.21; P.L.12-1992, SEC.65; P.L.61-1992, SEC.1; P.L.1-1993, SEC.50; P.L.170-2002, SEC.67; P.L.119-2012, SEC.96.

IC 8-16-3.1-2

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-16-3.1-3

(Repealed by P.L.86-1988, SEC.227.)

IC 8-16-3.1-4

Creation of fund; purpose; tax levy

Sec. 4. (a) The executive of any eligible county may provide a major bridge fund in compliance with IC 6-1.1-41 to make available funding for the following purposes:

(1) The construction of major bridges.

(2) In Allen County, the construction, maintenance, and repair of bridges, approaches, and grade separations with respect to structures other than major bridges.

(b) The executive of any eligible county may levy a tax in compliance with IC 6-1.1-41 not to exceed three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) assessed valuation of all taxable personal and real property within the county to provide for the major bridge fund.

(c) The general assembly finds the following:

(1) Allen County eliminated its levy for a cumulative bridge fund to use its levy authority to fund a juvenile center.

(2) Allen County has more bridges than any other county in Indiana, outside of Marion County: Marion County has five hundred twenty-two (522), Allen County has three hundred fifty-one (351), and Hamilton County has two hundred seventy-seven (277).

(3) Allen County has the largest land area of any county in Indiana.

(4) Allen County is the third largest populated county in Indiana.

(5) Allen County has a heavy manufacturing and industrial base, increasing traffic and wear and tear on streets, roads, and bridges.

(6) Allen County has large temperature fluctuations, leading to increased maintenance costs.

(7) Allen County has three (3) major rivers that come together in the heart of Fort Wayne, which means more bridges are needed in the area due to the infrastructure that accommodates Fort Wayne, the second largest city in Indiana.

(8) Allen County dissolved its cumulative bridge fund in 2002 to provide room in the levy for judicial mandates to build two (2) detention facilities, as the former jail was overcrowded due to the large population.

(9) Allen County has a major bridge fund that is provided to maintain major bridges, but can be used to fund smaller bridges and will not harm the ability of Allen County to pay for obligations caused by judicial mandates.

(10) Expansion of the purposes for Allen County's major bridge

fund may be used in Allen County to meet the critical needs in Allen County for the maintenance of bridges other than major bridges in the unincorporated areas of the county.

(d) Because of the findings set forth in subsection (c), except as provided in subsection (e), beginning after June 30, 2009, in Allen County the county executive is responsible for providing funds for the following:

(1) All bridges in unincorporated areas of the county.

(2) All bridges in each municipality in the county that has entered into an interlocal agreement under IC 36-1-7 with the county to provide bridge funds.

(e) Subsection (d) does not apply to providing funds for bridges on the state highway system.

As added by Acts 1979, P.L.96, SEC.1. Amended by P.L.86-1988, SEC.22; P.L.17-1995, SEC.10; P.L.178-2002, SEC.78; P.L.182-2009(ss), SEC.265.

IC 8-16-3.1-5

Appropriations from the Allen County major bridge fund

Sec. 5. An appropriation from the major bridge fund in Allen County may be made without the approval of the department of local government finance if:

(1) the county executive adopts a resolution finding that the county does not need to continue accumulating money in the fund for the construction of a major bridge;

(2) the county executive requests the appropriation; and

(3) the appropriation is for the purpose of constructing, maintaining, or repairing bridges, approaches, or grade separations with respect to structures other than major bridges.

As added by P.L.182-2009(ss), SEC.266.

IC 8-16-3.5

Chapter 3.5. Leasing of Bridges by Counties

IC 8-16-3.5-1

Contracts of lease; taxpayers' petitions

Sec. 1. (a) A county may lease a bridge and pay the lease rental from the cumulative bridge fund and levy under IC 8-16-3.

(b) A contract of lease may not be entered into unless there is first filed with the county executive a petition for a longer lease, signed by fifty (50) or more taxpaying citizens of the county, and the county executive has, after investigation, determined that a need exists for the bridge. The total annual dollar obligation under all contracts of lease for bridges made by a county may not exceed the county's estimated annual revenue from a cumulative bridge fund levy of twenty cents ($0.20) on each one hundred dollars ($100) on all taxable personal and real property within the county.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.23.

IC 8-16-3.5-2

Joint leases

Sec. 2. If two (2) or more counties propose to enter into a lease contract jointly, then separate meetings of the county executives may be held, but no action taken shall be binding on any county unless approved by a majority of the county executives. Any lease contract executed by two (2) or more counties as joint lessees shall set out the amount of the aggregate lease rental to be paid by each county.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.24.

IC 8-16-3.5-3

Corporate leases

Sec. 3. Any county may enter into a contract of lease under the provisions of this chapter with any (profit or not-for-profit) corporation organized under the laws of the state or duly admitted to do business in the state.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.25.

IC 8-16-3.5-4

Option to purchase bridge

Sec. 4. All contracts of lease may provide that a county has the option to purchase the bridge before the expiration of the lease contract, the terms and conditions of the purchase to be specified in the lease, subject to the approval of the department of local government finance. If the county has not exercised an option to purchase the property covered by the lease contract at the expiration of the lease contract, and upon the full discharge and performance by

the county of its obligations under the lease contract, the bridge covered by the lease contract shall become the absolute property of the county and the lessor corporation shall execute proper instruments conveying to the county title to the property.
(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.26; P.L.90-2002, SEC.323.

IC 8-16-3.5-5
Not-for-profit corporations proposing to build bridges; plans and specifications

Sec. 5. Not-for-profit corporations proposing to build a bridge may assist the lessee, before the execution of a contract of lease, in the preparation and acquisition of plans, specifications, and estimates for the bridge, or the lessee may prepare or otherwise acquire plans and specifications for the bridge. All plans and specifications shall be submitted to agencies as designated by law to pass on plans and specifications for bridges, and the plans and specifications shall be approved by those agencies and the lessee in writing prior to the execution of the contract of lease.
(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.27.

IC 8-16-3.5-5.5
Contracts with profit corporations; competitive bidding procedure

Sec. 5.5. Notwithstanding any other provision of this chapter, a contract of lease with any profit corporation is subject to competitive bid and may only be entered into after compliance with the following:

(1) The lessee shall prepare and place on file in the lessee's offices a proposed lease and complete drawings and specifications for the bridge described in section 1 of this chapter to include necessary equipment and appurtenances to the equipment. The lease must be complete in its terms except for total rental or other consideration which is subject to bid provided for in this section.

(2) After that, the lessee shall publish a notice in accordance with IC 5-3-1 informing the public and potential lessors of the general nature of the lease and of the fact that the proposed lease, drawings, and specifications are on file in the office, and calling for sealed proposals for the contract of lease on a specific date not earlier than ten (10) days after the first day of publication.

(3) The lessee shall require each bidder to file with the lessee an affidavit that the bidder has not, directly or indirectly, entered into any combination, collusion, undertaking, or agreement with any other bidder to maintain the price of the bid, or to prevent any other bidder from bidding, or to induce any bidder to refrain from bidding, and that the bid is made without regard or

reference to any other bid, and without any agreement, understanding, or combination, either directly or indirectly, with any other person with reference to the bidding. If, after any contract of lease has been let by the lessee, it shall appear that the successful bidder has been guilty of any collusion, combination, undertaking, or agreement, as defined in the affidavit, the bidder shall forfeit the contract of lease, and the contract of lease shall be relet by the lessee.

(4) The lessee may, in the lessee's discretion, fix a later day for receiving the bids, provided that the date shall be mentioned in each of the notices.

(5) The lessee shall, if a satisfactory bid is received, let control of the lease to the lowest and best bidder.

(6) The lessee may, by order, impose further conditions upon bidders with regard to bond and surety, guaranteeing the good faith and responsibility of the word provided for in the proposed contract of lease, or insuring the faithful completion of the terms of the proposed contract of lease, or for any other purpose.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.28.

IC 8-16-3.5-6

Contract provisions relating to taxes, assessments, and insurance; county inspection of bridge

Sec. 6. A contract of lease may provide that as a part of the lease rental for a bridge the lessee shall agree to pay all taxes and assessments levied against or on account of the leased bridge and to maintain insurance for the benefit of the lessor corporation. The county may inspect the bridge whenever the county considers it necessary.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.29.

IC 8-16-3.5-7

Contracts of lease before completion of bridge; bond

Sec. 7. (a) A county may, in anticipation of the construction of a bridge, make and enter into a contract of lease with the lessor corporation subject to the approval of the department of local government finance prior to the actual acquisition of a site and the construction of the bridge, but the contract of lease shall not provide for the payment of any lease rental by the lessee until the bridge is completed and ready for use, at which time the stipulated lease rental may begin.

(b) As a condition of entering into a lease, a county may require a lessor corporation to furnish a bond in a specified amount conditioned upon the completion of the bridge within a specified period of time.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.30; P.L.90-2002, SEC.324.

IC 8-16-3.5-8
Notice of proposed lease; public inspection of specifications; notice of executed lease; taxpayer's objections; hearings; appeals

Sec. 8. (a) When the lessor corporation and the county have agreed upon the terms and conditions of any lease proposed to be entered into under this chapter and before the final execution of the lease, a notice must be published in accordance with IC 5-3-1 of a hearing before the county executive. The notice must name the day, place, and hour of the hearing and must set forth a brief summary of the principal terms of the lease agreed upon, including the location, name of the proposed lessor corporation and character of the bridge to be leased, the rental to be paid, and the number of years the contract is to be in effect. The proposed lease, drawings, plans, specifications, and estimates for the bridge shall be available for inspection by the public during the ten (10) day period and at the meeting. All interested persons shall have a right to be heard at the time fixed, concerning the necessity for the execution of the lease and whether the rental to the lessor corporation is a fair and reasonable rental for the proposed bridge. The hearing may be adjourned to a later date, and following the hearing the county executive may either authorize the execution of the lease as originally agreed upon or may make modifications as agreed upon with the lessor corporation. However, the lease rentals as set out in the published notice may not be increased. The cost of the publication of the notice shall be borne by lessor corporations.

(b) If the execution of the lease as originally agreed upon, or as modified by agreement, is authorized by the county executive, it shall give notice of the execution of the contract by publication in accordance with IC 5-3-1. Ten (10) or more taxpayers in the lessee county affected by the proposed lease may file a petition in the office of the county auditor of the lessee county, within thirty (30) days after publication of notice of the execution of the lease, setting forth their objections and facts showing that the execution of the lease is unnecessary or unwise, or that the lease rental is not fair and reasonable. Upon the filing of any petition, the county auditor shall certify a copy, together with any other data as may be necessary in order to present the questions involved, to the department of local government finance and upon the receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the county not less than five (5) or more than thirty (30) days after receipt of the petition. Notice of the hearing shall be given by the department of local government finance to the county commissioners of the lessee county, and to the first ten (10) taxpayer-petitioners appearing on the petition by a letter signed by one (1) member of the department of local government finance,

and enclosed with full prepaid postage addressed to those persons at their usual place of residence, at least five (5) days before the date of the hearing. A:

(1) taxpayer who signed the petition; or

(2) political subdivision against which a petition is filed;

may petition for judicial review of the final determination of the department of local government finance under this subsection. The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

(c) No action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease shall be instituted at any time later than thirty (30) days after publication of notice of the execution of the lease by the county executive or if an appeal has been taken to the department of local government finance, then within thirty (30) days after the decision of the department.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.31; P.L.90-2002, SEC.325; P.L.256-2003, SEC.33.

IC 8-16-3.5-9
Tax exemption

Sec. 9. All bridges leased by a lessor corporation contracting with a county under this chapter are exempt from all state, county, and other taxes.

(Formerly: Acts 1975, P.L.92, SEC.2.) As amended by P.L.86-1988, SEC.32.

IC 8-16-3.5-10
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-16-4
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-16-5
Chapter 5. Interstate Bridges Constructed by Local Units

IC 8-16-5-1
Joint maintenance or construction with adjoining state

Sec. 1. Any county or municipality bordering on a stream which forms the boundary line between Indiana and any adjoining state, through its county executive may build and maintain a bridge across the river or stream, in cooperation with any contiguous governmental unit of the adjoining state. The contiguous unit must join in building and maintaining the bridge, and pay one-half (1/2) of the expense.
(Formerly: Acts 1920(2ss), c.25, s.1.) As amended by P.L.86-1988, SEC.34.

IC 8-16-5-2
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-16-5-3
Appropriation of funds

Sec. 3. After action by the county executive certified to the county fiscal body, the county fiscal body shall appropriate, out of the money raised by taxation or realized from the sale of bonds under IC 8-18-22 or obligations, one-half (1/2) of the necessary money to build and maintain the bridge.
(Formerly: Acts 1920(2ss), c.25, s.3.) As amended by P.L.86-1988, SEC.36; P.L.113-1989, SEC.2.

IC 8-16-5-4
Construction and maintenance; county executive's power

Sec. 4. The county executive of the county may plan all details, do all things necessary to carry out the work of constructing and maintaining the bridge, and cooperate with the contiguous governmental unit of the adjoining state in building and maintaining the bridge.
(Formerly: Acts 1920(2ss), c.25, s.4.) As amended by P.L.86-1988, SEC.37.

IC 8-16-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-16-7
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-16-8

Chapter 8. Repair or Replacement of Bridges Through Public Subscription in Cities of Gary, Hammond, and East Chicago; Supplemental Procedure for Repair of Certain Bridges in Lake County

IC 8-16-8-1

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-16-8-2

Counties with established multiple county infrastructure authorities; bridge repair, reconstruction, or replacement in second class cities

Sec. 2. A county having an authority established under IC 36-7-23 may pay for the repair, reconstruction, or replacement of a damaged bridge in a second class city.

As added by P.L.346-1989(ss), SEC.6.

IC 8-16-9
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-16-10
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-16-11
Chapter 11. County Tunnels

IC 8-16-11-1
Authority to construct tunnels

Sec. 1. Whenever, in the judgment of the county executive, it is necessary to bridge any highway or public street across any navigable water, the county executive may construct a tunnel underneath the navigable water, on the public street or public highway instead of a bridge.

(Formerly: Acts 1911, c.256, s.1.) As amended by P.L.86-1988, SEC.63.

IC 8-16-11-2
Applicable laws

Sec. 2. If the county executive determines it is necessary to construct a tunnel instead of a bridge, then the construction of the tunnel shall be completed under the laws for the construction of bridges on public highways and public streets by county executives.

(Formerly: Acts 1911, c.256, s.2.) As amended by P.L.86-1988, SEC.64.

IC 8-16-11-3
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-16-12
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-16-13
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-16-14
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-16-15

Chapter 15. Bistate Purchase of Wabash River Bridge

IC 8-16-15-1

Authority

Sec. 1. Subject to the provisions of this chapter, the department is hereby authorized and empowered to enter into negotiations with the proper authority having control of the state highways of the state of Illinois, and with the owners of the bridge which spans the Wabash River and over which State Highway No. 66 passes from this state into the state of Illinois, for the purpose of acquiring the ownership of and title to such bridge, jointly, by the state of Illinois and the state of Indiana.

(Formerly: Acts 1937, c.160, s.1.) As amended by Acts 1980, P.L.74, SEC.294.

IC 8-16-15-2

Purchase price

Sec. 2. If the proper authorities of the state of Illinois are empowered by the laws of the state of Illinois to enter into such negotiations, and if the department and the authority having charge of the state highways of the state of Illinois can agree with the owners of such bridge on the purchase-price of such bridge, then and in that event the department is hereby authorized and empowered to acquire the ownership of and the title to such bridge, jointly, with the state of Illinois, to pay not to exceed fifty percent (50%) of the purchase-price agreed upon, out of any funds appropriated to the department which might otherwise be used for the construction of bridges, and to enter into such agreements with the proper authorities of the state of Illinois as may be fair and equitable for the repair, maintenance and upkeep of such bridge, and to expend such amounts of money as may be necessary to maintain such bridge.

(Formerly: Acts 1937, c.160, s.2.) As amended by Acts 1980, P.L.74, SEC.295.

IC 8-16-16
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-16-17
Repealed
(Repealed by P.L.133-2012, SEC.61.)

IC 8-17

ARTICLE 17. COUNTY ROADS–ADMINISTRATION AND MAINTENANCE

IC 8-17-1

Chapter 1. County Unit Law

IC 8-17-1-0.1

"Department" defined

Sec. 0.1. As used in this chapter, the term "department" refers to the Indiana department of transportation.

As added by Acts 1980, P.L.74, SEC.296. Amended by P.L.86-1988, SEC.65; P.L.18-1990, SEC.150.

IC 8-17-1-1

Powers of county executive and department of highways; joint undertakings

Sec. 1. A county executive may construct, reconstruct, improve, and maintain all public highways, bridges, and culverts in the county, including highways, bridges, and culverts under the supervision of the department, if approved by the department, or located in municipalities, as provided in this chapter. In addition, the department may, after petitioning the affected county executive or municipal legislative body and obtaining approval, construct, reconstruct, improve, and maintain county or municipal highways. The department and a county or a municipality in the county through which a toll road project under IC 8-15-2 passes may jointly undertake transportation projects (as defined in IC 36-1-10-2). The duties and responsibilities of a joint undertaking shall be assigned to the department, the county, or the municipality in the county as the parties may agree.

(Formerly: Acts 1919, c.112, s.1.) As amended by Acts 1980, P.L.74, SEC.297; Acts 1981, P.L.41, SEC.57; P.L.86-1988, SEC.66; P.L.343-1989(ss), SEC.9.

IC 8-17-1-1.2

"Highway" defined

Sec. 1.2. As used in this chapter, "highway" includes highways, roads, streets, bridges, tunnels, and approaches.

As added by P.L.113-1989, SEC.3.

IC 8-17-1-2

Additional powers of county executive

Sec. 2. A county executive may construct new public highways or may reconstruct and improve any existing public highways or parts of those highways with road paving materials. The executive may establish, lay out, alter, widen, vacate, straighten, or change a public highway in connection with the improvement and may build all

necessary bridges, culverts, or approaches in the improvement of highways. In addition, the executive shall provide easements necessary for drainage and utilities.
(Formerly: Acts 1919, c.112, s.3.) As amended by P.L.86-1988, SEC.67.

IC 8-17-1-2.1
Highway cattle guards in certain counties; construction; cost

Sec. 2.1. (a) In all counties with a population of less than fifty thousand (50,000), any person through whose land any county highway is located may petition the county executive for permission to construct a cattle guard or other device for the purpose of keeping livestock on the property.

(b) In determining whether to grant permission, the executive shall consider the traffic flow on the highway and the cost of the erection of fences versus the cost of the construction of a cattle guard.

(c) The landowner shall bear the cost of construction and the erection of cattle crossing warning signs on the highway warning motorists that they are about to enter a cattle crossing area.
As added by Acts 1980, P.L.76, SEC.1. Amended by P.L.86-1988, SEC.68.

IC 8-17-1-3
Rights-of-way

Sec. 3. If a highway is constructed under this chapter, the right-of-way, or any required drainage courses, approaches, or any land necessary for the construction of a highway, or land necessary to build a bridge or a culvert shall be acquired by the county, either by donation by the owners of the land through which the highway passes or by agreement between the owner and the county executive, through eminent domain, or the public may acquire the property as is necessary in the same manner as provided for the construction of public highways. The entire cost of the right-of-way shall be paid by the county.
(Formerly: Acts 1919, c.112, s.4.) As amended by P.L.66-1984, SEC.79; P.L.86-1988, SEC.69.

IC 8-17-1-4
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-5
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-6
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-7
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-8
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-9
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-10
Invitations to bid; notice
Sec. 10. When any highway or part of a highway is constructed, reconstructed, or improved, the county executive shall order the auditor to give notice, in accordance with IC 5-3-1, that, on a day to be named by the executive in an order, sealed proposals will be received by the executive for the improvement in accordance with IC 36-1-12. However, if the proposed improvement includes any bridge having a total span of more than twenty (20) feet, the executive shall receive separate bids for the bridge, and shall enter into a separate contract to build the bridge.
(Formerly: Acts 1919, c.112, s.11.) As amended by Acts 1981, P.L.57, SEC.22; P.L.86-1988, SEC.76.

IC 8-17-1-11
Repealed
(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 8-17-1-12
Repealed
(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 8-17-1-13
Bond issue; interest
Sec. 13. (a) For the purpose of raising money to pay for the construction, reconstruction, or improvement of a highway, bridge, or tunnel, the county may issue bonds under IC 8-18-22, not to exceed the estimated costs of construction, reconstruction, or improvement and all expenses incurred and damages allowed before the letting of the contracts, and a sum sufficient to pay the per diem of the engineer and superintendent during construction and all costs of the financing incident to the issuance of bonds. The issue of bonds must also provide for a sufficient sum to pay for any extras or changes not contemplated in the original plans, specifications, and

contract that the executive considers necessary, and that might be omitted by the engineer who drew the plans or specifications.

(b) The proceeds shall be kept as a separate and specific fund to pay for the improvement or construction, reconstruction, or improvement of the particular road for which they were issued. The proceeds shall be paid by the treasurer to the contractor, upon warrant of the auditor, as directed by the executive. The contractor shall be paid in accordance with IC 36-1-12. If there is a surplus left from the sale of the bonds after the road is complete, the surplus shall be transferred to a fund for the construction, reconstruction, or improvement of any other highway in the county and shall not be used for any other purpose. All funds shall be kept in the public depositories of the county and the interest added to the fund.
(Formerly: Acts 1919, c.112, s.14.) As amended by Acts 1981, P.L.11, SEC.59; P.L.86-1988, SEC.77; P.L.113-1989, SEC.4.

IC 8-17-1-14
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-15
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-16
Repair of improved roads
Sec. 16. Any highway improved under this chapter becomes a part of the highway system of the county and shall be kept in repair in the same manner as other roads are kept in repair, and is subject to the same statutes governing the repair and maintenance of highways.
(Formerly: Acts 1919, c.112, s.17.) As amended by P.L.66-1984, SEC.81; P.L.86-1988, SEC.80.

IC 8-17-1-17
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-18
Statement; compliance with contract; materials testing engineer's report
Sec. 18. Whenever any highway is completed, the inspector, surveyor, or engineer shall file a sworn statement with the county auditor stating that the highway has been completed according to plans, plats, profiles, specifications, and contract and that the quantity and quality of material used in making the improvement was as required under standards and tests of the department. A competent materials testing engineer shall determine in a report whether the tests and standards as to the quality of materials has been met. The

materials testing engineer shall file a copy of the report with the county auditor.
(Formerly: Acts 1919, c.112, s.19.) As amended by Acts 1980, P.L.74, SEC.299; P.L.86-1988, SEC.82.

IC 8-17-1-19
Objections to improvements; filing of statement

Sec. 19. Any taxpayer may file an objection to the work by filing a sworn statement with the auditor that the road has not been completed according to the plans, plats, profiles, specifications, and contract, stating which item has not been completed. After the objection is filed, then the county executive shall set a hearing on the issue where it may hear other proof, may cause witnesses to be subpoenaed, and hear sworn evidence in the same manner as other issues are heard before the executive. The executive shall determine whether the work has been done according to the plans, plats, profiles, specifications, and contract. Any party aggrieved by the decision may appeal to the circuit court, superior court, or probate court of the county within ten (10) days of the date of the decision, by filing a bond approved by the auditor of the county, for the payment of all costs in the cause that may be adjudged in the circuit court, superior court, or probate court against the person taking the appeal. The proceedings shall be tried de novo in the circuit court, superior court, or probate court.
(Formerly: Acts 1919, c.112, s.20.) As amended by P.L.86-1988, SEC.83; P.L.84-2016, SEC.51.

IC 8-17-1-20
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-21
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-22
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-23
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-24
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-25

Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-26
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-27
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-28
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-29
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-1-30
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-31
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-32
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-33
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-1-34
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-1-34.1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-35
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-36
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-37
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-38
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-39
Construction materials in county highways, bridges, and culverts
Sec. 39. No material may be used in the construction of a county highway, bridge, or culvert unless the material is equal to the material required and meets all tests and standards required by the department for the building of highways, bridges, or culverts by the department.
(Formerly: Acts 1919, c.112, s.39.) As amended by Acts 1980, P.L.74, SEC.301; P.L.86-1988, SEC.101; P.L.113-1989, SEC.5.

IC 8-17-1-40
Traffic rules
Sec. 40. A county legislative body may adopt ordinances regulating traffic on any highway in the county highway system, subject to IC 9-21.
(Formerly: Acts 1919, c.112, s.40.) As amended by P.L.86-1988, SEC.102; P.L.113-1989, SEC.6; P.L.2-1991, SEC.61.

IC 8-17-1-41
Plans and specifications; bonds
Sec. 41. (a) The plans and specifications must include all bridges, culverts, and approaches.
(b) The amount of the bonds must be enough to cover the expense of bridges, culverts, and approaches, and the contract, when executed, shall include that expense.
(Formerly: Acts 1919, c.112, s.41.) As amended by P.L.66-1984, SEC.94; P.L.86-1988, SEC.103; P.L.113-1989, SEC.7.

IC 8-17-1-42
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-43
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-1-44
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-1-45

Counties responsible for roadways on southern and eastern boundaries; agreements between counties; provisions

Sec. 45. (a) Each county is responsible for the construction, reconstruction, maintenance, and operation of the roads, including the ditches and signs for those roads, making up its southern and eastern boundaries.

(b) The county executives of two (2) adjoining counties may enter into an agreement under IC 36-1-7 for the construction, reconstruction, maintenance, or operation of any road or part of a road that makes up the boundary between the two (2) counties. In addition to the requirements of IC 36-1-7-3, an agreement under this section must provide for the following:

(1) The division of costs between the counties.

(2) The schedule for the work.

(3) The method of resolving disputes concerning the agreement if any arise.

(4) Any other terms the counties consider necessary.

(Formerly: Acts 1971, P.L.102, SEC.1.) As amended by P.L.86-1988, SEC.105; P.L.113-1989, SEC.8; P.L.84-1991, SEC.1; P.L.98-2000, SEC.7.

IC 8-17-2
Repealed

(Repealed by Acts 1981, P.L.17, SEC.29(a).)

IC 8-17-3

Chapter 3. Administration of County Highway Departments

IC 8-17-3-1

Supervisor of county highways; duties; compensation; personal vehicle expenses; tools and equipment

Sec. 1. The county executive shall appoint a person as a supervisor of county highways. The county highway supervisor has general charge of the repair and maintenance of the county highways. The supervisor shall receive compensation for the services fixed by the county executive. The county executive shall pay the supervisor when a personal vehicle is used for necessary travel, a sum for mileage at a rate determined by the county fiscal body. The county executive shall provide all tools and equipment and the housing and repair of the tools and equipment.

(Formerly: Acts 1933, c.27, s.1; Acts 1945, c.165, s.1; Acts 1975, P.L.15, SEC.8.) As amended by P.L.86-1988, SEC.106; P.L.10-1997, SEC.14.

IC 8-17-3-2

Supervisor's duties

Sec. 2. The supervisor has general supervision of the maintenance and repair of all highways, bridges, and culverts of the county that are maintained or repaired from the highway fund of the county.

(Formerly: Acts 1933, c.27, s.2.) As amended by P.L.86-1988, SEC.107.

IC 8-17-3-3

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-3-4

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-3-5

Repealed

(Repealed by P.L.252-1993, SEC.6.)

IC 8-17-3-6

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-3-7

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-3-8

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-3-9

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-3-10

County highway supervisor; annual road school; expenses; bond

Sec. 10. (a) A county highway supervisor shall attend all the sessions of the annual road school during every year of the supervisor's term. The expenses of the county highway supervisor, including the actual expenses of transportation to and from the school, together with the expense of lodging and tuition, shall be paid from the county highway maintenance fund.

(b) Before entering upon the discharge of official duties, a county highway supervisor shall, under IC 5-4-1, execute a bond conditioned on the faithful discharge of all duties required of the county highway supervisor.

(Formerly: Acts 1933, c.27, s.10; Acts 1943, c.161, s.1; Acts 1959, c.204, s.1; Acts 1961, c.107, s.1; Acts 1965, c.391, s.1.) As amended by Acts 1981, P.L.47, SEC.10; P.L.86-1988, SEC.114.

IC 8-17-4
Repealed

(Repealed by Acts 1971, P.L.103, SEC.2.)

IC 8-17-4.1

Chapter 4.1. Accounting System for Local Roads and Streets

IC 8-17-4.1-1

Application of chapter; governing body

Sec. 1. (a) This chapter applies to:

(1) all counties; and

(2) municipalities with a population of at least twenty thousand (20,000).

(b) As used in this chapter, "governing body" means the county executive, the city executive, or the town legislative body.

(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by Acts 1981, P.L.44, SEC.8; P.L.86-1988, SEC.115.

IC 8-17-4.1-2

Records

Sec. 2. The governing body of every county and municipality shall set up and maintain an adequate system of records as prescribed by the state board of accounts, for their departments having road and street responsibilities.

(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by P.L.86-1988, SEC.116.

IC 8-17-4.1-3

Development of adequate system

Sec. 3. The state board of accounts shall develop systems of records for every county and municipality to maintain. The records shall be adequate (considering the anticipated number and type of transactions relating to roads and streets) to show the sources and amount of receipts and expenditures of the department, the purpose of the expenditures, and an accounting of all funds.

(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by P.L.86-1988, SEC.117.

IC 8-17-4.1-4

Additional records

Sec. 4. The state board of accounts may require additional records to be kept by every county and municipality to adequately reflect the financial and material condition of the department.

(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by P.L.86-1988, SEC.118.

IC 8-17-4.1-5

Annual operational report

Sec. 5. The governing body shall prepare by April 15 of each year an operational report for the prior calendar year of the department within the county or municipality that has road and street responsibilities.

(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by P.L.86-1988, SEC.119; P.L.173-2003, SEC.10.

IC 8-17-4.1-6
Contents of report

Sec. 6. This report shall be prepared on forms prescribed by the state board of accounts and must disclose all information considered necessary by the state board of accounts to reflect the financial condition and operations of the department.
(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by P.L.86-1988, SEC.120; P.L.173-2003, SEC.11.

IC 8-17-4.1-7
Filing report

Sec. 7. The annual operational report must be completed and a copy filed with the state board of accounts, the governing body, and the department by June 1 following the operational report year. The department shall make the report available to the public.
(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by Acts 1980, P.L.74, SEC.302; P.L.86-1988, SEC.121; P.L.173-2003, SEC.12.

IC 8-17-4.1-8
Certified list of complying counties and municipalities; withholding funds

Sec. 8. (a) On March 1 following the operational report year, the state board of accounts shall prepare a certified list of counties and municipalities that have complied with this chapter.

(b) The auditor shall withhold the distribution of motor vehicle highway account funds from any county or municipality not appearing on the state board of accounts certified list until its annual operational report is certified.
(Formerly: Acts 1971, P.L.103, SEC.1.) As amended by P.L.86-1988, SEC.122.

IC 8-17-4.1-9
Distribution to municipalities

Sec. 9. The record system provided herein shall be distributed with an explanation by the state board of accounts to the municipalities in adequate time for the municipalities to use the system to keep a record beginning with the 1972 calendar year.
(Formerly: Acts 1971, P.L.103, SEC.1.)

IC 8-17-5

Chapter 5. County Highway Engineers

IC 8-17-5-1

Authority to employ county highway engineer

Sec. 1. A county executive, or any two (2) or more counties acting under IC 36-1-7, may employ a full-time county highway engineer who is responsible for supervising the design, construction, planning, traffic, and other engineering functions of the county highway department under the direction of the county executive. The engineer shall prepare all required surveys, estimates, plans, and specifications.

(Formerly: Acts 1963, c.131, s.1.) As amended by Acts 1981, P.L.11, SEC.61; P.L.86-1988, SEC.123.

IC 8-17-5-2

Qualifications of county highway engineer

Sec. 2. The county highway engineer must be a registered engineer, licensed by the state board of registration for professional engineers, experienced in highway engineering and construction and a resident of Indiana during the engineer's employment.

(Formerly: Acts 1963, c.131, s.2; Acts 1971, P.L.104, SEC.1.) As amended by P.L.86-1988, SEC.124.

IC 8-17-5-3

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-5-4

Compensation

Sec. 4. The county highway engineer is entitled to a salary fixed by the county executive and shall be allowed actual traveling and other expenses incurred in the discharge of duties. The salary and expenses shall be paid out of county general funds, the county distribution of motor vehicle highway account funds, or both, and the county highway engineer fund. The county executive shall provide all facilities, equipment, and personnel required by the county highway engineer in the discharge of the engineer's duties.

(Formerly: Acts 1963, c.131, s.4.) As amended by P.L.86-1988, SEC.125.

IC 8-17-5-5

Bond; power to negotiate contracts

Sec. 5. The county highway engineer shall work under the direction of the county executive and shall, under IC 5-4-1, give bond for the faithful performance of the engineer's duties. The county highway engineer may not enter into agreements to provide engineering services for pay to other local governmental units.

However, an engineer may enter into contracts to provide engineering services for pay with the county executives of any two (2) or more counties, acting jointly. The county highway engineer may perform, at the direction of the executive, highway engineering work for municipalities within the county.
(Formerly: Acts 1963, c.131, s.5.) As amended by Acts 1981, P.L.47, SEC.11; P.L.86-1988, SEC.126.

IC 8-17-5-6
Powers

Sec. 6. The county highway engineer shall, subject to the policies of the county executive, perform the following functions:

(1) Prepare and publish a county-wide inventory and classification of the county highway system so that the total county federal aid secondary system is included in the county primary or arterial system of roads.

(2) Prepare and keep a perpetual inventory of all bridges and culverts serving the county highway system. The inventory must show the location, dimensions, condition, and the year of construction for all bridges and major culverts.

(3) Prepare and publish standards of design, construction, and maintenance of the county arterial, feeder, and local roads that make the best and most economical use of local road materials.

(4) Prepare a long-range county-wide program of road and bridge construction and improvements, with the proposed projects arranged in order of priority. The program of proposed projects must cover a period of at least four (4) years.

(5) Investigate requests and petitions for road or bridge improvements that are received either by the county executive or at public hearings, and make recommendations to the county executive.

(6) Prepare surveys, designs, plans, and specifications for all county road and bridge construction projects, prepare contracts, and advertise for bids.

(7) Make construction and materials inspection of all county road and bridge construction projects, inform the executive of the status of construction work, and certify completed construction projects.

(8) Develop a county-wide program of traffic safety that provides for traffic control signs, signals, and speed limits, warning protection at railroad crossings, load limits, and detour routings.

(9) Inspect and approve the construction of subdivision streets that are to be taken into the county highway system, and recommend appropriate action to the executive when roads and streets in subdivisions are being taken into the county highway system.

(10) Prepare engineering estimates and make recommendations

to the executive concerning the materials and equipment needed in the annual budgeting of both construction and maintenance funds.

(Formerly: Acts 1963, c.131, s.6.) As amended by P.L.86-1988, SEC.127.

IC 8-17-5-7
County highway engineers to perform duties of office of county highway supervisor

Sec. 7. County highway engineers employed under this chapter shall perform the duties of the office of county highway supervisor relating to roads and bridges.

(Formerly: Acts 1963, c.131, s.7.) As amended by P.L.66-1984, SEC.99; P.L.86-1988, SEC.128.

IC 8-17-5-8
County highway engineer fund

Sec. 8. There is annually appropriated from the counties' share of the April distribution of the motor vehicle highway account, nine hundred twenty thousand dollars ($920,000) to be held by the auditor of state in a special account known as the county highway engineer fund. The fund must be used exclusively in assisting the counties in the employment of a full-time county highway engineer.

(Formerly: Acts 1963, c.131, s.8.) As amended by Acts 1980, P.L.77, SEC.1; P.L.86-1988, SEC.129.

IC 8-17-5-9
Certification of employment

Sec. 9. The auditor of counties that employ a full-time county highway engineer shall annually certify that employment to the auditor of state. The certification must show the name and address of the county highway engineer and the serial number of the engineer's certificate of registration issued by the state board of registration for professional engineers.

(Formerly: Acts 1963, c.131, s.9.) As amended by P.L.66-1984, SEC.100; P.L.86-1988, SEC.130; P.L.23-1991, SEC.3.

IC 8-17-5-10
Grant-in-aid subsidy

Sec. 10. Upon receipt of the annual certification from the county auditor, the auditor of state shall distribute from the county highway engineer fund to each county a grant-in-aid subsidy of twenty thousand dollars ($20,000) that is to be applied toward the engineer's annual salary. If the county highway engineer is employed by two (2) counties acting jointly, the amount distributed to each county is ten thousand dollars ($10,000).

(Formerly: Acts 1963, c.131, s.10; Acts 1971, P.L.104, SEC.2.) As amended by Acts 1980, P.L.77, SEC.2; P.L.86-1988, SEC.131.

IC 8-17-5-11

(Repealed by Acts 1981, P.L.41, SEC.72(b).)

IC 8-17-5-11.1

County highway engineers' fund; unused balances; disposition

Sec. 11.1. Any balance in the county highway engineers' fund at the end of each calendar year shall be returned to the counties' share of the motor vehicle highway account to be distributed in January of the following year.

As added by Acts 1981, P.L.41, SEC.58.

IC 8-17-5-12

Construction of chapter

Sec. 12. This chapter shall not be construed as abolishing the office or employment of county highway supervisors; provided, that the respective boards of county commissioners may provide for the county highway engineer to serve also as the county highway supervisor.

(Formerly: Acts 1963, c.131, s.12.) As amended by P.L.66-1984, SEC.101.

IC 8-17-5-13

County engineering department; establishment; supervision by county highway engineer; divisions

Sec. 13. (a) This section applies to each county that employs a full-time county highway engineer under this chapter.

(b) A county engineering department may be established by ordinance.

(c) The county highway engineer shall, under the direction of the county executive, supervise the work of the department. The department may be organized into divisions. The divisions may perform county engineering services approved by the county executive.

As added by Acts 1981, P.L.11, SEC.62.

IC 8-17-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-17-7

Chapter 7. Highway Extension and Research Program

IC 8-17-7-1
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-17-7-2
Definitions

Sec. 2. (a) As used in this chapter, "local highway system" includes all roads, bridges, culverts, necessary supports, drainage facilities, and roadside developments within the rights-of-way.

(b) As used in this chapter, "department" refers to the Indiana department of transportation.

(Formerly: Acts 1959, c.331, s.2.) As amended by Acts 1980, P.L.74, SEC.304; P.L.86-1988, SEC.132; P.L.18-1990, SEC.151.

IC 8-17-7-3
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-17-7-4
Purpose of program; contracts

Sec. 4. (a) There is established a research and highway extension program for the local highway system to provide information concerning local highway system planning, design, construction, operation, maintenance, financing, and administration.

(b) The department shall contract with an educational institution or a qualified private agency to provide the research and extension program under this chapter. Before executing the contract, the director of highways or the director's designee, must meet with and obtain advice from committees designated by associations representing counties and municipalities. After the contract is awarded the institution or private agency receiving the contract shall meet regularly with the committees to obtain their advice.

(Formerly: Acts 1959, c.331, s.4.) As amended by Acts 1980, P.L.74, SEC.305; Acts 1981, P.L.41, SEC.59; P.L.86-1988, SEC.133.

IC 8-17-7-5
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-17-7-6
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-17-7-7
Attendance at schools or courses conducted for local officials

Sec. 7. Each member of the county executive shall attend any school or course conducted for local officials under IC 8-23-9-56. The fiscal body of each county may appropriate sufficient funds to pay each member of the county executive a per diem for expenses for each day or part of a day the member is in attendance at any school or course conducted for local officials under IC 8-23-9-56, and to pay the member a sum for mileage at a rate determined by the county fiscal body for each mile traveled to attend the school.
(Formerly: Acts 1959, c.331, s.7; Acts 1975, P.L.15, SEC.9.) As amended by Acts 1980, P.L.74, SEC.306; P.L.86-1988, SEC.134; P.L.18-1990, SEC.152; P.L.1-1994, SEC.36; P.L.10-1997, SEC.15.

IC 8-17-7-8
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-17-8

Chapter 8. County Road Numbering System

IC 8-17-8-1

Preparation of map; purchase and installation of signs

Sec. 1. (a) The plan commission having jurisdiction over the unincorporated area of the county, or if the unincorporated area of the county is not subject to the jurisdiction of a plan commission, the county executive, may authorize the preparation of maps depicting the county roads either by name or number.

(b) The county executive may authorize the purchase and installation of signs showing the number or name of the county road as depicted on the maps.

(Formerly: Acts 1953, c.28, s.1.) As amended by P.L.86-1988, SEC.135; P.L.119-1989, SEC.1.

IC 8-17-8-2

Preparation of map; compensation

Sec. 2. (a) The plan commission or county executive shall direct the county engineer or may request the county surveyor to prepare the maps. The county surveyor or the county engineer may be compensated in addition to the salary the surveyor or engineer receives for preparation of the maps, in an amount to be determined by the plan commission or the county executive, subject to the approval of the county fiscal body.

(b) All expenses incidental to the preparation of the maps, including the county surveyor's and county engineer's compensation, shall be paid out of the county general fund.

(Formerly: Acts 1953, c.28, s.2.) As amended by P.L.86-1988, SEC.136; P.L.3-1989, SEC.66; P.L.276-2001, SEC.3.

IC 8-17-8-3

Maps; sale and free distribution

Sec. 3. The maps shall be available to all units of government free of charge. The maps shall be available to the general public at a charge to be determined by the county plan commission or county executive. Money received from the sale of the maps shall be deposited in the county general fund.

(Formerly: Acts 1953, c.28, s.3.) As amended by P.L.86-1988, SEC.137; P.L.3-1989, SEC.67.

IC 8-17-9
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-10
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-11
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-17-12
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-17-13
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-17-14
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-17-15
Repealed
(Repealed by P.L.115-1983, SEC.1.)

IC 8-18

ARTICLE 18. COUNTY ROADS–FINANCING AND BONDING

IC 8-18-1

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-2
Repealed

(Repealed by P.L.252-1993, SEC.6.)

IC 8-18-3
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-4
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-5
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-7
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-8

Chapter 8. Payment of County Highway Maintenance Expenses

IC 8-18-8-1

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-8-2

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-8-3

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-8-4

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-8-5 Version a

Maintenance of county highways; payment of expenses

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 5. All expenses incurred in the maintenance of county highways shall first be paid out of funds from the gasoline tax, special fuel tax, and the motor vehicle registration fees that are paid to the counties by the state. In addition, a county may use funds derived from the:

(1) county motor vehicle excise surtax;
(2) county wheel tax;
(3) county adjusted gross income tax;
(4) county option income tax;
(5) riverboat admission tax (IC 4-33-12);
(6) riverboat wagering tax (IC 4-33-13); or
(7) property taxes and miscellaneous revenue deposited in the county general fund.

(Formerly: Acts 1932(ss), c.16, s.5.) As amended by P.L.66-1984, SEC.111; P.L.99-1985, SEC.1; P.L.86-1988, SEC.157; P.L.76-1990, SEC.2; P.L.90-1997, SEC.1; P.L.30-2012, SEC.1.

IC 8-18-8-5 Version b

Maintenance of county highways; payment of expenses

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 5. All expenses incurred in the maintenance of county highways shall first be paid out of funds from the gasoline tax, special fuel tax, and the motor vehicle registration fees that are paid

to the counties by the state. In addition, a county may use funds derived from the:

(1) county motor vehicle excise surtax;

(2) county wheel tax;

(3) local income tax (IC 6-3.6);

(4) riverboat admission tax (IC 4-33-12);

(5) riverboat wagering tax (IC 4-33-13); or

(6) property taxes and miscellaneous revenue deposited in the county general fund.

(Formerly: Acts 1932(ss), c.16, s.5.) As amended by P.L.66-1984, SEC.111; P.L.99-1985, SEC.1; P.L.86-1988, SEC.157; P.L.76-1990, SEC.2; P.L.90-1997, SEC.1; P.L.30-2012, SEC.1; P.L.197-2016, SEC.83.

IC 8-18-9
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-10
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-11
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-12
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-13
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-14
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-18-15
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-16
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-17
Repealed
(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-18
Repealed
(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-19
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-18-20

Chapter 20. County Toll Road Authorities

IC 8-18-20-1

Application of chapter

Sec. 1. This chapter applies to all counties.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-2

Definitions

Sec. 2. The definitions in IC 36-1-2 apply throughout this chapter and IC 8-18-21.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-3

"Toll road" defined

Sec. 3. As used in this chapter and IC 8-18-21, "toll road" includes:

(1) the land required for a toll road right-of-way; and

(2) any highway constructed under this chapter, including all bridges, tunnels, interchanges, entrance plazas, approaches, tollhouses, and buildings required for administrative and maintenance purposes.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-4

Establishment; name; municipal corporation

Sec. 4. (a) A county may establish a separate municipal corporation to be known as the "_____ County Toll Road Authority" (including the name of the county seat and county) for the purposes of:

(1) acquiring land; and

(2) financing, constructing, reconstructing, and operating county toll roads.

(b) Any two (2) or more counties, acting under IC 36-1-7, may establish a municipal corporation under subsection (a).

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-5

Hearing on creation; notice by publication; resolution; filing; proof of establishment

Sec. 5. (a) Whenever the county auditor receives a notice that:

(1) is signed by the presiding officers of the county executive, the county fiscal body, and the municipal fiscal body of the county seat;

(2) states that those bodies have agreed to hold a public hearing on and consider the creation of a county toll road authority; and

(3) fixes a time and place for that hearing;

the auditor shall give notice by publication of the hearing. The notice shall be published in accordance with IC 5-3-1, and must state the time, place, and purpose of the hearing.

(b) The members of the executive of the county and the fiscal bodies of the county and county seat shall meet at the time and place fixed in the notice. The presiding officers of each of the three (3) bodies shall elect one (1) of their number to preside as chairman at the hearing, another as vice chairman, and another as secretary.

(c) All interested citizens and taxpayers of the county may appear and are entitled to be heard at the hearing.

(d) The authority shall be established if, within sixty (60) days after the hearing, a concurrent resolution declaring a need for the authority is agreed upon and separately adopted by the county executive and county and municipal fiscal bodies.

(e) A copy of the concurrent resolution that is certified by affidavits of the county auditor and municipal clerk showing the date of adoption of the resolution by the three (3) bodies must be filed in the office of the recorder of the county for recording in the miscellaneous records. The certified and recorded copy of the resolution is admissible in evidence in any action or proceeding as proof of the establishment of the authority.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-6

Board of trustees; membership; notice of appointment; oath

Sec. 6. (a) Within sixty (60) days after the adoption of the concurrent resolution under section 5 of this chapter, a board of toll road authority trustees shall be appointed. The board consists of five (5) trustees who are appointed in the following manner and for the following initial terms:

(1) One (1) appointed by the municipal fiscal body of the county seat, for a term of one (1) year.

(2) One (1) appointed by the county fiscal body, for a term of two (2) years.

(3) One (1) appointed by the county executive, for a term of three (3) years.

(4) One (1) appointed by the municipal executive of the county seat, for a term of four (4) years.

(5) One (1) appointed by the county executive, for a term of four (4) years.

(b) A person may be appointed as a trustee only if the person:

(1) is at least thirty (30) years of age;

(2) has been a resident of the county for five (5) years immediately preceding the appointment; and

(3) is not an officer or employee of an eligible entity.

(c) The names of all persons appointed under subsection (a) shall be transmitted in writing to the circuit court for the county at least ten (10) days before the end of the sixty (60) day period. The court

shall mail a notice of appointment to each trustee immediately after the sixty (60) day period.

(d) Before taking office, each trustee shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon the trustee's certificate of appointment. The certificate shall be promptly filed with the clerk of the circuit court.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-7

Expiration of trustee's term; successor

Sec. 7. (a) As the term of a trustee expires, a successor shall be appointed by the same appointing authority, for a term of four (4) years.

(b) A trustee holds over after the expiration of the trustee's term until a successor is appointed and qualified.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-8

Vacancies on board of trustees

Sec. 8. If a person appointed as a trustee:

(1) fails to qualify within ten (10) days after notice of the appointment is mailed to that person; or

(2) qualifies but then dies, resigns, vacates the office because that person is no longer a resident of the county, or is removed from office under section 18 of this chapter;

a new trustee shall be appointed by the same appointing authority for the remainder of the vacated term.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-9

First meeting of trustees; officers; appointment of board of directors

Sec. 9. (a) The first trustees of the toll road authority shall, within thirty (30) days after their appointment, meet at a time and place designated by the circuit court for the county for the purpose of electing officers. The trustees shall elect from among themselves a president, a vice president, and a secretary. Each of these officers shall serve from the date of election until the first Monday in January after election, and holds over until a successor is elected and qualified.

(b) At the meeting required by this section, the trustees shall appoint the first board of directors of the toll road authority, as prescribed by section 11 of this chapter.

(c) After appointing the first board of directors of the toll road authority, the trustees shall meet on the first Monday in January of each year for the purpose of:

(1) electing officers;

(2) appointing the directors of the toll road authority; and

(3) performing any other duties under this chapter.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-10
Board of trustees; procedural rules; record; regular and special meetings

Sec. 10. (a) The trustees may adopt rules and bylaws governing their procedure.

(b) The proceedings of the trustees shall be recorded in a book provided for that purpose.

(c) In addition to their meetings under section 9 of this chapter, the trustees may hold regular and special meetings as often as is necessary to perform their duties under this chapter.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-11
Board of directors; membership; appointments; oath

Sec. 11. (a) A county toll road authority is under the control of a board of directors. This board consists of five (5) directors, who shall be appointed by a majority vote of the toll road authority trustees. Each of the original directors shall serve from the date of the director's appointment until the first day of February in the second year after the director's appointment, and until a successor is appointed and has qualified.

(b) A person may be appointed as a director only if the person:

(1) is at least thirty (30) years of age;

(2) has been a resident of the county five (5) years immediately preceding the person's appointment; and

(3) is not an officer or employee of an eligible entity.

(c) Before entering upon the director's duties, each director shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon the director's certificate of appointment. The certificate shall be promptly filed with the clerk of the circuit court.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-12
Expiration of director's term; successor

Sec. 12. As the term of a director expires, a successor shall be appointed by a majority vote of the trustees. The new director shall serve for one (1) year from the first day of February after the director's appointment, and until a successor is appointed and qualified.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-13
Vacancies on board of directors

Sec. 13. If a vacancy occurs on the board of directors, the trustees shall, by a majority vote, appoint a new director to serve the

remainder of the term.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-14
First meeting of directors; officers

Sec. 14. (a) The first directors of a toll road authority shall, within thirty (30) days after their appointment, meet for the purpose of electing officers. They shall elect from among themselves a president, a vice president, a secretary, and a treasurer. Each of these officers shall perform the duties usually pertaining to that office, and shall serve from the date of election until a successor is elected and qualified.

(b) After the meeting under subsection (a), the directors shall meet on the first Monday in February of each year for the purpose of electing officers.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-15
Regular and special meetings of directors

Sec. 15. In addition to their meetings under section 14 of this chapter, the directors may hold the regular and special meetings they consider necessary. The directors may fix the times of these meetings and the notices required for meetings by resolution or under their rules and bylaws.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-16
Rules of directors; quorum; majority vote

Sec. 16. (a) The directors may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the performance of their duties, and the safeguarding of the funds and property of the toll road authority.

(b) A majority of the directors constitutes a quorum, and the concurrence of a majority of the directors is necessary to authorize any action by the directors.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-17
Vacation of office by trustee or director

Sec. 17. A trustee or director who:

(1) ceases to be a resident of the county; or

(2) becomes an officer or employee of a unit that established the authority;

vacates office.
As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-18
Removal of trustee or director

Sec. 18. (a) A person seeking the removal of a trustee for:

(1) neglect of duty;

(2) incompetence;

(3) inability to perform the trustee's duties; or

(4) any other good cause;

may file a complaint in the circuit or superior court for the county in which the toll road authority is located. The complaint must set forth the charges preferred. The action shall be placed on the court's advanced calendar, and the court shall try the action in the same manner as other civil cases, without a jury. If the charges are sustained, the court shall declare the trustee's office vacant.

(b) The trustees may summarily remove a director from office at any time.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-19

Salaries and expenses of trustees or directors

Sec. 19. A trustee or director is not entitled to a salary but is entitled to reimbursement for expenses necessarily incurred in the performance of duties.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-20-20

Pecuniary interest in transactions

Sec. 20. A trustee or director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. Any such transaction in which a trustee or director has a pecuniary interest is void.

As added by P.L.386-1987(ss), SEC.20.

IC 8-18-21

Chapter 21. County Toll Road Financing

IC 8-18-21-1

Application of chapter

Sec. 1. This chapter applies to all toll road authorities established under IC 8-18-20.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-2

Preliminary expenses; payment; charge against bonds

Sec. 2. All necessary preliminary expenses that must be paid by the board of directors of a toll road authority before the issuance and delivery of bonds or the negotiation of a loan under this chapter, including expenses incurred in:

(1) making surveys;
(2) estimating costs and receipts;
(3) employing engineers or other employees;
(4) giving notices; and
(5) taking options;

may be paid out of money provided by the county and county seat, or either of them, from money on hand or derived from taxes levied for that purpose. The fund or funds from which the payments are made shall be fully reimbursed 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 from those proceeds. The amount advanced to pay preliminary expenses under this section is a first charge against the proceeds resulting from the sale of the bonds or the negotiation of the loan until that amount has been repaid.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-3

Powers of board of directors

Sec. 3. Except as provided in section 4 of this chapter, the board of directors of a toll road authority, acting in the name of the authority, may:

(1) finance, construct, reconstruct, operate, maintain, and manage any toll road project acquired or financed under this chapter;
(2) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit court, superior court, or probate court for the county in which the authority is located;
(3) condemn, appropriate, purchase, and hold any real or personal property needed or considered useful in connection with a toll road facility;
(4) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes

authorized by this chapter;

(5) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a toll road facility;

(6) collect all money that is due on account of the operation, maintenance, or management of, or otherwise related to, a toll road facility, and expend that money for proper purposes;

(7) employ the managers, superintendents, architects, engineers, attorneys, auditors, clerks, foremen, custodians, and other employees, necessary for the proper operation of a toll road facility and fix the compensation of those employees, but a contract of employment may not be made for a period of more than four (4) years although it may be extended or renewed from time to time;

(8) 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; and

(9) provide coverage for its employees under IC 22-3 and IC 22-4.

As added by P.L.386-1987(ss), SEC.21. Amended by P.L.84-2016, SEC.52.

IC 8-18-21-4

Counties with consolidated cities; approval

Sec. 4. The toll road authority in a county having a consolidated city may not construct or finance unless that action is first approved by:

(1) the city-county legislative body; and

(2) the legislative body of the unit involved.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-5

Revenue bonds; issuance; source of payment

Sec. 5. (a) For the purpose of obtaining money to pay the cost of:

(1) constructing toll road facilities;

(2) acquiring land;

(3) repaying any advances for preliminary expenses made to the authority by an eligible entity; or

(4) refinancing any loan made under this chapter;

the board of directors of a toll road authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the toll road facilities for which the bonds were issued.

As added by P.L.386-1987(ss), SEC.21. Amended by P.L.3-1990, SEC.32.

IC 8-18-21-6

Revenue bonds; resolution; interest; maturity

Sec. 6. The revenue bonds must be authorized by resolution of the

board. The bonds:

(1) bear interest payable semiannually; and

(2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-7

Revenue bonds; redemption before maturity; resolution; contents; negotiable instruments

Sec. 7. (a) The revenue bonds may, and all bonds maturing after ten (10) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the toll road authority. Such a redemption must be at the par value of the bonds, together with the premiums and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(b) The principal of and interest on the bonds may be made payable in any lawful medium.

(c) The resolution authorizing the issuance of the bonds must:

(1) determine the form of the bonds, including the interest coupons to be attached to them;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(d) The bonds are negotiable instruments under IC 26-1.

(e) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-8

Revenue bonds; execution; notice of sale; sale

Sec. 8. (a) The revenue bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(b) Notice of the sale of the bonds shall be published in accordance with IC 5-3-1.

(c) The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. If the bonds are not sold on the date fixed for the sale, then the sale may be continued from day to

day until a satisfactory bid has been received.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-9
Temporary bonds

Sec. 9. The board of directors may issue temporary bonds, with or without coupons. These bonds, which must be issued in the manner prescribed by this chapter, may be exchanged for the bonds that are subsequently issued.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-10
Loans; resolutions; notice

Sec. 10. (a) In lieu of authorizing and selling bonds under this chapter, the board of directors of a toll road authority may adopt a resolution authorizing the negotiation of a loan or loans for the purpose of obtaining the required money.

(b) The resolution authorizing the loan must set out:

(1) the total amount of the loan desired;

(2) the approximate dates on which money will be required, and the amounts of the money that will be required on those dates; and

(3) any terms, conditions, and restrictions concerning the proposed loan or the submission of proposals that the board considers advisable.

(c) Before the consideration of proposals for such a loan, a notice shall be published in accordance with IC 5-3-1. The notice must set out:

(1) the amount and purpose of the proposed loan;

(2) a brief summary of other provisions of the resolution; and

(3) the time and place where proposals will be considered.

(d) The board of directors may accept the proposal it considers most advantageous to the authority.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-11
Trust indentures

Sec. 11. (a) The board of directors of an authority may secure bonds issued or loans made 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) mortgage all or part of the toll road facility for which the bonds are issued or loan is made;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders or lenders, including covenants setting forth the duties of the authority and

board concerning:

(A) the construction, operation, repair, maintenance, and insurance of the toll road facility; and

(B) the custody, safeguarding, and application of all money received or to be received by the authority on account of the toll road facility financed by the bonds or loan;

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

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

(c) Except as otherwise provided in this chapter, the board of directors may, by resolution or in the trust indenture, specify:

(1) the officer, board, or depository to which the proceeds of the bonds or loan shall be paid; and

(2) the method of disbursing those proceeds.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-12

Proceeds of bonds or loans; application; lien

Sec. 12. (a) The proceeds of any bonds issued or loans made under this chapter shall first be applied to the reimbursement of all amounts advanced for preliminary expenses under this chapter. The proceeds shall then be applied solely to the payment of the costs for which the bonds are issued or the loan is negotiated, including incidental expenses and interest during construction.

(b) The bondholders, lenders, or trustees under this chapter have a lien upon the proceeds of the bonds or the loan until those proceeds are applied as prescribed by this section.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-13

Review of annual operating budget

Sec. 13. The annual operating budget of a toll road authority is subject to:

(1) review by the county board of tax adjustment; and

(2) review by the department of local government finance;

as in the case of other political subdivisions.

As added by P.L.386-1987(ss), SEC.21. Amended by P.L.90-2002, SEC.326; P.L.224-2007, SEC.96; P.L.146-2008, SEC.363.

IC 8-18-21-14

Tax exemption; property and revenue of authority

Sec. 14. All the property and revenues of a toll road authority are exempt from taxation for all purposes.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-15

Tax exemption; bonds and securities

Sec. 15. All the bonds and other securities issued by a toll road authority, including the interest on them, are exempt from taxation as provided in IC 6-8-5.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-16
Handling and expenditure of authority money; surety bonds

Sec. 16. (a) Except as otherwise provided in this chapter, all money coming into possession of the toll road authority shall be deposited, held, and secured in accordance with the general statutes concerning the handling of public funds. The handling and expenditure of money coming into possession of the authority is subject to audit and supervision by the state board of accounts.

(b) Any employee of the toll road authority authorized to receive, disburse, or in any other way handle money or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana. The bond must be in an amount determined by the board of directors of the authority and must be conditioned upon the faithful performance of the employee's duties and the accounting for all money and property that may come into his hands or under his control. The cost of the bond shall be paid by the authority.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-17
Contracts subject to public works statutes

Sec. 17. All contracts let by a toll road authority for the construction and equipment of a toll road facility must be let in accordance with the general statutes concerning public works.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-18
Public records

Sec. 18. The records of a toll road authority are public records.
As added by P.L.386-1987(ss), SEC.21.

IC 8-18-21-19
Dissolution of authority

Sec. 19. (a) The county fiscal body and the municipal fiscal body of the county seat may by concurrent resolution dissolve a toll road authority. They may consider dissolving the toll road authority at any time, but they shall consider dissolving the toll road authority when they are presented with a petition signed by twenty percent (20%) of the registered voters residing in the county or thirty-five percent (35%) of the registered voters residing in the county seat.

(b) The concurrent resolution must provide a plan for paying any obligations, including bonds, of the toll road authority and for the disposition of the funds and property of the toll road authority.

As added by P.L.386-1987(ss), SEC.21.

IC 8-18-22

Chapter 22. County Road and Bridge Bonding

IC 8-18-22-1

Applicability of chapter

Sec. 1. This chapter applies to the issuance of bonds by counties for purposes authorized by IC 8-16-3, IC 8-16-3.1, IC 8-16-5, and IC 8-17 through IC 8-20. This chapter does not apply to bonds issued under IC 8-18-21.

As added by P.L.113-1989, SEC.9.

IC 8-18-22-2

"Bonds" defined

Sec. 2. As used in this chapter, "bonds" has the meaning set forth in IC 36-1-2-2.

As added by P.L.113-1989, SEC.9.

IC 8-18-22-3

Bond issues; purposes; notice and hearing; multiple projects funded by single issue

Sec. 3. (a) Upon request of the county executive, the county fiscal body may borrow money and issue bonds in the name of the county in principal amounts and maturities as the fiscal body determines necessary to provide sufficient funds for the purposes specified in IC 8-16 through IC 8-20, including:

(1) the payment of costs of the project for which bonds are authorized, costs of issuance, or related costs of financing;

(2) the payment of interest on the bonds;

(3) the establishment of reserves to secure the bonds; and

(4) all other expenditures of the county incident to, necessary, and convenient to carry out this chapter.

(b) Before bonds may be issued under this chapter, the county fiscal body shall give notice of a public hearing to disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and other pertinent data. The county fiscal body shall publish in accordance with IC 5-3-1 a notice of the time, place, and general purpose of the hearing.

(c) The costs of more than one (1) project may be included in one (1) issue of bonds.

As added by P.L.113-1989, SEC.9.

IC 8-18-22-4

Ordinance authorizing bonds; method of sale; price

Sec. 4. (a) The bonds must be authorized by ordinance of the fiscal body. The ordinance must provide the following with respect to the bonds:

(1) The original date of the bonds.

(2) The time or times that the bonds mature. However, a bond

may not mature more than thirty (30) years from the date it is issued.

(3) The maximum interest rate or rates, including variations of the rates.

(4) The denominations.

(5) The form, either coupon or registered.

(6) The registration privileges.

(7) The medium of payment and the place or places of payment.

(8) The terms of redemption, including redemption before maturity.

(b) Bonds issued under this chapter must be sold under IC 5-1-11, and at a price or prices determined by the county fiscal body in the ordinance.

As added by P.L.113-1989, SEC.9.

IC 8-18-22-5

Optional provisions of ordinance

Sec. 5. An ordinance authorizing the issuance of bonds under this chapter or trust indenture under which the bonds are issued may contain the following provisions:

(1) Pledging revenues of the county to secure the payment of the bonds, subject to section 6 of this chapter and existing agreements with bondholders.

(2) Setting aside reserves or sinking funds and the regulation and disposition of these funds.

(3) Limitations on the purposes to which the proceeds from the sale of bonds may be applied.

(4) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds.

(5) The procedure, if any, by which the terms of a contract with bondholders may be amended or abrogated and the manner in which the consent to the amendment or abrogation may be given.

(6) Vesting in a trustee property, rights, powers, and trust as the county fiscal body determines, and limiting or abrogating the right of the bondholders to appoint a trustee or to limit the rights, powers, and duties of the trustee.

(7) Defining acts or omissions that will constitute a default and the obligations or duties of the county fiscal body to the bondholders and providing for the rights and remedies of the bondholders in the event of default. However, the rights and remedies must not be inconsistent with this chapter or other laws of this state.

(8) A covenant that the fiscal body will not repeal or adversely modify the taxes or sources of revenue that are pledged to secure the payment of the bonds.

(9) Any other matter that affects the security or protection of

the bondholders.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-6 Version a
Pledge of revenues; covenants not to impair pledged taxes

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4, including revenues from the following sources:

(1) The motor vehicle highway account.
(2) The local road and street account.
(3) The county motor vehicle excise surtax.
(4) The county wheel tax.
(5) The county adjusted gross income tax.
(6) The county option income tax.
(7) The economic development income tax.
(8) Assessments.
(9) Any other unappropriated or unencumbered money.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes, except for revenues from the following:

(1) IC 8-16-3.
(2) IC 8-16-3.1.

(c) If the county fiscal body has pledged revenues from the county option income tax as set forth in subsection (a), the county income tax council (as defined in IC 6-3.5-6-1) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.5-6.

(d) If the county fiscal body has pledged revenues from the economic development income tax as set forth in subsection (a), the county income tax council (if the council is the body that imposed the tax) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.5-6.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-6 Version b
Pledge of revenues; covenants not to impair pledged taxes

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest

on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4, including revenues from the following sources:

(1) The motor vehicle highway account.
(2) The local road and street account.
(3) The county motor vehicle excise surtax.
(4) The county wheel tax.
(5) The local income tax (IC 6-3.6).
(6) Assessments.
(7) Any other unappropriated or unencumbered money.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes, except for revenues from the following:

(1) IC 8-16-3.
(2) IC 8-16-3.1.

(c) If the county fiscal body has pledged revenues from the local income tax as set forth in subsection (a), the local income tax council (as defined in IC 6-3.6-2-12) may covenant that the council will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The local income tax council may make the covenant by adopting an ordinance using procedures described in IC 6-3.6-3.

As added by P.L.113-1989, SEC.9. Amended by P.L.197-2016, SEC.84.

IC 8-18-22-7
Trust indentures

Sec. 7. (a) The bonds may be secured by a trust indenture between the county and a bank having the power of a trust company or any trust company.

(b) The trust indenture may provide for:

(1) protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law;
(2) covenants setting forth the duties of the county fiscal body in relation to the exercise of its powers and the custody, safekeeping, and application of money related to the bond financing for which the trust indenture exists;
(3) the payment of the proceeds of the bonds and the revenue of the trustee under the trust indenture; and
(4) the method of disbursement of the proceeds of the bonds and the revenue to the trustee, with safeguards and restrictions as the county fiscal body may determine.

As added by P.L.113-1989, SEC.9.

IC 8-18-22-8
Execution and attestation of bonds

Sec. 8. Bonds issued by the county under this chapter must be executed by the manual or facsimile signatures of the executive and

attested to by the county auditor.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-9
Use of bond proceeds

Sec. 9. Money received from the bonds issued under this chapter shall be applied solely to the purposes for which the bonds were issued, except as provided in IC 5-1-13 and IC 5-1-14.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-10
Bonds as negotiable instruments; registration

Sec. 10. The bonds are negotiable instruments, subject only to the provisions of the bonds relating to registration.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-11
Tax exemption

Sec. 11. Bonds issued under this chapter are exempt from taxation in Indiana under IC 6-8-5.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-12
Exemption from securities registration laws

Sec. 12. Bonds issued by the county under this chapter are exempt from registration and other requirements of IC 23 and any other securities registration laws.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-13
State covenant not to impair bondholder rights and remedies

Sec. 13. The general assembly pledges to and covenants with the owner of any bonds issued under this chapter that the general assembly will not limit or alter the ability of the county to fulfill the terms of the agreements or pledges made with bondholders or in any way impair the rights or remedies of the bondholders until the bonds and related obligations are fully met and discharged.
As added by P.L.113-1989, SEC.9.

IC 8-18-22-14
Certain statutory provisions inapplicable

Sec. 14. IC 6-1.1-20 does not apply to the issuance of bonds under this chapter.
As added by P.L.113-1989, SEC.9.

IC 8-19

ARTICLE 19. COUNTY ROAD PETITIONS AND ASSESSMENTS

IC 8-19-1

Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-19-2
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-19-3

Chapter 3. Petition for Public Highway Improvement

IC 8-19-3-1

Plans and specifications for improvements

Sec. 1. Ten (10) or more resident freeholders may petition the county executive for assistance in grading any public highway connecting at either end with a county or state highway, connecting with any highway improved under this chapter, or connecting with the boundaries of any municipality. If the executive determines that it would be a public utility to grade and drain the highway, the executive shall order the engineer to survey the highway and prepare plans and specifications for its improvement. The plans and specifications must show:

(1) the profile, grade, and cross-section of the old and new roadway at least at each one hundred (100) feet, that the roadway shall be graded to a width of twenty (20) feet between the inside of ditches (except where physical conditions make that width impossible) and that the roadway shall have a cross-section crown of eight (8) inches, and a grade not to exceed six percent (6%);

(2) the design of any necessary supplemental road parts; and

(3) the method of grading and finishing the roadway.

(Formerly: Acts 1921, c.178, s.1.) As amended by P.L.66-1984, SEC.114; P.L.11-1987, SEC.15; P.L.86-1988, SEC.158.

IC 8-19-3-2

Improvements in accord with plans and specifications

Sec. 2. After establishment of grades and receipt of the plans and specifications from the engineer, the petitioners, at their own expense, and under the direction of the engineer, shall improve the road according to plans and specifications.

(Formerly: Acts 1921, c.178, s.2.) As amended by P.L.86-1988, SEC.159.

IC 8-19-3-3

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-19-3-4

Report of completion

Sec. 4. When the grading and draining is completed in accordance with the plans and specifications, the engineer shall report in writing to the county executive, who shall accept the improved highway. After acceptance, the highway shall be maintained by the county.

(Formerly: Acts 1921, c.178, s.4.) As amended by P.L.86-1988, SEC.160.

IC 8-19-3-5
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-19-4

Chapter 4. Petition for Unimproved Public Highway Improvement

IC 8-19-4-1

Employment of engineer; plans and specifications

Sec. 1. One (1) or more taxpayers of any county, may petition the executive of the county for permission (at the petitioner's own expense) to improve, by grading, draining, and paving with road paving material, any unimproved public highway in the county. If the executive determines that it will be of public utility to the county to improve the highway, the executive shall employ a competent engineer, to be paid by the petitioner to survey and mark the boundaries of the highway, prepare plans, and specifications (in accordance with requirements of the county) for the improvement of the highway, and to file the survey, plans, and specifications with the executive for examination and approval.

(Formerly: Acts 1937, c.183, s.1.) As amended by P.L.86-1988, SEC.161.

IC 8-19-4-2

Approval and construction

Sec. 2. After approval, the petitioners, at their own expense and under the direction of the county highway supervisor, shall improve the highway according to the plans, specifications, and survey.

(Formerly: Acts 1937, c.183, s.2.) As amended by P.L.86-1988, SEC.162.

IC 8-19-4-3

Report of completion

Sec. 3. When the grading, draining, and paving is completed, the county highway supervisor shall report in writing to the county executive. The executive shall then accept the improved highway.

(Formerly: Acts 1937, c.183, s.3.) As amended by P.L.86-1988, SEC.163.

IC 8-19-5
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-19-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-19-7

Chapter 7. Private Road Work by Counties

IC 8-19-7-1

Request for equipment and employees; charges

Sec. 1. (a) Any resident taxpayer may petition the executive of the county where the taxpayer resides to use county highway equipment and employees for ditching, grading, or hauling gravel or stone or other services on the taxpayer's premises.

(b) The executive may order the county highway superintendent to do the work requested, if the county equipment is being used in the vicinity of the taxpayer's premises, and if the equipment is not needed for county business. The equipment may not be used for contractual work in any municipality or subdivision of the municipality.

(c) The county executive shall fix the charges for the work, which may not be less than the actual cost. The charge for hauling material may not be less than the actual cost per yard mile, or less than the private prevailing contract price in the community.

(Formerly: Acts 1943, c.96, s.1.) As amended by P.L.86-1988, SEC.164.

IC 8-19-7-2

Records

Sec. 2. The county highway supervisor shall keep a record of the services performed under section 1 of this chapter, and when the work is completed, the highway supervisor shall prepare an itemized statement of the work and the charges. The highway supervisor shall send one (1) copy to the petitioner, and one (1) copy to the county auditor. The county highway supervisor shall, at the regular monthly meeting of the executive, report work done during the month, and the charges made for the work. The county auditor shall bill the petitioners for the services, and shall credit the money collected to the county highway fund.

(Formerly: Acts 1943, c.96, s.2.) As amended by P.L.86-1988, SEC.165.

IC 8-19-7-3

Payment for work; collections

Sec. 3. If any petitioner fails to pay for any work, the charges shall be charged by the county auditor on the county tax duplicate against that person, and shall be collected in the same manner as taxes. Any amount collected by the county treasurer shall be turned over to the county auditor and credited to the county road fund under section 2 of this chapter.

(Formerly: Acts 1943, c.96, s.3.) As amended by P.L.86-1988, SEC.166.

IC 8-19-8
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-20

ARTICLE 20. COUNTY ROADS–LOCATION AND EMINENT DOMAIN

IC 8-20-1

Chapter 1. Location or Relocation of County Roads

IC 8-20-1-1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-2
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-3
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-3.1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-4
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-5
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-6
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-7
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-8
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-9
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-10

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-11

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-12

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-13

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-14

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-15

Right-of-way

Sec. 15. A county highway right-of-way may not be laid out that is less than twenty (20) feet on each side of the centerline, exclusive of additional width required for cuts, fills, drainage, utilities, and public safety.

(Formerly: Acts 1905, c.167, s.15; Acts 1961, c.137, s.1; Acts 1963, c.123, s.1.) As amended by P.L.66-1984, SEC.118; P.L.86-1988, SEC.172; P.L.112-1995, SEC.2.

IC 8-20-1-15.5

Apparent right-of-way; establishment

Sec. 15.5. (a) As used in this section, "apparent right-of-way" means the location and width of county highway right-of-way for purposes of use and control of the right-of-way by the county executive.

(b) A county executive may establish the apparent right-of-way of a county highway. However, the width of the apparent right-of-way may not exceed twenty (20) feet on each side of the center line exclusive of additional width required for cuts, fills, drainage, utilities, and public safety.

(c) A county executive that desires to establish the apparent right-of-way of a county highway shall do the following:

(1) Make a preliminary finding of the apparent right-of-way by using the best available evidence, including physical observation from the ground or air.

(2) From the preliminary finding of the apparent right-of-way:

(A) prepare a map and a written description of the apparent right-of-way;

(B) give notice of the preliminary finding by publishing the map and the written description in the manner provided by law; and

(C) give notice of the preliminary finding by certified mail to the owners of land, according to the records of the county auditor, that abuts the apparent right-of-way.

(3) Conduct a public hearing at which owners of land in the county may:

(A) object to the preliminary finding;

(B) present evidence in support of or in opposition to the preliminary finding; and

(C) propose changes to the preliminary finding.

(4) After the hearing under subdivision (3), revise the preliminary finding of the apparent right-of-way, if necessary.

(5) Adopt an ordinance to establish the revised finding as the apparent right-of-way.

(6) Record with the county recorder a map and a written description of the apparent right-of-way as established by the ordinance.

(d) The apparent right-of-way of a county highway established under this section is the right-of-way for purposes of use and control of a county highway by the county executive.

(e) If the apparent right-of-way exceeds the legal right-of-way, then the county must proceed under IC 36-1-4-5 and IC 8-20-3-1 to acquire the apparent right-of-way.

As added by P.L.62-1992, SEC.1. Amended by P.L.112-1995, SEC.3.

IC 8-20-1-16
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-17
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-18
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-19
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-20
Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-21

Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-22
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-22.1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-23
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-24
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-25
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-25.1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-26
Railroad companies
Sec. 26. (a) Every railroad company may construct its railroad across any stream, water course, road, highway, railroad, or canal that it intersects in a manner that does not interfere with the free use of the road. The railroad company shall restore the stream or water course, road, highway, or canal intersected to its former state.

(b) When the track crosses a highway, the crossing may be at grade or the highway may be carried under or over the track. If an embankment or cutting makes a change in the line of the highway desirable, the railroad company may take additional lands for the construction of the highway or new line. When land is taken, it becomes a part of the highway.
(Formerly: Acts 1905, c.167, s.35.) As amended by P.L.86-1988, SEC.180.

IC 8-20-1-27
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-28

Public and municipally owned utilities; poles, facilities, appliances, and fixtures

Sec. 28. Public and municipally owned utilities are authorized to construct, operate, and maintain their poles, facilities, appliances, and fixtures upon, along, under, and across any of the public roads, highways, and waters outside of municipalities, as long as they do not interfere with the ordinary and normal public use of the roadway, as defined in IC 9-13-2-157. However, the utility shall review its plans with the county executive before locating the pole, facility, appliance, or fixture. The utility may trim any tree along the road or highway, but may not cut down and remove the tree without the consent of the abutting property owners, unless the cutting or removal is required by rule or order of the Indiana utility regulatory commission. The utility may not locate a pole where it interferes with the ingress or egress from adjoining land.

(Formerly: Acts 1905, c.167, s.38; Acts 1911, c.161, s.1.) As amended by P.L.86-1988, SEC.181; P.L.2-1991, SEC.62.

IC 8-20-1-29

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-30

Repealed

(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-31

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-32

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-33

Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-34

Bridges within corporate limits of municipalities

Sec. 34. The executive of any county may build or repair any bridge within the corporate limits of any municipality in the county in the same manner and paid for out of the same funds as are other bridges located outside of corporate limits.

(Formerly: Acts 1905, c.167, s.44.) As amended by P.L.86-1988, SEC.186.

IC 8-20-1-35

Bridges across streams forming county boundary lines

Sec. 35. (a) Whenever public convenience requires the erection, repair, or purchase of any bridge across a stream forming the boundary line between two (2) or more counties (and in all cases where a stream crosses a public highway forming the boundary line between two (2) or more counties, and where the stream requires a bridge of more than twenty (20) feet in length) the executive of either county may aid in the erection, repair, or purchase of the bridge and shall notify the other county of its intent.

(b) If the executive of the other county also agrees to provide aid, both executives shall, by concurrent resolution, order the preparation of a survey, an estimate, plans, and specifications for presentation at a joint session. The executives shall place the plans and specifications agreed upon at the meeting on file with the auditor of the county that first offered to aid in the erection or repair of the bridge. The auditor shall keep a complete record of all the proceedings relating to the bridge.

(c) If an executive fails, for a period of thirty (30) days after receiving notice, to join in the building, repair, or purchase of the bridge, then the executive of the first county may build, repair, or purchase the bridge, after first obtaining the written consent of the landowner in the adjoining county whose land will be occupied by any part of the bridge.

(d) The county executives shall jointly appoint a person who will supervise the erection or repair of the bridge, subject to rules adopted by the executives. The executives may require the individual supervising the work to give bond in the manner prescribed by IC 5-4-1.

(e) The executives shall fix the appropriation to pay the cost of the improvement in a joint resolution.

(f) If any county refuses to join in the improvement of the bridge, the county desiring the improvements may proceed on its own, and when the cost does not exceed ten thousand dollars ($10,000), the county making the improvement may recover from each adjoining county affected by the improvement the amount that the county should have paid had it joined in the improvement. If the claim is litigated, the judgment shall include a reasonable fee for the plaintiff's attorney.

(g) All executives in advertising for bids, letting contracts, and requiring affidavits and bonds for bidders and contractors shall proceed under IC 36-1-12. Each county shall be the owner of an interest in any bridge erected, repaired, or purchased under this section.

(Formerly: Acts 1905, c.167, s.45; Acts 1911, c.220, s.1; Acts 1913, c.74, s.1.) As amended by Acts 1981, P.L.57, SEC.25; P.L.86-1988, SEC.187; P.L.113-1989, SEC.10.

IC 8-20-1-36

Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-37
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-38
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-39
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-40
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-41
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-42
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-43
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-44
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-45
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-46
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-47
Errors in proceedings
Sec. 47. A person may not challenge any proceedings under this chapter because of an error unless the party is affected by the error. *(Formerly: Acts 1905, c.167, s.57.) As amended by P.L.66-1984,*

SEC.122; P.L.86-1988, SEC.198.

IC 8-20-1-48
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-49
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-50
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-50.1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-51
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-52
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-53
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-54
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-54.1
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-55
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-56
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-57
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-58
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-59
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-60
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-61
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-62
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-63
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-64
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-65
Repealed
(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 8-20-1-66
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-67
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-68
Repealed
(Repealed by P.L.86-1988, SEC.227.)

IC 8-20-1-69
Repealed

(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-70
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-71
Repealed
(Repealed by P.L.113-1989, SEC.11.)

IC 8-20-1-72
Appeals
Sec. 72. Any person aggrieved by any decision of the executive of any county in any proceeding relating to highways may appeal within thirty (30) days to the circuit court, superior court, or probate court of the county by filing a bond. If the proceedings involve more than one (1) county, the appeal shall be filed in the circuit court, superior court, or probate court of the county where the proceedings were first instituted. The auditor of each county, when notified of an appeal by the auditor of the county where the appeal is filed, shall transmit to the clerk of the court a transcript of all the proceedings in the county. After the appeal is decided, the clerk shall notify the auditors of all interested counties. The appeal shall be tried de novo. The court may make a final determination on the cause appealed, or may refer the case back to the county with directions on how to proceed.
(Formerly: Acts 1905, c.167, s.123.) As amended by P.L.66-1984, SEC.134; P.L.86-1988, SEC.217; P.L.84-2016, SEC.53.

IC 8-20-2
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-20-3

Chapter 3. Eminent Domain for County Road Projects

IC 8-20-3-1

Authority

Sec. 1. A county executive may acquire the lands and rights necessary to widen, straighten, or change the route of any county highway. If the executive is unable to agree with the owner of the land or right on damages or the purchase price, the executive may exercise eminent domain to condemn the land or right necessary to carry out the provisions of this section.

(Formerly: Acts 1935, c.94, s.1.) As amended by P.L.66-1984, SEC.135; P.L.86-1988, SEC.218.

IC 8-20-4
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-20-5
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-20-6
Repealed

(Repealed by Acts 1975, P.L.28, SEC.1.)

IC 8-20-7

Chapter 7. Location of County Highways Over Routes of Abandoned State Highways

IC 8-20-7-1

Authority to locate and establish highway over route of abandoned highway

Sec. 1. When a county highway has been taken over by the Indiana department of transportation and incorporated in the state highway system and is subsequently abandoned as a state highway, the executive of the county where the highway is located may establish a highway over the route of the abandoned highway. The right-of-way of the highway has the same boundaries as the boundaries of the highway when it was abandoned as a state highway. The executive may acquire the land necessary for the right-of-way by donation, purchase, or through the exercise of eminent domain. The executive may remove any obstructions placed on the highway since its abandonment.

(Formerly: Acts 1935, c.238, s.1.) As amended by Acts 1980, P.L.74, SEC.307; P.L.86-1988, SEC.219; P.L.18-1990, SEC.153.

IC 8-20-8

Chapter 8. Temporary Closing of County Roads

IC 8-20-8-1

Time limit; joint action; petition to relocate or permanently close road

Sec. 1. The county executive may temporarily close or relocate a road or a portion of a road that is part of that county's road system for a period not exceeding five (5) years. If the road is located on a county line or if parts of the road are located in more than one (1) county, the road may only be closed under this section by the joint action of the executives of all the counties. The order to temporarily close or relocate may be extended in increments of not more than two (2) years. If a road has been closed or relocated for three (3) or more years under this section, a person who filed the petition under section 2 of this chapter to temporarily close or relocate a road may file a second petition in accordance with this chapter to permanently close or relocate that same road.

As added by Acts 1979, P.L.97, SEC.1. Amended by P.L.86-1988, SEC.220.

IC 8-20-8-2

Petition to close road

Sec. 2. Any person controlling the use of land contiguous to a road may file a petition with the executive to close the road under this chapter.

As added by Acts 1979, P.L.97, SEC.1. Amended by P.L.86-1988, SEC.221.

IC 8-20-8-3

Requisites of petition

Sec. 3. A petition to temporarily or permanently close or relocate a road must include:

(1) the name and address of each petitioner;

(2) the name of the county and township where the road is located;

(3) an exact description of the portion of the road to be closed or relocated;

(4) the length of time the road is to be closed or relocated; and

(5) any detours or alternate routes needed to avoid an unreasonable interference with the flow of traffic on the county road system.

As added by Acts 1979, P.L.97, SEC.1. Amended by P.L.86-1988, SEC.222; P.L.3-1989, SEC.68.

IC 8-20-8-4

Findings and proceedings meriting temporary closure or relocation; permanent closure or relocation

Sec. 4. (a) The county executive may temporarily close or relocate the road in response to the petition if:

(1) the executive finds that closing or relocating the road is in the public interest and economic interest of the county;

(2) the executive finds that closing or relocating the road will not unreasonably interfere with the flow of traffic on the county road system;

(3) the petitioner has filed with the county executive a surety bond, in an amount fixed by the executive, payable to the county and conditioned on the payment of damages which the county may sustain or the restoration of the closed or relocated road;

(4) the plans for the restoration and reconstruction of the road (if the executive elects to have the closed or relocated road restored) are approved by the executive; and

(5) the executive and the petitioner sign a written document stating the terms of the agreement for temporarily closing or relocating the road.

(b) The county executive may permanently close or permanently relocate the road in response to the petition if:

(1) the executive finds that closing or relocating the road is in the public and economic interest of the county;

(2) the executive finds that closing or relocating the road will not unreasonably interfere with the flow of traffic on the county road system; and

(3) the executive and the petitioner sign a written document stating the terms of the agreement for permanently closing or relocating the road.

As added by Acts 1979, P.L.97, SEC.1. Amended by P.L.86-1988, SEC.223.

IC 8-20-8-5

Authority supplementary to vacation; powers of board

Sec. 5. The authority granted the board of commissioners under this chapter supplements and does not replace the authority the board may have under law to permanently vacate a road or street or to close a road or street for routine maintenance and repair.

As added by Acts 1979, P.L.97, SEC.1.

IC 8-20-8-6

Copy of petition to contiguous landowners

Sec. 6. The petitioner shall send a copy of the petition by certified mail to each owner of property contiguous to the road.

As added by Acts 1979, P.L.97, SEC.1. Amended by P.L.86-1988, SEC.224.

IC 8-20-8-7

Chapter not applicable to obstructions or closings before

September 1, 1979

Sec. 7. This chapter does not apply to any temporary obstruction or closing of any county road by any board of commissioners before September 1, 1979.

As added by Acts 1979, P.L.97, SEC.1.

IC 8-21

ARTICLE 21. AERONAUTICS

IC 8-21-1

Chapter 1. Department of Transportation; Aviation Law

IC 8-21-1-1

Definitions

Sec. 1. (a) The definitions in this section apply throughout this article.

(b) "Aeronautics" means:

(1) transportation by aircraft;

(2) the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes;

(3) the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, landing fields, or other air navigation facilities; and

(4) air instruction.

(c) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(d) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision of a government, including the government of any state but not including any government owned aircraft engaged in carrying persons or property for commercial purposes.

(e) "Civil aircraft" means any aircraft other than a public aircraft.

(f) "Airport" means any location either on land or water which is used for the landing and taking off of aircraft.

(g) "Department" refers to the Indiana department of transportation.

(h) "Landing field" means any airport which provides neither facilities nor services other than an area designated for the landing and taking off of aircraft.

(i) "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in aid of air navigation, including:

(1) airports;

(2) landing fields;

(3) any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or landing field; and

(4) any combination of any or all of such facilities.

(j) "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport or landing field

within this state.

(k) "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, is considered to be engaged in the operation of aircraft within the meaning of the Indiana statutes.

(l) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way and (excepting individuals employed outside the United States, any individual employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the individual) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

(m) "Air instruction" means the imparting of aeronautical information by any aeronautics instructor or in or by any air school or flying club.

(n) "Air school" means any person engaged in giving, or offering to give, instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, and advertising, representing, or professing to give or offer to give such instruction.

(o) "Aeronautics instructor" means an individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling the individual's facilities an air school or anything equivalent thereto, and without employing or using other instructors.

(p) "Flying club" means any person other than an individual, which, neither for profit nor reward, owns, leases, or uses one (1) or more aircraft for the purpose of instruction or pleasure, or both.

(q) "Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic. The term includes any trustee, receiver, assignee, or other similar representative.

(r) "State airway" means a route in the navigable air space over and above the lands or water of Indiana designated by the department as a route suitable for air navigation.

(s) "Navigable air space" means air space above the minimum altitudes of flight prescribed by Indiana laws or by rules of the department consistent with Indiana laws.

(t) "Municipality" means any county, city, or town of Indiana and

any other political subdivision, public corporation, authority, or district in Indiana which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and other air navigation facilities.

(u) "Airport protection privileges" means easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of airports or landing fields, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of the airports and landing fields and the safe and efficient operation of airports and landing fields.

(v) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field or is otherwise hazardous to such landing or taking off.

(w) "CAB-certificated air carrier" means an air carrier which is operating under a valid certificate of public convenience and necessity issued by the Civil Aeronautics Board under Public Law 85-726, Title VI, Aug. 23, 1958, 72 Stat. 754, 49 U.S.C. 1371 as amended.

(Formerly: Acts 1945, c.360, s.1; Acts 1963, c.229, s.1; Acts 1975, P.L.93, SEC.1.) As amended by Acts 1980, P.L.74, SEC.308; P.L.3-1989, SEC.69; P.L.18-1990, SEC.154; P.L.8-1993, SEC.147.

IC 8-21-1-2

Purpose

Sec. 2. It is hereby declared that the purpose of this chapter is to further the public interest and aeronautical progress by providing for the protection and increase of safety in aeronautics; by cooperating in effecting a uniformity of the laws relating to the development and regulation of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the building of a statewise system of airports, may cooperate with and assist the political subdivisions of this state and others engaged in aeronautics, and may encourage and develop aeronautics; by establishing uniform regulations, consistent with federal regulations and those of other states, in order that those engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state, by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions properly in the

province of federal agencies.
(Formerly: Acts 1945, c.360, s.2; Acts 1975, P.L.93, SEC.2.)

IC 8-21-1-3
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-4
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-5
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-6
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-7
Federal aid; crediting
Sec. 7. All sums received from the government of the United States and any agency or department thereof as federal aid for aviation purposes except sums received by municipalities under IC 8-21-8-1(c)(2) shall be credited to the department by the auditor of state and shall be used in accordance with federal laws and regulations and the laws of this state.
(Formerly: Acts 1945, c.360, s.7; Acts 1975, P.L.93, SEC.7.) As amended by Acts 1980, P.L.74, SEC.309.

IC 8-21-1-8
Powers and duties
Sec. 8. (a) The department shall encourage, foster, and assist in the development of aeronautics in this state and shall encourage the establishment of airports, landing fields, and other navigation facilities.

(b) The department shall cooperate with and assist the federal government, the political subdivisions of this state, and others engaged in aeronautics or the advancement of aeronautics and shall seek to coordinate the aeronautical activities of these bodies.

(c) All rules prescribed by the department concerning aeronautics shall be kept in conformity with, and limited to as nearly as may be, the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder.

(d) The department shall develop and continuously update a proposed state airports system plan which will best serve the interests of the state and its political subdivisions. Such state airports system plan shall be coordinated with the national airport plan prepared by

the federal agency fostering civil aviation.

(e) The department may publish and revise from time to time a state airways system plan, and maps, directories, or other materials deemed necessary may be sold by the department at a price which shall be fixed by the department. All money accruing from the sale of any such publication:

(1) shall be paid into the state treasury;

(2) shall be credited to the department; and

(3) is hereby appropriated to such department to be used for future publications by the department, without reversion to the general fund of the state at the end of any fiscal year. However, any time the balance in said fund exceeds ten thousand dollars ($10,000), such excess shall revert to the general fund of the state.

(f) The department may offer the engineering or other technical advice of the department, without charge, to any municipality or person desiring them in connection with the construction, maintenance, or operation or proposed construction, maintenance, or operation of an airport or landing field.

(g) The department may recommend necessary legislation to advance the interests of the state in aeronautics and represent the state in aeronautical matters before federal agencies and other state agencies.

(h) The department shall have the power to approve or disapprove all purchases made by any municipality of any land to be used by said municipality for the establishment of any airport or landing field, and the establishment by any municipality of any airport or landing field.

(i) The department may participate as party plaintiff or defendant, or as intervener on behalf of the state or any municipality or citizen thereof in any controversy having to do with any claimed encroachment by the federal government or any foreign state upon any state or individual rights pertaining to aeronautics.

(j) Municipalities are authorized to cooperate with the department in the development of aeronautics and aeronautical facilities and services of other agencies of the state to the utmost extent possible, and such agencies are authorized and directed to make available such facilities and services.

(k) The department, or any employee designated by it, shall have the power to hold investigations, and hearings concerning matters covered by this chapter and orders and rules of the department, in accordance with IC 4-21.5. All hearings so conducted shall be open to the public. The reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding, growing out of any matter referred to in said investigation, hearing, or report thereof, except in case of criminal or other proceedings instituted in behalf of the department or this state under the provisions of this chapter and other laws of

this state.

(l) The department may render advice in the acquisition, development, operation, or maintenance of airports owned, controlled, or operated, or to be owned, controlled, or operated, by municipalities in this state.

(m) The department may not grant any exclusive right for the use of any airway, airport, landing field, or other air navigation facility under its jurisdiction. This subsection shall not prevent the making of leases in accordance with other provisions of this chapter.

(n) Gifts or grants of money for aeronautical purposes may be received by the state and shall be deposited in an aviation fund. Disbursal of such funds shall be for aeronautical purposes only or for the purpose for which they were given or granted. Gifts or grants of property for aeronautical purposes may be received by the state and shall be used for the purpose given or granted. Gifts or grants of money or property for aeronautical purposes must be administered in the same manner as other gifts and grants received by the state are administered.

(o) The department may adopt rules under IC 4-22-2 for the control of aircraft accident sites in Indiana. Until representatives of appropriate federal agencies arrive on the site of an aircraft accident, state and local law enforcement agencies and accident investigation agencies shall comply with any rules adopted by the department under this section.

(p) The department may, with written approval of the budget agency, purchase and operate aircraft forfeited under IC 34-24-1 (or IC 34-4-30.1 before its repeal). When the department acquires an aircraft, it shall pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, and advertising and court costs.

(Formerly: Acts 1945, c.360, s.8; Acts 1951, c.300, s.1; Acts 1975, P.L.93, SEC.8.) As amended by Acts 1979, P.L.98, SEC.1; Acts 1979, P.L.99, SEC.1; Acts 1980, P.L.74, SEC.310; Acts 1981, P.L.11, SEC.67; Acts 1982, P.L.62, SEC.12; P.L.7-1987, SEC.13; P.L.18-1990, SEC.155; P.L.1-1998, SEC.90; P.L.2-2014, SEC.34.

IC 8-21-1-9

Cooperation with United States; accepting federal aid; deposit of money

Sec. 9. (a) The department is authorized to cooperate with the government of the United States, and any agency or department thereof, in the acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities in this state, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other navigation facilities.

(b) The department may accept, receive, and receipt for federal money and other moneys, either public or private, for and in behalf

of any municipality or person, for the acquisition, construction, improvement, maintenance, and operation of airports and other navigation facilities, where such work is to be done by such municipalities or persons aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder.

(c) All moneys accepted for disbursement by the department in accordance with the provisions of this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. The department is authorized, whether acting for this state or as the agent of any of its municipalities, or when requested by the United States government or any agency or department thereof, to disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

(Formerly: Acts 1945, c.360, s.9; Acts 1975, P.L.93, SEC.9.) As amended by P.L.16-1983, SEC.8.

IC 8-21-1-10

Approval of proposed and established airport sites

Sec. 10. (a) The department may issue certificates of approval to both proposed airport sites and established airports.

(b) Any municipality or person desiring to acquire, establish, construct or lease any airport or landing field in this state for the use of airplanes or other aircraft shall, prior to the acquisition of the site or prior to the construction or establishment of the proposed airport, make application to the department for approval of such site. The department shall, with reasonable dispatch, grant approval of a site if it is satisfied:

(1) that the site is adequate for the airport or landing field proposed;

(2) that such proposed airport, if constructed or established, will conform to the minimum standards of safety as may be established or prescribed by the department;

(3) that safe air traffic patterns could be worked out for such proposed airport and for all existing airports and approved airport sites in its vicinity; and

(4) that an airport master plan or airport layout plan for the airport is filled with the department.

An approval of each site may be granted subject to any reasonable conditions which the department may deem necessary to effectuate the purposes of this chapter and which remain in effect, unless sooner revoked by the department, until a certificate of approval of an airport located on the approved site has been issued pursuant to its rules and regulations.

(c) The department shall issue a certificate of approval to any established airport which conforms to minimum standards of safety as many from time to time be prescribed by the department.

(d) The department may revoke a certificate of approval when:

(1) there has been an abandonment of the site as an airport site; or

(2) there has been a failure within the time prescribed, or if no time was prescribed, within a reasonable time to develop the site as an airport; or

(3) there has been a failure to maintain compliance with the conditions of the approval certificate; or

(4) because of change of physical or legal conditions or circumstances the site is no longer usable for aeronautical purposes for which the approval was granted.

(e) This section does not apply to airports owned or operated by the United States. The department may, from time to time, to the extent necessary, exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or regulation promulgated under this section or from any requirement of such a rule or regulation, if it finds that the application of such rule, regulation or requirement would be an undue burden on such class and is not required in the interest of public safety.

(f) To carry out the provisions of this chapter, the department may inspect and examine at reasonable hours any of the premises of an airport or landing area within this state.

(g) The department shall annually issue Certificates of Approval to:

(1) airports which do not serve a CAB-certificated air carrier and which the department determines, by means of an annual on-site inspection, to be in compliance with its rules and regulations; and

(2) airports which serve a CAB-certificated air carrier and which have a valid Airport Operating Certificate as issued by the Federal Aviation Administration. However, if federal authorities abandon or relinquish on-site inspection of this class of airports, the department shall issue a Certificate of Approval subject to the inspection and compliance requirement in paragraph (1) of this subsection.

(h) The department shall classify all airports, landing fields and other air navigation facilities within the state, such classification to be in accord as nearly as practicable with those of the Federal Aviation Administration. It shall issue and publish an annual directory of such air navigation facilities.

(Formerly: Acts 1945, c.360, s.10; Acts 1951, c.300, s.2; Acts 1975, P.L.93, SEC.10.) As amended by Acts 1977, P.L.114, SEC.1; Acts 1980, P.L.74, SEC.311.

IC 8-21-1-10.1

Exemptions

Sec. 10.1. (a) For purposes of this section and section 10.2 of this chapter, a "lighter-than-air aircraft" means a gas or hot air filled free balloon, with or without airborne heaters or engines, or any other type of balloon designed to transport persons or goods.

(b) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for agricultural application if the applicator:

(1) is licensed as a pesticide operator by the state chemist and has met the requirements of IC 15-16-5-48; and

(2) has received permission to use the land for agricultural aviation purposes from the owner or lessee of the land.

(c) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites for helicopters if the operator of the helicopter:

(1) meets Federal Aviation Administration qualifications for operation of the specific aircraft;

(2) determines that air routes to and from the site are acceptable to the aircraft's limitations and that proposed routes in congested areas provide for emergency landings in the event that an autorotation descent is necessary;

(3) follows all Federal Aviation Administration regulations covering landing on and departing from the site; and

(4) has received permission to use the site from the owner or lessee of the site.

(d) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for lighter-than-air aircraft. However, no person may operate a lighter-than-air aircraft from any landing site unless the pilot is in compliance with:

(1) all applicable federal air regulations; and

(2) all rules and regulations adopted by the department which relate to the operation of a lighter-than-air aircraft.

As added by Acts 1979, P.L.100, SEC.1. Amended by Acts 1980, P.L.74, SEC.312; Acts 1982, P.L.62, SEC.13; P.L.2-2008, SEC.26.

IC 8-21-1-10.2

Violation of IC 8-21-1-10.1 as Class B infraction

Sec. 10.2. (a) Any person not meeting the qualifications of section 10.1 of this chapter who uses a provisional aircraft landing site, which has not been issued a certificate of approval from the department, for agricultural application or helicopter operations commits a Class B infraction.

(b) Any person who operates a lighter-than-air aircraft in violation of section 10.1 of this chapter commits a Class B infraction.

As added by Acts 1979, P.L.100, SEC.2. Amended by Acts 1980, P.L.74, SEC.313.

IC 8-21-1-10.5
Airport approval certificates; number of flights

Sec. 10.5. (a) As used in this section, "hospital" means a facility licensed under IC 16-21.

(b) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites apply to a landing site operated by a hospital or fire department only if the hospital or fire department regularly receives or dispatches an average of more than one (1) helicopter during seven (7) consecutive days.

(c) The average number of helicopter flights under subsection (b) shall be determined and reviewed on an annual basis.

As added by P.L.105-1993, SEC.1. Amended by P.L.1-1994, SEC.37.

IC 8-21-1-11
Repealed

(Repealed by Acts 1982, P.L.1, SEC.71.)

IC 8-21-1-12
Obstructing airport inspection

Sec. 12. A person who recklessly prevents or obstructs the department from inspecting an airport as authorized by this chapter commits a Class B misdemeanor.

(Formerly: Acts 1945, c.360, s.12; Acts 1975, P.L.93, SEC.12.) As amended by Acts 1978, P.L.2, SEC.858; Acts 1980, P.L.74, SEC.315.

IC 8-21-1-13
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-14
Public use airport development; utilization of airport facilities; use of airport development funds; duties of sponsor

Sec. 14. (a) The department shall encourage the development of public use airports (as defined in 49 U.S.C. 47102).

(b) The department shall encourage the utilization and preservation of necessary airport facilities that are included in the National Airport and Airways System Plan and the state airports system plan and that:

(1) have been developed and maintained by private enterprise;

(2) meet the requirements of section 10 of this chapter concerning certification of airports; and

(3) have been established and are used by the public as a municipal purpose airport as described under IC 6-1.1-10-15.

(c) The department may participate and cooperate with the

Federal Aviation Agency and with the sponsor (as defined in IC 8-21-8-1) and owner of a public use airport (as defined in 49 U.S.C. 47102) by using airport development funds administered by the department.

(d) The sponsor of any approved airport development project must:

(1) provide the sponsor's share of funds for the project; and

(2) meet any other requirements for participation and operation of the airport.

(e) IC 8-21-8-1 applies to this section.

As added by P.L.128-1987, SEC.1. Amended by P.L.1-1999, SEC.21.

IC 8-21-2

Chapter 2. Aircraft Standards and Licensing of Pilots

IC 8-21-2-1

"Aircraft" defined

Sec. 1. In this chapter, "aircraft" means any contrivance known or invented after May 21, 1929, used or designed for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. "Operating aircraft" means performing the services of aircraft pilot.

(Formerly: Acts 1929, c.171, s.1.) As amended by P.L.66-1984, SEC.136.

IC 8-21-2-2

Standards

Sec. 2. Aircraft operating within this state shall conform with respect to design, construction and airworthiness to the standards prescribed by the United States government, with respect to navigation of aircraft subject to its jurisdiction, and it shall be unlawful for any person to navigate an aircraft within this state unless it is licensed and registered by the department of commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States government, then in force.

(Formerly: Acts 1929, c.171, s.2.)

IC 8-21-2-3

Licensing

Sec. 3. A person engaging within this state in navigating the aircraft described in section 2 hereof in any form of navigation for which license to operate such aircraft would be required by the United States government shall have the qualifications necessary for obtaining and holding the class of license required by the United States government. It shall be unlawful for any person to engage in operating such aircraft within this state in any form of navigation unless he or she have such license.

(Formerly: Acts 1929, c.171, s.3.)

IC 8-21-2-4

Personal possession of license

Sec. 4. The certificate of the license herein required shall be kept in the personal possession of the licensee when he or she is operating aircraft within this state and must be presented for inspection upon the demand of any passenger, any peace officer of this state or any official, manager or person in charge of any airport or landing field in this state, upon which he or she shall land.

(Formerly: Acts 1929, c.171, s.4.)

IC 8-21-2-5

Violations

Sec. 5. A person who violates this chapter commits a Class B misdemeanor.

(Formerly: Acts 1929, c.171, s.5.) As amended by Acts 1978, P.L.2, SEC.859.

IC 8-21-3

Chapter 3. Aircraft Financial Responsibility Act

IC 8-21-3-1

Definitions

Sec. 1. The following words and phrases when used in this chapter shall, for the purpose of this chapter, unless a different meaning appears from the context, have the following meanings:

(1) The singular shall include the plural; the masculine shall include the feminine and neuter, as requisite.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Aircraft accident" means any mishap involving an aircraft resulting in injury or damage to such aircraft or to any person, property, or thing.

(4) "Department" refers to the Indiana department of transportation; and "state" or "this state" means the state of Indiana.

(5) "Guest" means any person who rides in an aircraft for which no charge is made for such ride or flight.

(6) "Insured" means the person in whose name there is issued an aircraft liability policy (as defined in section 12 of this chapter) and any other person insured under the terms of such policy.

(7) "Judgment" means any judgment, except a judgment rendered against this state or any political subdivision thereof or any municipality therein, which shall have become final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States.

(8) "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, including an aircraft otherwise considered inventory, if it is operated in flight, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

(9) "Operator" means any person who is in actual physical control of an aircraft.

(10) "Owner" means any person in whose name the aircraft is certificated, licensed, or registered by appropriate federal or state authority.

(11) "Passenger" means any person in, on or boarding an aircraft for the purpose of riding therein, or alighting therefrom, following a flight or attempted flight therein.

(12) "Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Policy" or "insurance policy" means an aircraft liability policy conforming to section 12 of this chapter.

(14) "Proof of financial responsibility" has the meaning set forth in section 8 of this chapter.

(Formerly: Acts 1951, c.267, s.1; Acts 1953, c.85, s.1.) As amended by Acts 1980, P.L.74, SEC.316; P.L.18-1990, SEC.156; P.L.8-1993, SEC.148; P.L.102-2015, SEC.3.

IC 8-21-3-2
Proof of financial responsibility

Sec. 2. The department may require proof of financial responsibility for a period of one (1) year in the manner provided for in this chapter.

(Formerly: Acts 1951, c.267, s.2.) As amended by Acts 1980, P.L.74, SEC.317.

IC 8-21-3-3
Report of accidents

Sec. 3. Any person who, while operating any aircraft, shall have been involved in any aircraft accident in this state resulting in bodily injury or death, or in damage to property of another in excess of one hundred dollars ($100) or the owner of such aircraft, shall within ten (10) days following such aircraft accident report the same to the department. Aircraft accident reports, as herein required, shall be submitted in such form as the department may prescribe.

(Formerly: Acts 1951, c.267, s.3; Acts 1953, c.85, s.2.) As amended by Acts 1980, P.L.74, SEC.318.

IC 8-21-3-4
Reports; security

Sec. 4. (a) The department may require, within not less than ten (10) days nor more than sixty (60) days after an aircraft accident from any person, who, while operating any aircraft shall have been involved in any aircraft accident resulting in bodily injury or death to any person other than a guest passenger of such aircraft or in damage to property of another, other than property owned, rented, occupied, or used by, or in the care, custody or control of the owner or operator or carried in or on the aircraft, in excess of one hundred dollars ($100), or, in the discretion of the department, the owner of such aircraft, or both, secured sufficient in the discretion of the department to indemnify the injured party against loss and guarantee the payment and satisfaction of any judgment or judgments for damages resulting from such accident as may be recovered against such owner or operator by or on behalf of the injured person or his

legal representative, and in addition thereto, the department may require such operator, or in the department's discretion, the owner of such aircraft, or both, to file proof of financial responsibility for a period of one (1) year following the date of the accident: Provided, however, that if such owner operator shall satisfy the department that the liability, if any, for damages resulting from such accident is insured by an insurance policy or bond, the department shall not require security from such owner operator.

(b) Such security, where ordered, shall be in such form and in such amount as the department may require, but in no case in excess of the amount of proof required by section 8 of this chapter. The department may modify the amount of security ordered in any case, if after further investigation it shall determine that the amount ordered is improper.

(Formerly: Acts 1951, c.267, s.4; Acts 1953, c.85, s.3.) As amended by Acts 1980, P.L.74, SEC.319.

IC 8-21-3-5

Injunction of operation of aircraft

Sec. 5. If the person required to furnish proof of financial responsibility in the future or if the person required to furnish financial security under this chapter, neglects or refuses to comply with such requirements, the department, the attorney general or the prosecuting attorney of the county in which such party resides, may, in accordance with the laws of the state of Indiana governing injunctions, maintain an action in the name of the state of Indiana to enjoin such person neglecting or refusing to comply with the financial responsibility or security requirements of this chapter from engaging in the operation of any aircraft or causing to be operated any aircraft within this state until such person has complied with such requirements or until such person has, by final judicial determination, been proved not legally liable for, or has been released from all liability for damages resulting from such aircraft accident.

(Formerly: Acts 1951, c.267, s.5.) As amended by Acts 1980, P.L.74, SEC.320.

IC 8-21-3-6

Payment from security deposit; information regarding security

Sec. 6. (a) Security furnished in compliance with the requirements of this chapter shall be placed by the department in the custody of the treasurer of state and shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law in a court of this state begun not later than one (1) year after the date of such accident or, upon assignment of the depositor. All such payments made out of the deposited security shall be made as follows:

(1) Payment shall first be made to each of the judgment

creditors in the order of judgment entry and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the department, in an amount not greater than the amount fixed in their respective evaluations.

(2) Whenever the department shall be given evidence, satisfactory to it, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first distribution to each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the department, in proportion to the amounts of their respective evaluations unless there is a sufficient amount to make payment in full.

(3) Any balance remaining after the first and second distributions are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is a sufficient amount to make payment in full.

Such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever after the expiration of such year the department shall be given evidence, satisfactory to it, that there is no such judgment unsatisfied and that there is no pending action against the depositor for damages arising out of such accident.

(b) Neither the action taken by the department pursuant to this chapter, the findings, if any, of the department upon which such action is based, nor the security filed by the owner or operator as provided in this chapter shall be referred to in any way, nor be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages.

(c) In lieu of deposit of security when required pursuant to this chapter the aircraft owner or operator may, if the person who has sustained bodily injury, including death, or damage to his property or his legal representative consents, effect and deliver a consent judgment or release for such amount and payable when and in such installments as the judgment creditor or claimant may agree to. In the event the judgment debtor fails to pay any installment as agreed, then upon notice of such default, the department, the attorney-general, or the prosecuting attorney may pursuant to section 5 of this chapter maintain an action to enjoin such person from engaging in the operation of any aircraft or causing to be operated any aircraft within this state until such judgment is appropriately satisfied as required herein.

(d) Information regarding security taken under this section shall be available to the person injured or the representative of any person

killed and their duly authorized agents or attorney.
(Formerly: Acts 1951, c.267, s.6.) As amended by Acts 1980, P.L.74, SEC.321; P.L.1-1993, SEC.51.

IC 8-21-3-7
Nonresidents

Sec. 7. (a) The provisions of this chapter shall apply to any person who is not a resident of this state under the same circumstances as they would apply to a resident, and, in such event, such a nonresident shall not operate any aircraft in this state nor shall any aircraft owned by him be operated in this state, unless and until such nonresident, or the owner of the aircraft, if another person, has complied with the requirements of this chapter with respect to security and proof of financial responsibility covering such aircraft.

(b) The operation by a nonresident, or by his duly authorized agent, of an aircraft in this state shall be deemed equivalent to an appointment by such nonresident of the secretary of state, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against him, growing out of any aircraft accident in which such nonresident may be involved while so operating or so permitting to be operated an aircraft in this state, and such operation shall be signification of his agreement that any such process against him, which is so served, shall be of the same legal force and validity as if served upon him personally. Such action may be filed in the county of the residence of the plaintiff or in the county where the accident occurred, at the election of the plaintiff, and service of such process shall be made by leaving a copy thereof, with a fee of two dollars ($2), for such defendant to be served, with the secretary of state, or in his office, and such service shall be sufficient service upon such nonresident, provided that notice of such service and a copy of the process are forthwith sent by registered mail to the defendant and the defendant's return receipt is appended to the original process and filed therewith in the court. In the event that the defendant refuses to accept or claim such registered mail, then such registered mail shall be returned by the secretary of state to the plaintiff or to his attorney, and the same shall be appended to the original process, together with an affidavit of the plaintiff or of his attorney or agent to the effect that such summons was delivered to the secretary of state, together with a fee of two dollars ($2), and was thereafter returned unclaimed by the postoffice department, and such affidavit, together with the returned affidavit including said summons, shall be considered sufficient service upon such nonresident defendant. The court in which the action is brought may order such continuances as may be reasonable to afford the defendant opportunity to defend the action.

(c) No insurance policy or bond shall be effective under section 4 of this chapter in the case of an aircraft owned or operated by a nonresident in this state at the time of the accident or at the effective

date of the policy or bond, or the most recent renewal thereof, unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the secretary of state to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

(Formerly: Acts 1951, c.267, s.7; Acts 1953, c.85, s.4.) As amended by P.L.66-1984, SEC.137.

IC 8-21-3-8

"Proof of financial responsibility"

Sec. 8. For purposes of this article, "proof of financial responsibility" means proof of the ability to satisfy a claim for damages arising from liability for the ownership, maintenance, or use of an aircraft, in the following amounts:

(1) One hundred thousand dollars ($100,000) for the bodily injury or death of one (1) person.

(2) Two hundred thousand dollars ($200,000) for the bodily injury or death of two (2) or more persons in any one (1) accident.

(3) One hundred thousand dollars ($100,000) for damage to property in any one (1) accident.

(Formerly: Acts 1951, c.267, s.8.) As amended by P.L.102-2015, SEC.4.

IC 8-21-3-9

Methods of proof

Sec. 9. Proof of financial responsibility when required under this chapter may be given by the following alternate methods, either by proof:

(1) that a policy or policies of aircraft liability insurance have been obtained and are in full force and effect;

(2) that a bond has been duly executed; or

(3) that deposit has been made of money or securities;

all as provided in this chapter.

(Formerly: Acts 1951, c.267, s.9.) As amended by P.L.66-1984, SEC.138.

IC 8-21-3-10

Filing of insurance certificates

Sec. 10. (a) Proof of financial responsibility may be made by filing with the department the written certificate or certificates of any insurance carrier certifying that it has issued to or for the benefit of the person furnishing such proof and named as the insured, an aircraft liability policy or policies meeting the requirements of this chapter, and such other information as the department may require.

(b) When the person required to give proof of financial responsibility, is not the owner of an aircraft, then an operator's

policy of liability insurance as defined in this chapter shall be sufficient proof of financial responsibility.
(Formerly: Acts 1951, c.267, s.10.) As amended by Acts 1980, P.L.74, SEC.322.

IC 8-21-3-11
Default of foreign insurance carrier

Sec. 11. If any foreign insurance carrier which has furnished proof of financial responsibility defaults in any said undertakings or agreements, the department shall not thereafter accept any certificate of said carrier whether theretofore filed or thereafter tendered as proof of financial responsibility so long as such default continues.
(Formerly: Acts 1951, c.267, s.11.) As amended by Acts 1980, P.L.74, SEC.323.

IC 8-21-3-12
"Aircraft liability policy" defined

Sec. 12. An aircraft liability policy as said term is used in this chapter, shall mean an owner's policy of liability insurance or an operator's policy of liability insurance for which a certificate has been filed with the department by an insurance carrier authorized to do business in this state pursuant to the insurance laws of this state for the benefit of the person named therein as insured; which policy shall contain the terms, conditions and provisions required by the laws of this state and with sufficient liability coverage to meet the security and proof of financial responsibility requirements established within the purview of section 4 and pursuant to this chapter by the department as a result of an aircraft accident occurring within this state and shall be approved by the insurance commissioner of the state of Indiana.
(Formerly: Acts 1951, c.267, s.12; Acts 1953, c.85, s.5.) As amended by Acts 1980, P.L.74, SEC.324.

IC 8-21-3-13
Certificate of issuance of insurance policy

Sec. 13. An insurance carrier which has issued an aircraft liability policy or policies meeting the requirements of this chapter shall, upon request of the named insured, deliver to such insured for filing or at the request of such insured shall file direct with the department, an appropriate certificate showing that such policy or policies have been issued, which certificate shall meet the requirements of this chapter. The issuance of a certificate to serve as proof of financial responsibility under this chapter shall be conclusive evidence that every aircraft liability policy therein cited conforms to all the requirements of this chapter.
(Formerly: Acts 1951, c.267, s.13.) As amended by Acts 1980, P.L.74, SEC.325.

IC 8-21-3-14
Notice of cancellation

Sec. 14. When an insurance carrier has certified an aircraft liability policy under this chapter for the purpose of furnishing evidence of future financial responsibility, it shall give ten (10) days' written notice to the department before effecting a cancellation of such policy and the policy shall continue in full force and effect until the date of such cancellation specified in such notice or until its expiration.

(Formerly: Acts 1951, c.267, s.14.) As amended by Acts 1980, P.L.74, SEC.326.

IC 8-21-3-15
Bond giving proof of financial responsibility

Sec. 15. (a) A person required to give proof of financial responsibility may file with the department a bond meeting the requirements of this section. Such bond shall be executed by the person giving such proof and by a surety company duly authorized to transact business in this state pursuant to the laws of this state.

(b) The department shall not accept any such bond unless it is conditioned for payments in amounts and under the same circumstances as would be required in an aircraft liability policy furnished by the person giving such proof under this chapter.

(c) No such bond shall be cancelled unless ten (10) days' prior written notice of cancellation is given the department but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation.

(d) If a judgment is rendered against the principal of any such surety bond upon a liability covered by the conditions of such bond and such judgment is not satisfied within sixty (60) days after it becomes final, the department may require the judgment creditor to bring an action or actions, at his sole expense, against the company or person which executed such bond for the recovery of said judgment.

(Formerly: Acts 1951, c.267, s.15; Acts 1953, c.85, s.6.) As amended by Acts 1980, P.L.74, SEC.327.

IC 8-21-3-16
Deposit with treasurer giving proof of financial responsibility

Sec. 16. (a) A person may give proof of financial responsibility by delivering to the department a receipt of the treasurer of this state showing a deposit with said treasurer of an amount consistent with the provisions of section 8 of this chapter in cash or of securities such as may legally be purchased at savings banks or for trust funds of a market value in the full amount required.

(b) All moneys or securities so deposited shall be subject to execution to satisfy any judgment mentioned in this chapter or

settlement agreed upon, but shall not otherwise be subject to attachment or execution.

(c) The state treasurer shall not accept any such deposit or issue a receipt therefor, and the department shall not accept such receipt, unless accompanied by evidence that there are no unsatisfied judgments of record against the depositor in the county where the depositor resides, for which he is not exempt.

(Formerly: Acts 1951, c.267, s.16.) As amended by Acts 1980, P.L.74, SEC.328.

IC 8-21-3-17

Substitution of proof of financial responsibility

Sec. 17. The department shall cancel any bond or return any certificate of insurance, or the department shall direct and the state treasurer shall return any money or securities, to the person entitled thereto, upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

(Formerly: Acts 1951, c.267, s.17.) As amended by Acts 1980, P.L.74, SEC.329.

IC 8-21-3-18

Inadequate security; requiring alternative security

Sec. 18. Whenever any proof of financial responsibility filed by any person under this chapter no longer fulfills the purpose for which required, the department shall, for the purpose of this chapter, require other proof of financial responsibility as required by this chapter.

(Formerly: Acts 1951, c.267, s.18.) As amended by Acts 1980, P.L.74, SEC.330.

IC 8-21-3-19

Cancellation; waiver of proof of financial responsibility

Sec. 19. The department shall upon request cancel any bond or return any certificate of insurance, or the department shall direct and the state treasurer shall return to the person entitled thereto any money or securities, deposited pursuant to this chapter as proof of financial responsibility or waive the requirement of filing proof of financial responsibility when the purposes for the requiring of such proof have been satisfied.

(Formerly: Acts 1951, c.267, s.19.) As amended by Acts 1980, P.L.74, SEC.331.

IC 8-21-3-19.5

Aircraft rental; notice of insurance coverage

Sec. 19.5. (a) Each person offering an aircraft for rental shall, at the time the aircraft is rented, provide the renter of the aircraft with written notice of the nature and extent of any insurance covering the aircraft as specified in subsection (b).

(b) The form of the notice required by subsection (a) must be as

follows:

NOTICE OF INSURANCE COVERAGE

As a renter of aircraft, you are hereby notified that:

(1) You (are)(are not) (strike phrase not applicable) insured under a policy or policies of insurance provided by the undersigned and providing liability coverage to renters of aircraft. If coverage is provided, it is in the amount of $_____.

(a) The above insurance is subject to a deductible amount of $_____.

(2) You (are)(are not) (strike phrase not applicable) insured for hull damage to the aircraft. If hull insurance is provided, it is in the amount of $____.

(a) The above insurance is subject to a deductible amount of $____.

(3) Although insurance may be provided for liability or hull coverage (or both), the undersigned's insurance carrier has full rights to subrogate against you for any payments it may be required to make on account of any damage or loss arising out of your operation of the aircraft. It is suggested that you carry insurance to protect you to partially or fully cover this possibility.

_____

(Signature of Person or Officer of
Company Renting Aircraft)

Dated _____, 20_____
(Month) (Day) (Year)

I acknowledge receipt of this notice of insurance coverage.

Dated _____, 20_____
(Month) (Day) (Year)

(c) The notice required by this section constitutes a part of a rental agreement, whether written or oral. Each renter must provide written acknowledgment of receipt of the notice.

(d) Receipt of notice under this section constitutes notice for a subsequent rental of the same aircraft to the same person unless the amount of insurance coverage has been reduced or eliminated (as specified in the original notice), in which case a new notice is required.

(e) A person offering an aircraft for rental shall maintain a copy of the notice provided to each renter for at least three (3) years from the date of the last rental to that renter.

(f) A person offering an aircraft for rental who fails to provide notice as required by this section commits a Class A infraction.

As added by P.L.120-1989, SEC.1. Amended by P.L.2-2005, SEC.28.

IC 8-21-3-20
Violations; penalties

Sec. 20. A person who fails to submit an accident report to the department as provided in section 3 of this chapter commits a Class

C infraction.
(Formerly: Acts 1951, c.267, s.20.) As amended by Acts 1978, P.L.2, SEC.860; Acts 1980, P.L.74, SEC.332.

IC 8-21-3-21
Construction of chapter

Sec. 21. This chapter shall not be construed to prevent the plaintiff in any action at law from relying upon other security or upon the other processes provided by law.
(Formerly: Acts 1951, c.267, s.22.) As amended by P.L.66-1984, SEC.139.

IC 8-21-3-22
Certificate of self-insurance

Sec. 22. (a) The department may, in its discretion, upon the application of such a person issue a certificate of self-insurance when it is reasonably satisfied that such person is possessed of and will continue to be possessed of financial ability to respond to judgments, as hereinbefore described, obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's aircraft.

(b) Upon not less than five (5) days' notice and a hearing pursuant to such notice, the department may, in its discretion and upon reasonable grounds, cancel a certificate of self-insurance.
(Formerly: Acts 1951, c.267, s.24.) As amended by Acts 1980, P.L.74, SEC.333.

IC 8-21-3-23
Title

Sec. 23. This chapter shall be known and may be cited as the Indiana Aircraft Financial Responsibility Act.
(Formerly: Acts 1951, c.267, s.25.) As amended by P.L.66-1984, SEC.140.

IC 8-21-4

Chapter 4. Uniform State Law for Aeronautics

IC 8-21-4-1

Definitions

Sec. 1. In this chapter:

"Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, shall be governed by the rules regarding water navigation. While being operated through the air otherwise than immediately above water, it shall be treated as an aircraft.

"Aeronaut" includes aviator, pilot, balloonist, and every other person having any part in the operation of aircraft while in flight.

"Passenger" includes any person riding in an aircraft but having no part in its operation.

"Pilot" means the person who has final authority and responsibility for the operation and safety of an aircraft in flight.

(Formerly: Acts 1927, c.43, s.1.) As amended by P.L.66-1984, SEC.141; P.L.102-2015, SEC.5.

IC 8-21-4-2

Sovereignty

Sec. 2. Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

(Formerly: Acts 1927, c.43, s.2.)

IC 8-21-4-3

Ownership of air space

Sec. 3. The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in section 4 of this chapter.

(Formerly: Acts 1927, c.43, s.3.) As amended by P.L.66-1984, SEC.142.

IC 8-21-4-4

Use of air space; landing on private property

Sec. 4. Flight in aircraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or water of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however,

the owner or lessee of the aircraft or the aeronaut shall be liable, as provided in section 5.
(Formerly: Acts 1927, c.43, s.4.)

IC 8-21-4-5
Collisions; liability

Sec. 5. The liability of the owner of one aircraft to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damages caused by collision on land, or in the air, shall be determined by the rules of law applicable to torts on land.
(Formerly: Acts 1927, c.43, s.6.)

IC 8-21-4-6
Liability; vicarious liability

Sec. 6. (a) All offenses, torts, and other wrongs committed by or against an aeronaut or passenger while in flight over Indiana shall be governed by Indiana laws; and the question whether damage occasioned by or to an aircraft while in flight over Indiana constitutes an offense, tort, or other wrong by or against the owner of the aircraft shall be determined by Indiana laws.

(b) This article does not impose vicarious liability for damages on an owner of an aircraft who is not the pilot unless:

(1) the owner engages in negligent, reckless, knowing, intentional, or unlawful conduct that is the proximate cause of the damages;

(2) an agency relationship exists between the owner and the person who proximately caused the damages; or

(3) the owner's liability is based on the doctrine of respondeat superior.

(c) This article is not intended to modify or amend Indiana law with respect to:

(1) bailments; or

(2) bailor liability.

(Formerly: Acts 1927, c.43, s.7.) As amended by Acts 1978, P.L.2, SEC.861; P.L.102-2015, SEC.6.

IC 8-21-4-7
Contracts entered while in flight

Sec. 7. All contractual and other legal regulations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.
(Formerly: Acts 1927, c.43, s.8.)

IC 8-21-4-8
Operation of aircraft while under influence of liquor or drugs; health disorder; dropping objects while in flight; offenses

Sec. 8. It is a Class B misdemeanor for a person to operate an aircraft while he is under the influence of intoxicating liquor or a

controlled substance. It is a Class B misdemeanor for a person to operate an aircraft if he has been diagnosed by a physician as having an active case of epilepsy or similar disorders characterized by lapses of consciousness, or if he is under the influence of any drug or medicine for treatment of such a disorder which may bring about lapses of consciousness. It is a Class B misdemeanor for a person in an aircraft to drop anything from an aircraft in flight which may create any hazard to persons or property.
(Formerly: Acts 1927, c.43, s.9; Acts 1947, c.42, s.1; Acts 1951, c.39, s.1.) As amended by Acts 1978, P.L.2, SEC.862.

IC 8-21-4-9
Killing any birds or animals; offense
Sec. 9. A person who, while in flight in an aircraft, intentionally kills a bird or animal commits a Class B misdemeanor.
(Formerly: Acts 1927, c.43, s.10.) As amended by Acts 1978, P.L.2, SEC.863.

IC 8-21-4-10
Construction of chapter
Sec. 10. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of aeronautics.
(Formerly: Acts 1927, c.43, s.11.) As amended by P.L.66-1984, SEC.143.

IC 8-21-4-11
Title
Sec. 11. This chapter may be cited as the "Uniform State Law for Aeronautics".
(Formerly: Acts 1927, c.43, s.12.) As amended by P.L.66-1984, SEC.144.

IC 8-21-5

Chapter 5. Aircraft Guest Statute

IC 8-21-5-1

Liability; guests defined

Sec. 1. (a) As used in this section, "child" or "stepchild" includes a child or stepchild of any age.

(b) The owner, operator, or person responsible for the operation of an aircraft is not liable for loss or damage arising from injuries to or the death of his:

(1) parent;
(2) spouse;
(3) child or stepchild;
(4) brother; or
(5) sister;

resulting from the operation of the aircraft while the parent, spouse, child or stepchild, brother, or sister was being transported without payment therefor in the aircraft, unless the injuries or death are caused by the wanton or willful misconduct of the operator, owner, or person responsible for the operation of the aircraft.

(Formerly: Acts 1951, c.192, s.1.) As amended by P.L.68-1984, SEC.1.

IC 8-21-6
Repealed

(Repealed by Acts 1975, P.L.94, SEC.1.)

IC 8-21-7
Repealed

(Repealed by P.L.117-1983, SEC.2.)

IC 8-21-8

Chapter 8. Federal Aid for Airports

IC 8-21-8-1

Definitions; preapproval of municipal projects; payment of federal participating funds

Sec. 1. (a) The following terms apply throughout this section:

(1) "Municipality" means any political subdivision, district, public corporation or authority in this state which is or may be authorized by law to acquire, establish, construct, maintain, improve or operate airports or other air navigation facilities.

(2) "Public agency" and "sponsor" have the same meaning as set forth in 49 U.S.C. 47102, as amended.

(3) "Department" refers to the Indiana department of transportation.

(b) A municipality, whether acting alone, or jointly with another municipality, the state, or a public agency of another state, may not submit to the secretary of transportation of the United States a project application for an airport improvement project grant under the federal Airport Improvement Program or the Airport and Airway Improvement Act of 1982, as amended, unless the project and project application have been first approved by the department.

(c) Payment of federal participating funds for an airport improvement project in Indiana authorized under the federal Airport Improvement Program or the Airport and Airway Improvement Act of 1982, as amended, shall be to the municipality.

(d) A municipality may appoint the department to be its agent for the receipt of federal participating funds in an airport improvement project if the municipality is not otherwise required to do so.

(Formerly: Acts 1947, c.114, s.1; Acts 1975, P.L.95, SEC.1.) As amended by Acts 1980, P.L.74, SEC.341; P.L.18-1990, SEC.157; P.L.5-2015, SEC.24; P.L.213-2015, SEC.123.

IC 8-21-9

Chapter 9. Jurisdiction Over Certain Airport Facilities

IC 8-21-9-1

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-1.5

Purpose of chapter

Sec. 1.5. The purpose of this chapter is to:

(1) promote the public welfare and national security;

(2) serve the public interest, convenience, and necessity;

(3) promote air navigation and transportation (international, national, state, and local) in and through Indiana;

(4) increase air commerce;

(5) promote the efficient, safe, and economical handling of air commerce; and

(6) assure the inclusion of Indiana in national and international programs of air transportation.

As added by P.L.1-1989, SEC.19.

IC 8-21-9-1.6

Liberal construction of chapter

Sec. 1.6. This chapter is necessary for the welfare of Indiana and its inhabitants and shall be liberally construed to effect its purposes.

As added by P.L.1-1989, SEC.20.

IC 8-21-9-2

Definitions

Sec. 2. (a) As used in this chapter, the term:

(1) "Airport" means any location on land, water or upon any building or other structure which is used for the landing and taking off of aircraft, which provides for the shelter, supply or care of aircraft, or a place used for receiving or discharging passengers or cargo by air.

(2) "Airport facility" includes the following: lands, access roads, parking facilities, railroad siding facilities, snow removal or impacting equipment, fire and ambulance equipment, motor vehicles, apparatus or equipment for disseminating weather information, for signaling, for radio directional finding or for radio or other electrical communication, any structure or mechanism for guiding or controlling flight in the air or the landing and take-off of aircraft or otherwise in aid of air navigation, piers, docks, wharves, warehouses, sheds, transit sheds, elevators, compressors, refrigeration, storage plants, hangars, shops, buildings, structures and other facilities, appurtenances and equipment necessary or useful in connection with the operation of a modern airport and every kind of

terminal or storage structure or facility designed for use in the handling, storage, loading or unloading of freight or passengers at airports, and every kind of transportation facility designed for use in connection with an airport. The term "airport facility" includes the term "airport".

(3) "Commissioner" refers to the commissioner of the department.

(4) "Cost", as applied to an airport facility, includes the cost of construction; the cost of acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the authority for the construction; the cost of demolishing or removing buildings or structures on land so acquired, including the cost of acquiring lands to which buildings or structures may be moved; the cost of relocating public roads, railroads, public utility facilities, including the cost of land or easements, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction; cost of engineering, architectural and legal expenses, plans, specifications, surveys, estimates of traffic and revenues; other expenses necessary or incident to determining the feasibility or practicability of constructing any airport facility; administrative expenses; and other expenses as are necessary or incident to the construction of an airport facility, the financing of the construction, and the placing of the airport facility in operation. The term includes the payment or reimbursement of obligations incurred or loans or advances made by or to the department for any of the foregoing. The cost of an airport facility may include, instead of the cost of the acquisition of the land constituting the site of such facility, the value of the land as determined by the department. The proceeds of revenue bonds representing the value of the land shall be deposited in the "Airport Fund".

(5) "Current expenses" means the department's reasonable and necessary costs of maintaining, repairing and operating the projects and includes all administrative expenses, insurance premiums, engineering expenses relating to operation and maintenance, legal expenses, charges of the paying agents, taxes lawfully imposed on the department or its income or operations or the property under its control and reserves for taxes and payments in lieu of taxes, ordinary and usual expenses of maintenance and repair, including expenses not annually recurring, expenses incurred in the performance of the powers under this chapter and other expenses required to be paid by the department under a trust agreement securing revenue bonds or by law. The term does not include any allowance for depreciation or transfers to the credit of the sinking fund for the revenue bonds.

(6) "Department" refers to the Indiana department of

transportation.

(7) "Existing airport facilities" means the properties which are acquired by the department from public or private entities under this chapter.

(8) "Project" means the existing airport facilities or any airport facility acquired, constructed, controlled or operated by the department, together with all property, rights, easements and interest appertaining to the facility, acquired for the construction or operation of the facility.

(b) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings found in IC 8-21-1, except as otherwise provided in this chapter.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.342; P.L.18-1990, SEC.158.

IC 8-21-9-3
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-4
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-5
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-6
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-7
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-8
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-9
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-10
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-11

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-12

Jurisdiction; powers and duties

Sec. 12. (a) The department has jurisdiction only over two (2) major new continental or intercontinental airport facilities designed and constructed to serve a part of Indiana or adjacent states.

(b) The department may designate the location and character of all airport facilities which the department may hold, own, or over which it is authorized to act and to regulate all matters related to the location and character of the airport facilities.

(c) The department may designate the location and establish, limit, and control points of ingress to and egress from any airport property.

(d) The department may lease to others for development or operation the parts of any airport or airport facility on terms and conditions as the department considers necessary.

(e) The department may make directly, or through hiring of expert consultants, investigations, and surveys of whatever nature, including, but not limited to, studies of business conditions, freight rates, airport services, physical surveys of the conditions of structures, and the necessity for additional airports or for additional airport facilities for the development and improvement of commerce and for the more expeditious handling of commerce, and to make studies, surveys, and estimates as are necessary for the execution of its powers under this chapter.

(f) The department may make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials or supplies, involves an expenditure of more than five thousand dollars ($5,000), the department shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in such other publications as the department shall determine. Such notice shall state the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The department may reject any and all bids. A bond with good and sufficient surety, as shall be approved by the department, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful

performance of the contract.

(g) The department may fix and revise periodically and charge and collect equitable rates, fees, rentals, or other charges for the use of any airport facility or airport facilities under its control, which rates, fees, rentals, or other charges shall be in amounts reasonably related to the cost of providing and maintaining the particular airport facility or airport facilities for which these rates, fees, rentals, and other charges are established.

(h) The department may make application for, receive, and accept from any federal agency, grants for or in aid of the planning, construction, operating, or financing of any airport facility, and to receive and accept contributions from any source of either money, property, labor, or other things of value, to be held, used and applied for the purposes for which made, in each case on such terms and conditions as the department considers necessary or desirable. The department may enter into and carry out contracts and agreements in connection with this subsection.

(i) The department may appear in its own behalf before boards, commissions, departments, or other agencies of the federal government or of any state or international conference and before committees of the Congress of the United States and the general assembly of Indiana in all matters relating to the designs, establishment, construction, extension, operations, improvements, repair, or maintenance of any airport or airport facility operated and maintained by the department under this chapter, and to appear before any federal or state agencies in matters relating to air rates, airport services and charges, differentials, discriminations, labor relations, trade practices, and all other matters affecting the physical development of and the business interest of the department and those it serves.

(j) The department may contract for the services of consulting engineers, architects, attorneys, accountants, construction and financial experts, and such other individuals as are necessary in its judgment. However, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.

(k) The department may do all things necessary and proper to promote and increase commerce within its territorial jurisdiction, including cooperation with civic, technical, professional, and business organizations and associations, the office of tourism development, and the Indiana economic development corporation.

(l) The department may establish and maintain a traffic bureau for the purpose of advising the department as to the airport's competitive economic position with other airports.

(m) The department may contract for the use of any license, process, or device, whether patented or not, which the department finds is necessary for the operation of any airport facility, and may permit the use thereof by any lessee on such terms and conditions as the department may determine. The cost of such license, process, or

device may be included as part of the cost of the airport facility.

(n) The department may issue airport revenue bonds and airport revenue funding bonds.

(o) The department may do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

(Formerly: Acts 1971, P.L.105, SEC.2; Acts 1973, P.L.73, SEC.1; Acts 1975, P.L.34, SEC.8.) As amended by Acts 1980, P.L.74, SEC.343; Acts 1981, P.L.41, SEC.60; P.L.4-2005, SEC.116; P.L.229-2005, SEC.7.

IC 8-21-9-13

Regulations

Sec. 13. The department may adopt such rules as it may deem advisable for the control and regulation of any airport or airport facility or traffic on any airport or airport facility, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control. However, such rules must provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the department without the payment of tolls.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.344; P.L.1-2009, SEC.72.

IC 8-21-9-14

Promotion of airport facilities; cooperation with federal government; title to airport property

Sec. 14. The department shall prepare sketches, plans and descriptive material relating to any such airport, or airport facility, as in its discretion may seem feasible; to compile data and prepare literature as to the necessity or advisability thereof; and to do other acts and things which it considers necessary to promote any such airport or airport facility and deems to be in the public interest; to carry on in its discretion negotiations and enter into agreements and contracts with the federal government or agencies thereof for or relating to the building and construction of any airport or airport facility to be located within the State of Indiana; to locate and acquire a suitable site for any such airport or airport facility; and to construct, develop, maintain and operate the same in cooperation with the federal government, or any agency thereof, or otherwise, in such manner and on such terms as will, in the discretion of the department, best serve the commercial, industrial and agricultural interests of the state. The title to all property included in any such airport or airport facility shall be taken in the name of the state of Indiana.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.345.

IC 8-21-9-15
Acquisition and disposition of land

Sec. 15. (a) If the department considers a purchase expedient, the department may acquire by purchase any land, property, rights, rights-of-way, franchises, easements, and other interest in lands, including lands under water and riparian rights, as it considers necessary or convenient for the construction and operation of any airport or airport facility.

(b) The appropriation and condemnation of lands and easements in lands authorized by this chapter must be made under the terms and conditions of and in the manner prescribed in IC 32-24-1.

(c) The department shall take title in the name of the state of Indiana.

(d) The department may:

(1) sell, transfer, and convey any land or any interest in land acquired, or any part of the land or interest in land if the land or interest in land is no longer needed for such purposes; and

(2) transfer and convey any lands or interests in lands as may be necessary or convenient for the construction and operation of any airport or airport facility, or as otherwise required under this chapter. However, a sale may not be made without the approval of the governor first obtained and at not less than the appraised value established by three (3) independent appraisers appointed by the governor.

The department may restrict the use of any land sold by it and provide for a reversion to the department if the land is not used for the purpose represented by the purchaser. Provisions concerning restrictions and reversions must be set out in appropriate covenants in the deeds of conveyance. The deeds must be approved by the governor.

(e) The department may lease to others for development or use any part of the land owned by the department, together with any airport facility on the land or to be constructed on the land, on terms the department determines to be advantageous. Leases covering a period of more than four (4) years must be approved by the governor. Leases of lands under the jurisdiction or control of the department may be made only for uses and purposes as are calculated to contribute to the growth and development of the airport and airport facilities under the jurisdiction or control of the department.

(f) If the department leases to others for a period of more than four (4) years an airport facility financed by the issuance of revenue bonds, the rental must be in an amount at least sufficient to pay the interest on and principal of the amount of the bonds representing the cost of the airport facility to the extent the interest and principal is payable during the term of the lease. The lease must provide for the payment by the lessee of all costs of maintenance, repair, and insurance.

(g) The department may acquire or purchase an existing airport

facility if:

(1) the facility is located on land acquired for the purpose of constructing a continental or an intercontinental airport; or

(2) operation of the airport would be detrimental to the safe use of the airport facility.

(h) The department may enter into contracts, leases and other use agreements with air carriers, airport concessionaires, airport tenants, and other airport users under agreed terms, conditions, charges, and fees for a term not exceeding twenty (20) years. However, lease agreements for land rental may be entered into for a term not exceeding ninety-nine (99) years if the lessee will use the leased land for the construction of buildings or other facilities at the lessee's expense.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.346; P.L.2-2002, SEC.44.

IC 8-21-9-16

Eminent domain

Sec. 16. The department may acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any airport or airport facility. The department is empowered to exercise such powers of eminent domain as may be conferred upon the authority by an Act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the department to acquire by appropriation property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority excepting, however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.347.

IC 8-21-9-17

Political subdivisions authorized to transfer real property

Sec. 17. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant, or convey to the department at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political

subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, and any real property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the department.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.348.

IC 8-21-9-18
Relocation or removal of road, railroads, or public utility facilities

Sec. 18. If the department finds it necessary to change the location of any portion of any public road, railroad or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway or railroad or public utility facility. The cost of such reconstruction, relocation or removal and any damage incurred in changing the location of any such road, highway, railroad or public utility facility, shall be ascertained and paid by the department as a part of the cost of such airport or airport facility. The department may petition the circuit court, superior court, or probate court of the county wherein is situated any public road or part thereof, affected by the location therein of any airport or airport facility, for the vacation or relocation of such road or any part thereof with the same force and effect as is now given by existing laws to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by existing laws for similar proceedings upon such petitions. In addition to the foregoing powers, the department and its authorized agents and employees, after proper notice, may enter upon any lands, waters and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this chapter; and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; however, before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry. No survey, sounding, drilling and examination shall be made between the rails or so close to a railroad track as would render said track unusable. The department may make reimbursement for any actual damage resulting to such lands, waters and premises and to private property located in, on, along, over or under such lands, waters and premises, as a result of such activities. The State of Indiana, subject to the approval of the

governor, hereby consents to the use of lands owned by it, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any airport or airport facility, provided adequate compensation is made for such use. The department may also make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances (herein called "public utility facilities") of any public utility in, on, along, over or under any airport or airport facility. Whenever the department shall determine that it is necessary that any such public utility facilities which now are, or hereafter may be, located in, on, along, over or under any such airport or airport facility should be relocated, or should be removed from such airport or airport facility, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the department; however, the cost and expenses of such relocation or removal including the cost of installing such facilities in a new location or new locations and the cost of any lands, or any rights or interest in lands, and any other rights, acquired to accomplish such relocations or removal, shall be ascertained and paid by the department as a part of the cost of such airport or airport facility, excepting, however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares being constructed, reconstructed or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.349; P.L.84-2016, SEC.54.

IC 8-21-9-19
Maintenance, policing, and operation of airport facilities

Sec. 19. Each airport or airport facility or airport facilities when constructed and opened to traffic shall be maintained and kept in good condition and repair by the department. Each such airport facility or airport facilities shall also be policed and operated by such force of police, toll-takers and other operating employees as the department may, in its discretion, employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under this chapter.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980,

P.L.74, SEC.350.

IC 8-21-9-20
Restricted zones in airports; air pollution restrictions

Sec. 20. In order to provide free air space for the safe descent, landing and ascent of aircraft and for the proper and safe use of any airport or landing field acquired or maintained under this chapter, the department is hereby given the right, powers and authority to establish and fix by ordinance or ordinances a restricted zone or zones for such distance in any direction from the boundaries of such airport or landing field, within which zone or zones so established, as in the opinion of the department is necessary and practicable, no building or other structure shall be erected high enough to interfere with the descent of an aircraft at such approach angle as may be deemed reasonably necessary for the safety for the type of operation that is, or is anticipated to be, conducted at such landing field; however, the department may by ordinance, establish standards regulating, within said zone or zones, the emission of air pollutants such as, but not limited to, smoke, dust, noxious fumes, glare and electrical radiation which would compromise the safety of aircraft by interfering with visability, operation of electrical equipment or any other condition necessary for safe flight.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.351.

IC 8-21-9-21
Airport fund

Sec. 21. A special and distinct revolving fund is hereby created, to be known as the "Airport Fund." Expenditures from the fund shall be made only for the acquisition of land including lands under water and riparian rights, or options for the purchase of such land for an airport or airport facility site, and incidental expenses incurred in connection with such acquisition, for the preparation of plans and specifications for any part or all of the airport or airport facility, for studies in connection with the airport or airport facility, and for administrative expenses of the department. The fund shall be held in the name of the department, shall be administered by the department, and all expenditures therefrom shall be made by the department, subject, however, to the approval by the governor, the state budget agency, and the state budget committee of all expenditures of moneys advanced to the fund by the State of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget agency, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action.

Upon the sale of airport revenue bonds for any airport facility or airport facilities, the funds expended from the "Airport Fund" in connection with the development of such airport facility or airport facilities and any obligation or expense incurred by the department for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such project shall be reimbursed to the "Airport Fund" from the proceeds of such bonds.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.352.

IC 8-21-9-22
Revenue bonds

Sec. 22. Airport revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized under this chapter, unless such bonds are refunded by refunding bonds, issued under this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the State of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter, and nothing in this chapter contained shall be construed to authorize the department to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.353.

IC 8-21-9-23
Issuance of revenue bonds

Sec. 23. (a) The department may, subject to IC 8-9.5-5-8(6) (repealed), provide for the issuance of airport revenue bonds of the state for the purpose of paying all or any part of the cost of an airport facility or airport facilities. The principal of and the interest on the bonds shall be payable solely from the revenues specifically pledged to the payment as authorized by section 27 of this chapter.

(b) The bonds of each issue shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times not exceeding fifty (50) years from the date thereof, all as may be determined by the department, and may be made redeemable before maturity, at the option of the department, at a price or prices and under terms and conditions as may be fixed by the commissioner in

an executive order providing for the issue.

(c) The department shall determine the form of the bonds, including attached interest coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state. The bonds shall be signed in the name of the department by the commissioner and the official seal of the department shall be affixed thereto. Any coupons attached thereto shall bear the facsimile signature of the commissioner of the department. If the commissioner whose signature or facsimile of whose signature shall appear on any bonds or coupons shall cease to be the commissioner before the delivery of such bonds, such signature or such facsimile shall, nevertheless, be valid and sufficient for all purposes as if the commissioner had remained in office until delivery.

(d) All bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the law of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the department may determine. Provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with the provisions of IC 21-32-3.

(g) The department may issue bonds in connection with a self-liquidating airport facility or airport facilities without regard to maximum interest rate limitation in this chapter or any other law and sell the bonds either at public or private sale as the department may determine. The provisions of IC 21-32-3 shall not be applicable to such sale.

(h) "Self-liquidating airport facility or airport facilities" means an airport facility or airport facilities for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of the bonds to be issued to finance the cost of the airport facility or airport facilities and providing for the payment of the lessee or lessees of all costs of maintenance, repair, and insurance of the airport facility or airport facilities.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.354; P.L.18-1990, SEC.159; P.L.2-2007, SEC.137; P.L.1-2009, SEC.73.

IC 8-21-9-24

Proceeds of revenue bonds; interim receipts or temporary bonds; placement of lost or destroyed bonds

Sec. 24. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the airport facility or airport facilities for which the bonds have been issued, and shall be

disbursed in the manner and under the restrictions, if any, as may be provided in the resolution authorizing the issuance of the bonds or in a trust agreement securing the issue. If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than the cost, additional bonds may in like manner be issued, subject to IC 8-9.5-5-8(6) (repealed), to provide the amount of the deficit, and, unless otherwise provided in the commissioner's executive order authorizing the issuance of the bonds or in the trust agreement securing the issue, are deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the airport facility or airport facilities for which the bonds have been issued, the surplus shall be deposited to the credit of the sinking fund for the bonds. Prior to the preparation of definitive bonds, the department may, subject to IC 8-9.5-5-8(6) (repealed), issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The department may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.355; P.L.18-1990, SEC.160; P.L.1-2009, SEC.74.

IC 8-21-9-25
Refunding bonds

Sec. 25. The commissioner may, subject to IC 8-9.5-5-8(6) (repealed), provide for the issuance of airport revenue refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which have been issued under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the department, for the additional purpose of constructing improvements, extensions, or enlargements of the airport facility or airport facilities in connection with which the bonds to be refunded have been issued. The issuance of the bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties, and obligations of the authority in respect of the same shall be governed by this chapter insofar as this chapter is applicable.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.356; P.L.18-1990, SEC.161; P.L.1-2009, SEC.75.

IC 8-21-9-26
Trust agreement to secure bonds

Sec. 26. (a) In the discretion of the department, any bonds issued under the provisions of this chapter may be secured by a trust agreement between the department and a corporate trustee, which may be any trust company or bank having the powers of a trust

company within the state.

(b) An executive order issued by the commissioner providing for the issuance of bonds for any airport facility or airport facilities, and any trust agreement pursuant to which such bonds are issued, may pledge or assign:

(1) all or any portion of the revenues received or to be received by the department from an airport facility or airport facilities except the part as may be necessary to pay the cost of the operation, maintenance, and repair of the airport facility or airport facilities to the extent airport facility or airport facilities and to provide reserves therefor and depreciation reserves if and to the extent required by any bond resolution adopted or trust agreement executed by the department; and

(2) the net revenues of the department from other airport facilities to the extent the net revenues are not otherwise pledged or assigned.

The department shall not convey or mortgage any airport, airport facility or any part thereof.

(c) In authorizing the issuance of bonds for any particular airport facility or airport facilities undertaken in connection with the development of an airport, the department may limit the amount of bonds that may be issued as a first lien and charge against the revenues pledged to the payment of the bonds. The department may authorize the issuance from time to time of additional bonds secured by the same lien to provide funds for the completion of the airport facility or airport facilities on account of which the original bonds were issued, or to provide funds to pay the cost of additional airport facilities undertaken in connection with the development of the airport, or for both purposes. The additional bonds shall be issued on terms and conditions as provided in the resolution authorizing the issuance of the bonds or in the trust agreement or a supplemental agreement and may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior.

(d) Any pledge or assignment made by the department is valid and binding from the time that the pledge or assignment is made, and the revenues pledged and received by the department shall immediately be subject to the lien of the pledge or assignment without physical delivery or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the department whether or not the parties have notice.

(e) Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the department. A trust agreement or resolution providing for the issuance of bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of

law, including covenants setting forth the duties of the department in relation to the acquisition of property and the construction, improvements, maintenance, repair, operation, and insurance of the airport facility or airport facilities in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals, or other charges to be collected for the use of the airport facility or airport facilities, and the custody, safeguarding, and application of all money and provisions for the employment of consulting engineers in connection with the construction or operation of such airport facility or airport facilities.

(f) It is lawful for any bank or trust company incorporated under the laws of the state that may act as depository of the proceeds of bonds or other funds of the department to furnish indemnifying bonds or to pledge securities as required by the department. A trust agreement may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition, a trust agreement may contain other provisions as the department may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of a trust agreement may be treated as a part of the cost of the operation of the airport facility or airport facilities.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.357; P.L.18-1990, SEC.162.

IC 8-21-9-27

Rights of bondholders

Sec. 27. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein givel may be restricted by the authmrizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the department or by any officer thereof, including the fixing, charging and collecting of fees, tolls, rentals or other charges for the use of the airport or airport facility or airport facilities.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.358.

IC 8-21-9-28

Revenue bonds to constitute legal investments for various institutions and fiduciaries

Sec. 28. Revenue bonds issued by the department under the

provisions of this chapter shall constitute legal investments for any private trust funds, and the funds of any 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, mortgage guaranty companies, small loan companies and industrial loan and investment companies, and any other financial institutions organized under the laws of the state of Indiana. Such bonds are hereby made securities in which all public officers and public agencies of the state and its political subdivisions may legally and properly invest funds and such bonds may be properly and legally deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.359; P.L.42-1993, SEC.9.

IC 8-21-9-29

Fixing and collecting fees, tolls, rentals, and other charges

Sec. 29. The department may fix, review, revise, charge and collect fees, tolls, rentals and other charges for the use of the airport, airport facility, airport facilities and lands under the jurisdiction or control of the authority or services rendered by the department, and contract with any person, partnership, association, limited liability company, or corporation desiring the use of any airport facility or airport facilities and appurtenances for any proper purpose, and fix the terms, conditions, rentals, and rates of charges for such use. Such fees, tolls, rentals and other charges shall be reasonably related to the cost of operation, maintenance and repair of the particular airport facility or airport facilities for which the fees, tolls, rentals and other charges are fixed, including a proper allocation of the administrative expenses of the department and in case revenue bonds are issued to finance such airport facility or airport facilities, the fees, tolls, rentals and other charges relating to that airport facility or airport facilities shall be established in an amount sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau or agency of the state. After such bonds have been duly paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of such airport or airports shall be paid into a sinking fund to be created by the department and used only for the purpose of improving and

maintaining airport facilities under the jurisdiction of the department.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.360; P.L.8-1993, SEC.149.

IC 8-21-9-30
Deposit of funds

Sec. 30. All money received from any facility, pursuant to the authority of this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise, shall be held and accounted for by the department separate and apart from any other money of the department and shall be deemed to be trust funds to be held and applied solely and exclusively for the benefit of that facility as provided in this chapter, but prior to the time when needed for use by that facility may be invested by the department to the extent and in the manner provided by IC 5-13, insofar as applicable. Such funds shall be kept in depositories designated as depositories for funds of the state as selected by the department, in the manner provided by the governing statutes insofar as applicable. The resolution authorizing the issuance of bonds or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which money shall be entrusted, shall act as trustees of such money and shall hold and apply the same for the purposes of this chapter, subject to the provisions of this chapter and of the authorizing resolution or trust agreement.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.361; P.L.19-1987, SEC.25; P.L.3-1990, SEC.33.

IC 8-21-9-31
Tax exemptions; tax assessments

Sec. 31. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of an airport facility or airport facilities by the department will constitute the performance of essential governmental functions, the department shall not be required to pay any taxes or assessments upon any airport facility or airport facilities or any property acquired or used by the department under the provisions of this chapter, or upon the income therefrom, and the bonds issued under the provisions of this chapter, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All properties both real and personal owned and operated by

the department or leased by the department for proprietary purposes shall be assessed and added to the local tax rolls as any other private property. Such proprietary operations, under control of either the authority or a lessee of the department, shall be subject to Indiana adjusted gross income and sales tax laws.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980, P.L.74, SEC.362; P.L.21-1990, SEC.41; P.L.254-1997(ss), SEC.15; P.L.192-2002(ss), SEC.145.

IC 8-21-9-32
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-33
Repealed
(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-34
Regional plan commissions; membership; powers and duties
Sec. 34. (a) In the event that there is in existence or is later created a regional plan commission having jurisdiction over any portion of the airport site purchased or otherwise controlled by the department:

(1) a representative appointed by the commissioner of the department shall become a voting member of the regional plan commission with all rights and privileges of regular membership, except that the department member shall be permitted to claim no compensation or reimbursement for personal expenses or per diem from the regional plan commission; and

(2) upon appointment of a department representative to the regional plan commission, all requests or proposals for zoning amendments, subdivision plats, conditional use permits, exceptions, or variances from any zoning ordinance as well as for the development of public facilities including requests and proposals for airports, parks, thoroughfares, hospitals, and schools within the zone or zones provided for in section 21 of this chapter shall be forwarded to the regional plan commission by the appropriate public body for review and comment.

(b) The regional plan commission shall review proposals described in subsection (a)(2) and give consideration to aircraft safety, public safety, and regional plans relating to the aircraft vicinity. If the regional plan commission does not return its comments to the appropriate public body within thirty (30) days, the public body may proceed on the basis that the regional plan commission concurs with the proposals. Comment made by the regional plan commission shall be considered to be of an advisory nature only.
(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1980,

P.L.74, SEC.363; P.L.3-1989, SEC.70; P.L.18-1990, SEC.163.

IC 8-21-9-35
Conflicts of interest; void contracts; offense

Sec. 35. A member, agent, or employee of the department who knowingly is interested in any contract with the department or in the sale of any property, either real or personal, to the department commits a Class A misdemeanor. All such contracts are void. This section does not apply to contracts for purchases of property, real or personal, between the department and other departments, municipalities, or subdivisions of state government.

(Formerly: Acts 1971, P.L.105, SEC.2.) As amended by Acts 1978, P.L.2, SEC.865; Acts 1980, P.L.74, SEC.364.

IC 8-21-9-36
Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-9-37
Powers and duties of department; application to chapter

Sec. 37. The powers, duties, and functions of the department under IC 8-21-1 shall not apply to the operation of any airport created under the authority of this chapter. However, statewide regulatory powers of the department shall appertain thereto in aviation communications, air safety, or enforcement of IC 8-21-10, the high structure safety law.

(Formerly: Acts 1971, P.L.105, SEC.2; Acts 1973, P.L.73, SEC.2.) As amended by Acts 1980, P.L.74, SEC.365; P.L.3-1990, SEC.34.

IC 8-21-10

Chapter 10. Regulation of Tall Structures

IC 8-21-10-1

Purpose

Sec. 1. The safety, welfare, and protection of persons and property in the air and on the ground and of the maintenance of electronic communication within this state requires that the navigable airspace overlying the state and the approaches to and the air traffic pattern area of any public-use airport in the state be maintained in an unobstructed condition for the safe flight of aircraft and the comfort and safety of the citizens of this state. To that end, the location and height of structures and the use of land related to those structures and near public-use airports is regulated.

As added by P.L.117-1983, SEC.1.

IC 8-21-10-2

Definitions

Sec. 2. As used in this chapter:

"Department" refers to the Indiana department of transportation.

"Noise sensitive purpose" means the use of a building or structure as a residence, school, church, child care facility, medical facility, retirement home, or nursing home.

"Permit" means a permit issued by the department under this chapter.

"Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic, including any trustee, receiver, assignee, or other similar representative.

"Public-use airport" means any area, site, or location, either on land, water, or upon any building, which is specifically adapted and maintained for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The term does not include:

(1) any private use airport or landing field; or

(2) any military airport solely occupied by any federal branch of government using that airport for military air purposes.

"Structure" means any object constructed or installed by man including, but not limited to, cranes, buildings, towers, smokestacks, electronic transmission or receiving towers, buildings used for a noise sensitive purpose, and antennae and overhead transmission lines.

As added by P.L.117-1983, SEC.1. Amended by P.L.18-1990, SEC.164; P.L.8-1993, SEC.150; P.L.96-1998, SEC.1; P.L.54-2002, SEC.1.

IC 8-21-10-3

Permit requirements

Sec. 3. (a) Unless a permit has been issued by the department, a person may not erect, alter, or add to the height of any structure which falls within any one (1) of the following categories:

(1) Any construction or alteration of more than two hundred (200) feet above ground level at its site.

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one (1) of the following slopes:

(A) One hundred (100) to one (1) for a horizontal distance of twenty thousand (20,000) feet from the nearest point of the nearest runway of any public-use airport with at least one (1) runway more than three thousand two hundred (3, 200) feet in actual length, excluding heliports.

(B) Fifty (50) to one (1) for a horizontal distance of ten thousand (10,000) feet from the nearest point of the nearest runway of any public-use airport with its longest runway no more than three thousand two hundred (3, 200) feet in actual length, excluding heliports.

(C) Twenty-five (25) to one (1) for a horizontal distance of five thousand (5,000) feet from the nearest point of the nearest landing and takeoff area of any public-use heliport.

(3) Any construction or alteration of traverse ways used, or to be used, for the passage of mobile objects if the standards set forth under subdivisions (1) and (2) would be exceeded, but only after the heights of these traverse ways are increased by:

(A) Seventeen (17) feet for an interstate highway where overcrossings are designed for a minimum of seventeen (17) feet vertical distance.

(B) Fifteen (15) feet for any other public roadway.

(C) Ten (10) feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.

(D) Twenty-three (23) feet for a railroad.

(E) For a waterway or any other traversed way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

(b) Unless:

(1) a permit for construction in a noise sensitive area has been approved by the department;

(2) the holder of a permit for construction in a noise sensitive area has filed a copy of the permit for construction in a noise sensitive area with the county recorder of the county in which the structure is located, as provided in subsection (d); and

(3) a certified copy of the recorded permit for construction in a noise sensitive area, with the recording data from the county recorder on the copy of the permit, has been received by the department;

a person may not erect a building used for a noise sensitive purpose

within an area lying one thousand five hundred (1,500) feet on either side of the centerline and the extended centerline of a runway for a distance of one (1) nautical mile from the boundaries of any public use airport.

(c) A person applying for a permit under subsection (a) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport located within a five (5) nautical mile radius surrounding the structure, regardless of county lines, if the structure that is the subject of the permit is:

(1) a new structure; or

(2) an existing structure to which additional height is added.

(d) A person applying for a permit for construction in a noise sensitive area under subsection (b) must provide notice, at the time of the filing of the application for a permit, to the owner of a public use airport if the public use airport is located within a distance of one (1) nautical mile from the boundary of the property that contains the building used for a noise sensitive purpose.

(e) Notice under subsections (c) and (d) must be sent by certified or registered mail, with return receipt requested, and must include the:

(1) name, telephone number, and a contact person for the:

(A) applicant;

(B) department; and

(C) plan commission that has jurisdiction over the site of the structure;

(2) location of the structure, including a legal description;

(3) height of the structure; and

(4) Federal Aviation Administration aeronautical study number assigned to the application, if applicable to the type of permit for which notice is required.

(f) The applicant for a permit under subsection (b) shall record each permit issued by the department in the office of the county recorder for the county where the structure is located, not later than five (5) business days after the department issues the permit. If a structure is located in more than one (1) county, the county that contains the majority of the structure is the county in which the permit must be filed.

(g) A permit issued under subsection (b) is valid only after the department receives a certified copy of the recorded permit with the recording data from the county recorder of the county in which the structure is located.

(h) A permit issued under subsection (b) must contain the following statement:

"The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit experiences or may experience significant levels of aircraft operations, and that the permittee is erecting a building designed for noise sensitive use upon the real estate, with the

full knowledge and acceptance of the aircraft operations as well as any effects resulting from the aircraft operations.".

(i) An applicant for a permit under subsection (a) must provide written evidence to the department that the structure being constructed does not violate section 7 of this chapter with regard to an existing public use airport, if a public use airport is located within a five (5) nautical mile radius surrounding the structure that is the subject of the permit.

(j) Unless a denial of permit is issued by the department, a Determination of No Hazard to Air Navigation from the Federal Aviation Administration is a permit under this section, and a separate permit will not be issued by the department.

As added by P.L.117-1983, SEC.1. Amended by P.L.54-2002, SEC.2.

IC 8-21-10-3.1

Written authorization for installation or modification of structure within surface of public use airport; removal of structure

Sec. 3.1. (a) As used in this section, "structure" does not mean a tower that is principally used for the attachment of radio communications transmission or reception equipment if the tower and its location:

(1) comply with all Federal Aviation Administration regulations;

(2) comply with section 3 of this chapter; and

(3) are approved by the local zoning board.

(b) As used in this section, "surface" means an airport's primary or approach imaginary surface established by section 8 of this chapter.

(c) Before a person may:

(1) erect;

(2) install; or

(3) modify to add to the height of;

a structure within the surface of a public use airport, the person must obtain a written authorization from the public use airport owner or operator.

(d) The written authorization may contain terms and conditions to ensure aviation safety that are considered necessary by the owner or operator of the public use airport.

(e) A person who obtains written authorization shall strictly comply with any terms and conditions required by the written authorization.

(f) The public use airport owner or operator may require the immediate removal of a structure from a surface if:

(1) the person who obtains written authorization under subsection (c) violates any part of the written authorization; or

(2) the person erecting, installing, or modifying the structure fails to obtain written authorization under subsection (c) from the owner or operator of the public use airport.

(g) Removal of a structure for violation of this section may be immediate and does not require a hearing or notification of the department. The public use airport owner or operator may enlist the aid of law enforcement officers in effecting the removal of the structure.
As added by P.L.96-1998, SEC.2.

IC 8-21-10-4
Permit application; forms

Sec. 4. Application for a permit shall be made on forms prescribed and furnished by the department or by filing a copy of the Federal Aviation Administration's Form 7460-1, Notice of Proposed Construction or Alteration, with the department.
As added by P.L.117-1983, SEC.1.

IC 8-21-10-5
Failure to file permit application; order to show cause

Sec. 5. In any instance where the department learns or has reasonable grounds to believe that any person is erecting or adding to a structure that would be subject to this chapter, but concerning which no application for a permit has been filed, the department may on its own motion issue an order to such person to appear before the department and show cause why an application for a permit to erect or add to the structure need not be obtained. A date for a hearing on the order shall be set out in such order.
As added by P.L.117-1983, SEC.1.

IC 8-21-10-6
Investigation of permit application

Sec. 6. (a) Upon receiving an application for a permit, the department shall make such investigation as may be necessary to properly process the application under this chapter. The investigation shall be conducted so as to determine, in the opinion of the department, if the proposed structure erected in the proposed location would have a substantial adverse effect upon the safe and efficient use of the navigable airspace and would be a hazard to air navigation if constructed. The department may take into consideration findings and recommendations of other governmental agencies or interested persons concerning the proposed structure; however, such findings or recommendations are not binding on the department. Further, the requirements of this chapter do not supersede any other law.

(b) The department must consider an application for a permit for a period of sixty (60) days before making a final determination on the permit if:

(1) a public use airport is located within a five (5) nautical mile radius surrounding the structure, regardless of county lines; and
(2) the structure that is the subject of the permit is:
(A) a new structure; or

(B) an existing structure to which additional height is added.
As added by P.L.117-1983, SEC.1. Amended by P.L.54-2002, SEC.3; P.L.42-2011, SEC.21.

IC 8-21-10-7
Obstruction standards

Sec. 7. (a) This section applies to:

(1) an existing public use airport; and

(2) a public use heliport.

(b) If any of the obstruction standards set forth in this subsection are exceeded, the proposed structure is presumed to have a substantial adverse effect upon the safe and efficient use of the navigable airspace and would be a hazard to air navigation if constructed. Except as provided in section 9 of this chapter, the department shall not issue a permit for any proposed structure that would exceed any of the following obstruction standards:

(1) A height that is five hundred (500) feet above ground level at the site of the object anywhere in the state.

(2) A height that is two hundred (200) feet above ground level or above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of a public-use airport, excluding heliports, and that height increases in the proportion of one hundred (100) feet for each additional nautical mile of distance from the airport up to a maximum of five hundred (500) feet.

(3) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, as defined by federal law and regulations, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

(4) A height within an enroute obstacle clearance area, as defined by federal law and regulations, including turn and termination areas of a federal airway or approved off-airway route that would increase the minimum obstacle clearance altitude.

(5) The surface of a takeoff and landing area of a public-use airport or heliport or any imaginary surface as established under section 8 of this chapter. However, no part of the takeoff or landing area itself will be considered to be an obstruction.

(c) Except for traverse ways on or near an airport with an operative ground traffic control service, furnished by an air traffic control tower or by the airport management and coordinated with the air traffic control service, the standards set forth above in subsection (b) apply to traverse ways used or to be used for the passage of mobile objects only after the heights of these traverse ways are increased by the following:

(1) Seventeen (17) feet for an interstate highway where overcrossings are designed for a minimum of seventeen (17) feet vertical distance.
(2) Fifteen (15) feet for any other public roadway.
(3) Ten (10) feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road.
(4) Twenty-three (23) feet for a railroad.
(5) For a waterway or any other traverse way not covered by subdivisions (1) through (4), an amount equal to the height of the highest mobile object that would normally traverse it.

As added by P.L.117-1983, SEC.1. Amended by P.L.54-2002, SEC.4.

IC 8-21-10-8
Airport and heliport imaginary surfaces

Sec. 8. (a) The following airport imaginary surfaces are established with relation to any public-use airport and to each runway:

(1) Horizontal surface: a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radii of each arc is five thousand (5,000) feet for all runways designated as utility or visual, and ten thousand (10,000) feet for all other runways.
(2) Conical surface: a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet.
(3) Primary surface: a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of the runway, but when the runway has no specially prepared hard surface, the primary surface ends at each end of that runway. The width of a primary surface is the following:
(A) Two hundred fifty (250) feet for utility runways having only visual approaches.
(B) Five hundred (500) feet for utility runways having nonprecision instrument approaches.
(C) For other than utility runways, the width is the following:
(i) Five hundred (500) feet for visual runways having only visual approaches.
(ii) Five hundred (500) feet for nonprecision instrument runways having visibility minimums greater than three-fourths (3/4) of a statute mile.

(iii) One thousand (1,000) feet for a nonprecision instrument runway, having a nonprecision instrument approach with visibility minimums as low as three-fourths (3/4) of a statute mile, and for precision instrument runways.

(4) Approach surface: a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The following also applies to the approach surface:

(A) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of the following:

(i) One thousand two hundred fifty (1,250) feet for that end of a utility runway with only visual approaches.

(ii) One thousand five hundred (1,500) feet for that end of a runway other than a utility runway with only visual approaches.

(iii) Two thousand (2,000) feet for that end of a utility runway with a nonprecision instrument approach.

(iv) Three thousand five hundred (3,500) feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths (3/4) of a statute mile.

(v) Four thousand (4,000) feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths (3/4) of a statute mile.

(vi) Sixteen thousand (16,000) feet for precision instrument runways.

(B) The approach surface extends for a horizontal distance of the following:

(i) Five thousand (5,000) feet at a slope of twenty (20) to one (1) for all utility and visual runways.

(ii) Ten thousand (10,000) feet at a slope of thirty-four (34) to one (1) for all nonprecision instrument runways other than utility.

(iii) Ten thousand (10,000) feet at a slope of fifty (50) to one (1) with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1) for all precision instrument runways.

(5) Transitional surfaces: these surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of five thousand (5,000) feet measured horizontally from the edge of

the approach surface and at right angles to the runway centerline.

(b) As used in subsection (a) in establishing airport imaginary surfaces:

"Nonprecision instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on a Federal Aviation Administration planning document.

"Precision instrument runway" means a runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), microwave landing system (MLS), or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by a Federal Aviation Administration approved airport layout plan or other planning document.

"Utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight or less.

"Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on a Federal Aviation Administration approved airport layout plan or any other planning document.

(c) The following heliport imaginary surfaces are established with relation to any public-use heliport:

(1) Heliport primary surface: the area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

(2) Heliport approach surface: the approach surface begins at each end of the heliport primary surface with the same width as the primary surface, and extends outward and upward for a horizontal distance of four thousand (4,000) feet where its width is five hundred (500) feet. The slope of the approach surface is eight (8) to one (1) for civil heliports.

(3) Heliport transitional surfaces: these surfaces extend outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of two (2) to one (1) for a distance of two hundred fifty (250) feet measured horizontally from the centerline of the primary and approach surfaces.

As added by P.L.117-1983, SEC.1.

IC 8-21-10-9
Waiver of strict compliance with obstruction standards

Sec. 9. The department may, in its discretion, waive strict compliance with the standards set forth in section 7 of this chapter based upon a clear and compelling showing by the applicant for a permit that:

(1) the proposed structure would be between five hundred (500) and one thousand (1,000) feet above ground level at its site and would not be located within two (2) statute miles of an interstate or major arterial highway, a major waterway, or a visual omni range (VOR) radial that supports a significant volume of visual flight rules (VFR) traffic;

(2) the proposed structure would be between five hundred (500) and one thousand (1,000) feet above ground level at its site and would not be located within two (2) statute miles of the centerline of any regularly used visual flight rules (VFR) transition route between an airport and any radio navigation aid or any other airport;

(3) the proposed structure would be located in an approved antenna farm or would be shielded by another structure; or

(4) the proposed structure would not affect a planned or existing primary instrument approach to a runway at an existing or proposed public-use airport, and would not have a significant effect on visual flight rule (VFR) operations.

As added by P.L.117-1983, SEC.1.

IC 8-21-10-10

Permits; specification of obstruction markings, lighting, and other identification

Sec. 10. Every permit granted by the department shall specify what, if any, obstruction markers, markings, lighting, or other identification shall be installed on or in the vicinity of the structure as a condition to receiving the permit. Any visual identification characteristics or lighting required by the department shall conform as much as practicable with the federal obstruction marking and lighting guidelines and standards.

As added by P.L.117-1983, SEC.1.

IC 8-21-10-11

Determination not to issue permit; notification of applicant; hearing

Sec. 11. (a) If the department determines that a permit should not be issued under this chapter, the department shall notify the applicant in writing of its determination. The notification may be served by delivering it personally to the applicant or by sending it by certified mail to the applicant at the address specified in the application.

(b) The determination shall become final fifteen (15) days after notification is served unless the applicant, within such fifteen (15) day period, requests in writing that a hearing be held before the department with reference to the application. All such hearings shall

be open to the public and shall be conducted under IC 4-21.5-3. At the hearing, the applicant has the burden to show cause why the department should have granted the permit to erect the proposed structure. Any interested person may appear and be heard either in person or by counsel at such hearings and may present such evidence and testimony as may be pertinent.
As added by P.L.117-1983, SEC.1. Amended by P.L.7-1987, SEC.14.

IC 8-21-10-12
Actions to prevent, restrain, correct, or abate violations
Sec. 12. In addition to any other remedy provided by law, the department may institute in any court of general jurisdiction, an action to prevent, restrain, correct, or abate any violation of this chapter or of any rules or orders the department issued or ordered under this chapter. The court may grant such relief, by way of injunction, which may be mandatory, or otherwise, as may be necessary under this chapter and the applicable rules or orders of the department issued under this chapter.
As added by P.L.117-1983, SEC.1.

IC 8-21-10-13
Application of chapter to existing structures
Sec. 13. This chapter does not apply to any structure that existed on April 1, 1957. Any permit that was issued by the department under IC 8-21-7 (before its repeal on September 1, 1983) shall be treated after August 31, 1983, as though it had been issued under this chapter.
As added by P.L.117-1983, SEC.1. Amended by P.L.3-1990, SEC.35.

IC 8-21-10-14
Application of chapter to existing structures
Sec. 14. Except for the requirements of section 3.1 of this chapter, this chapter does not apply in respect to the location, relocation, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any existing structures, except radio and television towers.
As added by P.L.117-1983, SEC.1. Amended by P.L.96-1998, SEC.3.

IC 8-21-10-15
Violations; offense
Sec. 15. A person who violates or fails to comply with this chapter commits a Class A infraction. Each day that such a violation or failure continues constitutes a separate offense.
As added by P.L.117-1983, SEC.1.

IC 8-21-11

Chapter 11. Airport Development Program

IC 8-21-11-1

"Airport" defined

Sec. 1. Notwithstanding IC 8-21-1-1, as used in this chapter, "airport" means a public use airport (as defined in 49 U.S.C. 47102).

As added by P.L.34-1990, SEC.2. Amended by P.L.1-1999, SEC.22.

IC 8-21-11-2

"Grant fund" defined

Sec. 2. As used in this chapter, "grant fund" refers to the airport development grant fund.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-3

"Loan fund" defined

Sec. 3. As used in this chapter, "loan fund" refers to the airport development revolving loan fund.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-4

Grant fund; revolving loan fund; administration

Sec. 4. (a) The airport development grant fund and the airport development revolving loan fund are established for the purposes of this chapter. The department shall administer the two (2) funds.

(b) The department shall pay the expenses of administering the funds.

(c) The treasurer of state shall invest the money in each fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund that earns the interest.

(d) Money in a fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-5

Program to foster airport development; components; rules

Sec. 5. (a) The department shall adopt rules under IC 4-22-2 to establish a program to foster airport development in Indiana with special emphasis on improvement of airports as an economic development tool. The program must include the following components:

(1) State grants to airports from the grant fund to match federal Aviation Trust Fund grants.

(2) State grants to airports from the grant fund for airport development projects for which federal grants are not available.

(3) Loans to airports from the loan fund for airport development projects.

(b) The rules must establish the following for both grants and loans:

(1) Standards of eligibility.

(2) The maximum amount of money for which any one (1) airport or airport development project is eligible.

(3) Application procedures.

(4) The local matching funds that are required.

(5) Other provisions to administer the grant and loan programs.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-6

Eligibility for grant or loan

Sec. 6. The following may apply to the department for a grant or a loan for an airport development project:

(1) An eligible entity that has established a board of aviation commissioners under IC 8-22-2.

(2) An airport authority established under IC 8-22-3.

(3) A public airport established under IC 21-31-7.

(4) Any airport that is eligible for an exemption under IC 6-1.1-10-15.

As added by P.L.34-1990, SEC.2. Amended by P.L.114-1995, SEC.1; P.L.2-2007, SEC.138.

IC 8-21-11-7

Allocation of grant funds

Sec. 7. (a) The department shall determine the allocation of grant funds among eligible applicants. However, the total amount of grants under this chapter may not exceed the balance in the grant fund.

(b) The budget agency shall certify to the department, the auditor of state, and the treasurer of state that funds are available for a specific grant under subsection (a). Upon receipt of the certification from the budget agency, the funds shall be transmitted to the grant recipient.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-8

Allocation of loan funds; maximum amount

Sec. 8. (a) The department shall determine the allocation of loan funds among eligible applicants. However, the total amount of loans under this chapter may not exceed the balance in the loan fund.

(b) An application for a loan must comply with the following:

(1) Be accompanied by a request for the loan in the form of a resolution adopted by the applicant's fiscal body in the case of an eligible entity or the applicant's governing board in the case of an airport authority.

(2) Be accompanied by a plan for repayment that is determined

by the department to be an adequate plan.

(3) Meet all requirements for a grant from the fund, but not be the recipient of such a grant.

(4) Meet all requirements that the department establishes.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-9

Terms of loans

Sec. 9. The department shall determine the terms of each loan, which must include the following:

(1) The duration of the loan, which may not exceed twelve (12) years.

(2) The repayment schedule of the loan, which must provide that no payments are due during the first two (2) years of the loan.

(3) A variable rate of interest to be determined by the department and adjusted annually. The interest rate must be the greater of:

(A) five percent (5%); or

(B) two-thirds (2/3) of the interest rate for fifty-two (52) week United States Treasury bills on the anniversary date of the loan, but not to exceed ten percent (10%).

(4) The amount of the loan.

(5) Any other conditions specified by the department.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-10

Repayment of loans; source

Sec. 10. As set forth in IC 5-1-14, an applicant may use any source of revenue to repay a loan under this chapter. This section constitutes complete authority for an applicant to borrow from the loan fund.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-11

Default on loan repayments; withholding of state funds payable to recipient

Sec. 11. If a loan recipient fails to make any repayments of a loan, the auditor of state shall withhold the repayment amount from any other money payable by the state to the recipient. The amount withheld shall be transferred to the loan fund to the credit of the recipient.

As added by P.L.34-1990, SEC.2.

IC 8-21-11-12

Deposit of repayments

Sec. 12. The department shall deposit repayments of principal and interest on loans in the loan fund to increase the amount that is

available for new loans.
As added by P.L.34-1990, SEC.2.

IC 8-21-12
Chapter 12. Airport Financing

IC 8-21-12-1
"Aircraft" defined
Sec. 1. As used in this chapter, "aircraft" means a vehicle used or designed for navigation or flight in the air.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-2
"Airport" defined
Sec. 2. As used in this chapter, "airport" means a location on land or water or a building or other structure that is used for the landing and taking off of aircraft, and that also provides for the shelter, supply, or care of aircraft, or a place used for receiving or discharging passengers or cargo by air.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-3
"Authority" defined
Sec. 3. As used in this chapter, "authority" refers to the Indiana finance authority established under IC 4-4-11.
As added by P.L.28-1991, SEC.2. Amended by P.L.235-2005, SEC.119.

IC 8-21-12-4
"Aviation related property or facilities" defined
Sec. 4. (a) As used in this chapter, "aviation related property or facilities" means those properties or facilities that are utilized by a lessee, or a lessee's assigns, who provides services or accommodations:
(1) for scheduled or unscheduled air carriers and air taxis, and their passengers, air cargo operations, and related ground transportation facilities;
(2) for fixed based operations;
(3) for general aviation or military users; and
(4) as aviation maintenance and repair facilities.
(b) The term includes any property leased to the United States, or its agencies or instrumentalities, and any leased property identified as clear zones, aviation easements, or safety and transition areas, as defined by the Federal Aviation Administration.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-5

"District" defined

Sec. 5. As used in this chapter, "district" means an airport district established under section 11(9) of this chapter.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-6

"Landing area" defined

Sec. 6. As used in this chapter, "landing area" is that part of an airport or landing field designated and used for the landing or taking off of aircraft.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-7

"Landing field" defined

Sec. 7. As used in this chapter, "landing field" means a location on land or water or a building or other structure that is used for the landing and taking off of aircraft, but that provides no other facilities or services.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-8

"Loan contract" defined

Sec. 8. As used in this chapter, "loan contract" means a debt instrument other than a revenue bond, such as a note.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-9

"Local entity" defined

Sec. 9. As used in this chapter, "local entity" means a county, city, town, or other municipal corporation (as defined in IC 36-1-2-10).

As added by P.L.28-1991, SEC.2.

IC 8-21-12-10

"Person" defined

Sec. 10. As used in this chapter, "person" means:

(1) an individual, partnership, firm, company, limited liability company, corporation, association, trust, or estate; or

(2) the legal representative or agent of the individual or entity described in subdivision (1).

As added by P.L.28-1991, SEC.2. Amended by P.L.8-1993, SEC.151.

IC 8-21-12-10.5

Applicability to the authority

Sec. 10.5. This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

As added by P.L.235-2005, SEC.120.

IC 8-21-12-11

Purpose

Sec. 11. The authority may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) To protect a district and all property owned or managed by the authority and, to carry out this subdivision, to employ special police or hire guards.

(2) To incur indebtedness in the name of the authority in accordance with this chapter.

(3) To adopt administrative procedures, rules, and regulations, including emergency rules under IC 4-22-2-37.1.

(4) To:

(A) acquire real, personal, or mixed property by deed, purchase, lease, condemnation, or otherwise and dispose of it for use, in connection with, or for administrative purposes of the airport;

(B) receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out;

(C) receive and administer federal or state aid; and

(D) erect buildings or structures that may be needed to administer and carry out this chapter.

(5) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.

(6) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.

(7) To purchase supplies, materials, equipment, and services to carry out the duties and functions of the authority, in accordance with procedures adopted by the authority.

(8) To employ personnel that are necessary to carry out the duties, functions, and powers of the authority.

(9) To:

(A) acquire, establish, construct, improve, equip, maintain, control, lease, and regulate airports, landing fields, and other air navigation facilities;

(B) acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and

(C) erect, install, construct, and maintain at the airport or airport's facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public.

The Indiana department of transportation must grant approval before land may be purchased or leased for the establishment of an airport or landing field and before an airport or landing field may be established and shall establish the boundaries of a district or districts from time to time.

(10) To fix and determine exclusively the uses to which the airport lands may be put. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable.

(11) To employ or contract with an airport director, superintendents, managers, financial advisers, engineers, surveyors, bond counsel, disclosure counsel, and other attorneys, clerks, mechanics, laborers, and all employees the authority considers expedient, and to prescribe and assign the respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by the authority. Employees shall be selected irrespective of their political affiliations.

(12) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of airports, landing fields, air navigation facilities, and other property within a district or otherwise under the authority's control.

(13) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.

(14) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by the authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the maintenance or servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make

contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding forty (40) years, and may be extended for similar terms of years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the authority, offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land owned or otherwise controlled by the authority, a lease may be entered into for a period not to exceed ninety-nine (99) years. The authority may not grant an exclusive right for the use of a landing area under the authority's jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the authority prescribes. The authority may lease property and facilities for any commercial or industrial use the authority considers necessary and proper, including the use of providing airport motel facilities.

(15) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the authority or in accordance with an applicable trust agreement.

(16) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the authority's control and operation in accordance with the terms and conditions the authority may determine.

(17) To vacate all or parts of roads, highways, streets, or alleys within a district.

(18) To approve any state, county, city, or other highway, road, street, or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(19) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains.

However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the authority may negotiate with the departments, bodies, and officers of a local entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The authority must consent before any franchise may be granted by state authorities or local entities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through a district or within a reasonable distance of the district that is necessary for the safety of operation. The authority must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(20) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(21) To provide air transportation in furtherance of the duties and responsibilities of the authority.

(22) To promote or encourage aviation related trade or commerce at the airports that it operates.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-12

Recovery of damages

Sec. 12. The authority may take action to recover damages for the breach of an agreement, expressed or implied, relating to the operation, control, leasing, management, or improvement of the property under the authority's control, to impose the penalties for the violation of resolutions or of the authority's rules or regulations, and for injury to the personal or real property under the authority's

control, and to recover possession of any such property.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-13
Zoning restrictions

Sec. 13. (a) To provide free air space for the safe descent and ascent of aircraft and for the proper and safe use of an airport or landing field acquired or maintained under this chapter, the authority may establish by resolution or resolutions a restricted zone or zones of a distance in any direction from the boundaries of the district so that no building or other structure is erected high enough to interfere with the descent of an aircraft at an approach angle necessary for safety for the usual type of operation that is conducted at the airport or landing field.

(b) The authority may acquire by condemnation or purchase, upon the payment of due compensation, the right to prevent the erection of, and to require the removal of, all buildings, towers, poles, wires, cables, other structures, and trees within the zone that interfere with the gliding angle or as much of any structure or trees that interfere with the gliding angles. When a restricted zone or zones has been established, a permit issued by a department or office of a local entity or by any state or other authority for the erection of any structure extending into a zone is effective only if approved by the authority. Establishment of a restricted zone outside of a district, in connection with the condemnation of the rights in the land, constitutes condemnation and the perpetual annihilation of all rights of the owners of the property within the zone to erect or maintain any building or structure that will interfere with the gliding angle. This result may be accomplished by absolute condemnation of the land, with perpetual and irrevocable free license to use and occupy the land within the zone for all purposes except the erection of buildings or other structures above the height so prescribed.

(c) The part of a restricted zone that extends below fifty (50) feet measured vertically from the land may be established only by purchase or proceedings in eminent domain. That part of a restricted zone that is at least fifty (50) feet above the surface of the land is in effect immediately upon the adoption by the authority of zoning rules. However, the owners of land beneath a restricted zone have the right to recover damages that may be proven in an action brought for that purpose. In an action for damages, the owner has the burden of proving damage by reason of the establishment of the restricted zone.

(d) The zoning jurisdiction granted in this section is exclusive against jurisdiction granted by any other statute unless the other

statute specifically provides otherwise. In case of conflict with any airport zoning or other regulations promulgated by a local entity, the zoning rules adopted under this section prevail.

(e) All zoning rules adopted under this chapter must be reasonable and may not impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations to adopt, the authority shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable. However, this section does not apply to the location, relocation, erection, construction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures on lands owned by a public utility or railroad.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-14

Eminent domain; public utility property

Sec. 14. (a) The authority may exercise the power of eminent domain to carry out this chapter and may award damages to landowners for real estate and property rights appropriated. If the authority cannot agree with the owners, lessees, or occupants of real estate selected by the authority for the purposes in this chapter, the authority may procure the condemnation of the property. The authority may proceed under IC 32-24-1. IC 32-24-1 applies to airports, landing fields, districts, and restricted zones adjoining them to the extent that IC 32-24-1 is not inconsistent with this chapter.

(b) If:

(1) it is necessary to establish and fix a restricted zone on and across land that:

(A) is already in use for another public purpose; or

(B) has been condemned or appropriated for a use authorized by statute; and

(2) the land is being used for that purpose by the corporation so appropriating it;

the public use or prior condemnation does not bar the right of the authority to condemn the use of ground for aviation purposes. Use by the authority does not permanently prevent the use of the land for the prior public use or by the corporation condemning or appropriating it.

(c) The authority may not take or disturb property or facilities belonging to a public utility or common carrier engaged in interstate

commerce if the property or facilities are required for the proper and convenient operation of the utility or carrier, unless provision is made for the restoration, relocation, or duplication of the property or facilities elsewhere, at the sole cost of the authority.
As added by P.L.28-1991, SEC.2. Amended by P.L.2-2002, SEC.45.

IC 8-21-12-15
Finances of authority; bonds

Sec. 15. (a) The authority may:

(1) finance improvements related to an airport or aviation related property or facilities, including the acquisition of real estate;

(2) refund any bonds; or

(3) pay any loan contract;

by borrowing money and issuing revenue bonds from time to time under this section.

(b) The issuance of revenue bonds must be authorized by a resolution of the authority.

(c) The bonds or the trust agreement securing the bonds must indicate:

(1) the maturity date or dates;

(2) the interest rate or rates (whether fixed, variable, or a combination of fixed or variable) or the manner in which the interest rate or rates will be determined if a variable or an adjustable rate is used;

(3) the registration privileges and the place of payment;

(4) the conditions and terms under which the bonds may be redeemed or prepaid before maturity; and

(5) the source of payment.

(d) The bonds must be executed in the name of the authority by the chairman or vice chairman of the authority and attested by the secretary-treasurer, and interest coupons may be executed by placing on the interest coupons the facsimile signature of the chairman or vice chairman of the authority. The bonds are valid and binding obligations of the authority for all purposes, notwithstanding that before delivery of the bonds any of the persons whose signatures appear on the bonds have ceased to be officers of the authority, as if the persons had continued to be officers of the authority until after delivery. The validity of the authorization and issuance of the bonds is not dependent on or affected in any way by proceedings taken for the improvement for which the bonds are to be issued, or by contracts made in connection with the improvement. A resolution authorizing revenue bonds must provide that a revenue bond contain

a recital that the bond is issued under this chapter, and a bond containing the recital under authority of a resolution is considered valid and issued in conformity with this chapter.

(e) At the discretion of the authority, the revenue bonds shall be sold either under the procedures for selling public bonds or at a negotiated sale with such terms as are consistent with the provisions of the resolution authorizing the sale. The resolution may delegate to the chairman or the secretary-treasurer the authority to conduct the sale. The bonds may be sold in installments at different times, or an entire issue or series may be sold or exchanged at one (1) time. Any issue or series of the bond may be sold in part or sold in part in installments at different times or at one (1) time.

(f) The bonds are special obligations of the authority and are payable solely from and secured by a lien upon the revenues of all or part of the facilities of the authority, as shall be more fully described in the resolution of the authority or trust agreement authorizing the issuance of the bonds, and, subject to the constitution and to the prior or superior rights of any person, the authority may by resolution pledge and assign for the security of the bonds all or part of the gross or net revenues of the authority and the authority's facilities.

(g) The bonds and interest on the bonds are not a debt of the authority, nor a charge, a lien, or an encumbrance, legal or equitable, upon property of the authority, or upon income, receipts, or revenues of the authority other than those revenues of the facilities that have been pledged to the payment of the bonds. Every bond must recite in substance that the bond, including interest, is payable solely from the revenues pledged to the bond's payment, and that the authority is under no obligation to pay the bond, except from those revenues.

(h) The bonds, when issued, have all the qualities of negotiable instruments, subject to provisions for registration, under IC 26 and are incontestable in the hands of a bona fide purchaser or owner of the bonds for value.

(i) The proceeds of the bonds are appropriated for the purpose for which the bonds may be issued and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the authority may provide in the resolution or trust agreement authorizing the issuance of the bonds.

(j) All bonds issued under this article are issued by a body corporate and politic of this state, but not a state agency, and for an essential public and governmental purpose. The bonds, the interest on the bonds, the proceeds received by an owner from the sale of the bonds to the extent of the owner's cost of acquisition, the proceeds received upon redemption before maturity, the proceeds received at

maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

(k) Notwithstanding any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds issued under this chapter.

(l) Bonds issued under this chapter are exempt from the registration requirements of IC 23-19 and any other state securities registration statutes.

(m) The authority may obtain from a department or agency of the state or of the United States, or from a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of the interest or principal, or any debt service reserve funds, on bonds issued by the authority, or on securities purchased or held by the authority.

(n) The authority may enter into agreements with an entity to provide credit enhancement or liquidity support for any bonds issued by the authority, or for any debt service reserves securing any bonds, with terms that are reasonable and proper, in the discretion of the authority, and not in violation of law.

(o) The authority may enter into agreements or contracts with any financial institution as may be necessary, desirable, or convenient in the opinion of the authority for rendering services in connection with:

(1) the care, custody, or safekeeping of securities or other investments held or owned by the authority;

(2) the payment or collection of amounts payable as to principal or interest; and

(3) the delivery to the authority of securities or other investments purchased or sold by it.

The authority may also, in connection with any of the services rendered by a financial institution as to custody and safekeeping of the authority's securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements as, in the opinion of the authority, is necessary or desirable.

(p) In the discretion of the authority, any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana. Such a trust agreement may also provide for a cotrustee, which may be any trust company or bank in Indiana or another state.

(q) The trust agreement or the resolution providing for the

issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the owners of bonds as may be reasonable and proper, in the discretion of the authority, and not in violation of law.

(r) Any trust agreement or resolution may contain other provisions that the authority considers reasonable and proper for the security of the owners of bonds.

(s) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from money pledged or assigned to the payment of the principal of and interest on bonds or from any other funds available to the authority.

(t) Funds or money held by the authority under any trust agreement or resolution may be invested pending disbursement as provided in the trust agreement or the resolution. Such an investment is not restricted by or subject to the provisions of any other law.

(u) Refunding or refunding and improvement revenue bonds may be issued in accordance with the provisions for the refinancing or refinancing and improving of any of the facilities for which revenue bonds or a loan contract have been issued or made under this section or section 16 of this chapter.

(v) This section constitutes full authority for the issuance of revenue bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the authority, by a board, an officer, a commission, a department, an agency, or an instrumentality of the state, or by an eligible entity is required to issue revenue bonds or to do any act or perform anything under this chapter, except as presented by this chapter. The powers conferred by this chapter are in addition to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred in another section of this chapter or by any other statute.

As added by P.L.28-1991, SEC.2. Amended by P.L.27-2007, SEC.8.

IC 8-21-12-16

Loans to the authority

Sec. 16. The authority may negotiate terms and borrow money from any source under a loan contract, subject to the following requirements:

(1) The loan contract must be approved by resolution of the authority.

(2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.

(3) The loan contract must state that the indebtedness is that of the authority, is payable solely from revenues of the authority

that are derived from either airport operations or from revenue bonds, and may not be paid by a tax levied on property located within the state.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-17

Loan contracts; tax exemptions

Sec. 17. Any loan contract issued under this chapter is issued by a body corporate and politic of this state, but not a state agency, and for essential public and governmental purposes. A loan contract, the interest on it, the proceeds received by a holder from the sale of a loan contract to the extent of the holder's cost of acquisition, the proceeds received upon redemption before maturity, the proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-18

Officers and employees; bonds; surety

Sec. 18. The authority may require a bond from any of the officers or employees of the authority in an amount, upon terms and conditions, and with surety that the authority designates.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-19

Airports and landing fields; establishment; tax exemption

Sec. 19. (a) The acquisition, establishment, construction, improvement, equipment, maintenance, control, and operation of airports and landing fields for aircraft under this chapter is a governmental function of general public necessity and benefit, and is for the use and general welfare of all the people of the state.

(b) Notwithstanding any other statute, the leasehold estate of any lessee created pursuant to a lease by the authority of the authority's aviation related property or facilities, together with any permanent structure erected on the property by the lessee is exempt from property taxation.

As added by P.L.28-1991, SEC.2.

IC 8-21-12-20

Bonds; issuance by fiscal bodies of local entities

Sec. 20. Whenever the fiscal body of a local entity determines that the public interest of the local entity will be served by assisting the authority in executing the powers granted by this chapter, the local entity may furnish assistance by gift, or lease with or without rental,

of real property, by donation, lease with or without rental, or loan, of personal property, and by the appropriation of money that may be provided for by taxation or the issuance of bonds in the same manner as funds might be provided for the same purpose if the local entity was exercising the powers granted in the local entity's own behalf.
As added by P.L.28-1991, SEC.2.

IC 8-21-12-21
Airports and other navigation facilities; receipt of funds; grants

Sec. 21. (a) The authority may accept, receive, and receipt for federal, other public, or private money for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, other air navigation facilities, and sites for them, and comply with federal laws made for the expenditure of federal money upon airports and other air navigation facilities.

(b) Subject to IC 8-21-8, the authority has exclusive power to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances, and contracts, to enter into covenants and agreements with a state or a federal agency relative to the development of an airport, and to comply with all federal and state laws pertaining to the acquisition, development, operation, and administration of airports and properties by the authority.
As added by P.L.28-1991, SEC.2.

IC 8-22

ARTICLE 22. AIRPORTS

IC 8-22-1

Chapter 1. Definitions

IC 8-22-1-1

Application of definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.115-1995, SEC.1.

IC 8-22-1-2

"Aircraft"

Sec. 2. "Aircraft" means a vehicle used or designed for navigation of or flight in the air.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-3

"Airport"

Sec. 3. "Airport" means a location on land or water or a building or other structure that is used for the landing and taking off of aircraft, and that also provides for the shelter, supply, or care of aircraft, or a place used for receiving or discharging passengers or cargo by air.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-4

"Authority"

Sec. 4. "Authority" means an airport authority established under this article or that was established under IC 19-6-3.5, IC 19-6-2, or IC 19-6-3 (before their repeal on April 1, 1980).

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.3-1990, SEC.36.

IC 8-22-1-4.5

"Aviation related property or facilities"

Sec. 4.5. (a) "Aviation related property or facilities" means those properties or facilities that are utilized by a lessee, or a lessee's assigns, who provides services or accommodations:

(1) for scheduled or unscheduled air carriers and air taxis, and their passengers, air cargo operations, and related ground transportation facilities;

(2) for fixed based operations;

(3) for general aviation or military users; and

(4) as aviation manufacturing, assembly, research and development, or maintenance and repair facilities.

(b) The term includes any property leased to the United States, or its agencies or instrumentalities, and any leased property identified as clear zones, aviation easements, safety and transition areas, as defined by the Federal Aviation Administration.
As added by P.L.60-1988, SEC.19. Amended by P.L.190-2014, SEC.30.

IC 8-22-1-4.6
"Aviation related purposes"
Sec. 4.6. "Aviation related purposes" refers to the purposes described in section 4.5 of this chapter.
As added by P.L.116-1995, SEC.1.

IC 8-22-1-5
"Board"
Sec. 5. "Board" means the board of an airport authority or a board of aviation commissioners.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-5.1
"Commercial aeronautics"
Sec. 5.1. An entity is engaged in "commercial aeronautics" if the entity engages in a for-profit business activity on a publicly owned, public use airport.
As added by P.L.154-2016, SEC.3.

IC 8-22-1-6
"Eligible entity"
Sec. 6. "Eligible entity" means a county, city, town, or other municipal corporation or district that may acquire, establish, construct, maintain, improve, and operate airports.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-7
"Executive"
Sec. 7. "Executive" means:
(1) board of commissioners, of a county not having a consolidated city;
(2) mayor of the consolidated city, of a county having a consolidated city;
(3) mayor, of a city;
(4) president of the town council, of a town; or
(5) chief executive officer, of any other political subdivision.
As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.8-1989, SEC.55.

IC 8-22-1-8
"Fiscal body"

Sec. 8. "Fiscal body" means county council, city-county council of a consolidated city and county, common council of a city, town council of a town, or governing body of any other eligible entity.
As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.8-1989, SEC.56.

IC 8-22-1-9
"Governmental unit"
Sec. 9. "Governmental unit" means a civil city or civil county located within the confines of a party state. The county, if the combining unit is a county, or if the combining unit is a city, the county in which the city is located, must have a common boundary with an adjoining party state.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-10
"Landing area"
Sec. 10. "Landing area" is that part of an airport or landing field designated and used for the landing or taking off of aircraft.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-11
"Landing field"
Sec. 11. "Landing field" means a location on land or water or a building or other structure that is used for the landing and taking off of aircraft, but that provides no other facilities or services.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-11.5
"Loan contract"
Sec. 11.5. As used in this article, "loan contract" means a debt instrument other than a revenue or general obligation bond, such as a note.
As added by P.L.101-1987, SEC.2.

IC 8-22-1-12
"Ordinance"
Sec. 12. "Ordinance" means a legislative enactment that has general application within the district subject to the jurisdiction of an airport authority.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-13
"Party states"
Sec. 13. "Party states" means the state of Indiana and an adjoining state.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-1-14
"Person"

Sec. 14. "Person" means an individual, partnership, firm, company, limited liability company, corporation, association, trust, estate, or his or its legal representative or agent.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.8-1993, SEC.152.

IC 8-22-2

Chapter 2. Local Boards of Aviation Commissioners

IC 8-22-2-1

Department of aviation

Sec. 1. (a) Whenever the fiscal body of an eligible entity adopts an ordinance or a resolution in favor of the acquisition, improvement, operation, or maintenance of an airport or landing field for the entity under this chapter, and declaring a necessity for the airport or landing field, then on the effective date of the ordinance or resolution, there is established as an executive department of the entity a department of aviation, under the control of a board to be known as the board of aviation commissioners.

(b) The following apply to a board of aviation commissioners established under this chapter:

(1) Except as provided in subsections (e), (f), and (g), the board consists of four (4) members.

(2) Except as provided in subsection (e), the executive of the entity shall appoint the members of the board.

(3) Except as provided in subsections (f) and (g), not more than two (2) of the members of the board may be of the same political party.

(c) The fiscal body of the entity may provide a per diem for the members of the board in any amount not exceeding thirty-five dollars ($35) for each whole or part day a member is engaged in board activities. The members of the board shall also be paid their actual expenses, which may include the expenses of the members or employees of the board in attending meetings or conventions held to discuss aviation matters.

(d) Before beginning the duties of office, each board member shall take and subscribe the usual oath of office, to be endorsed upon the certificate of appointment, and shall cause that to be filed with the clerk or other officer performing duties similar to that of clerk in the entity. Any person who does not file the oath with the clerk or other officer performing duties similar to that of the clerk within thirty (30) days after the beginning of the term for which the person has been appointed, or at the date of the person's appointment, if appointed after the beginning of the term, is considered to have refused to serve and the office becomes vacant.

(e) Notwithstanding subsection (b), if a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) has established a board, the county council and the mayors of the two (2) cities in the county having the largest populations may each appoint one (1) additional member to the board, thereby creating a board consisting of a total of seven (7) members. The three (3) additional members serve in the same manner, are accorded the same status, and perform the same duties as the four (4) initial board members, and serve terms

of four (4) years. If either the county council or either of the two (2) mayors fails to make appointments to the board, that fact does not prejudice appointments that may be made by the other appointing authority or authorities.

(f) This subsection applies to the following:

(1) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000).

(2) A county having a population of more than thirty-seven thousand five hundred (37,500) but less than thirty-eight thousand (38,000).

Notwithstanding subsection (b), if a county has established a board under this chapter, the county executive may add one (1) additional member to the board so that the board has a total of five (5) members. Not more than three (3) of the five (5) members of the board may be of the same political party. The one (1) additional member shall serve in the same manner, be accorded the same status, and perform the same duties as the four (4) initial members, and serve a four (4) year term.

(g) This subsection does not apply to a board subject to subsection (e) or (f). Notwithstanding subsection (b), the fiscal body of an eligible entity may adopt an ordinance or a resolution providing that the board consists of five (5) members. If the board consists of five (5) members, not more than three (3) members may be of the same political party.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1981, P.L.113, SEC.1; P.L.12-1992, SEC.66; P.L.58-1994, SEC.1; P.L.115-1995, SEC.2; P.L.116-1995, SEC.2; P.L.170-2002, SEC.68; P.L.134-2005, SEC.1; P.L.119-2012, SEC.97.

IC 8-22-2-2

Members of board of aviation commissioners; qualifications; restrictions

Sec. 2. (a) This subsection applies only in counties that contain a consolidated city or at least one (1) second class city. To be eligible to be a member of the board of aviation commissioners, a person must:

(1) be at least eighteen (18) years of age;

(2) be a resident of the county in which the eligible entity is located;

(3) not be actively engaged as:

(A) a principal owner;

(B) a majority member or majority shareholder;

(C) a director;

(D) an officer; or

(E) an employee with managerial or supervisory responsibilities;

of any entity engaged in commercial aeronautics;

(4) not hold any other governmental office (by appointment or election) that has statutory fiscal or management review of the board's actions; and

(5) not serve as a member of any other agency, board, commission, department, or other governmental entity that:

(A) is located within the jurisdiction of the department of aviation; and

(B) has statutory fiscal or management review of the board's actions.

(b) This subsection does not apply to a county if the county contains a consolidated city or a second class city. To be eligible to be a member of the board of aviation commissioners, a person must:

(1) be at least eighteen (18) years of age;

(2) be a resident of the county in which the eligible entity is located; and

(3) not be actively engaged as:

(A) a principal owner;

(B) a majority member or majority shareholder;

(C) a director;

(D) an officer; or

(E) an employee with managerial or supervisory responsibilities;

of any entity engaged in commercial aeronautics in a county that the board serves.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.129-1987, SEC.1; P.L.5-1988, SEC.53; P.L.134-2005, SEC.2; P.L.61-2012, SEC.1.

IC 8-22-2-3

Terms of office of board members

Sec. 3. (a) The first members of the board hold office as follows:

(1) One (1) for the term of one (1) year.

(2) One (1) for the term of two (2) years.

(3) One (1) for the term of three (3) years.

(4) In the case of:

(A) a board initially established with four (4) members, one (1) for the term of four (4) years; or

(B) a board initially established with five (5) members, two (2) for the term of four (4) years.

The members serve under this subsection from twelve o'clock noon on the first Monday in January of the year of their appointment.

(b) On the expiration of the respective terms, the executive shall appoint a commissioner or commissioners to fill the vacancies caused by the expiration, and the commissioner or commissioners so appointed hold office for a term of four (4) years, and until their successors are appointed and qualified, and if a vacancy occurs in the board by resignation or otherwise, the executive shall appoint a commissioner for the remainder of the term. The executive of the

eligible entity may, at any time, remove a commissioner from office, but only upon filing in writing with the clerk or other officer performing duties similar to that of clerk in entities having no clerk, the reasons for the removal.
As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.134-2005, SEC.3.

IC 8-22-2-4
Officers of board; office facilities; reports; expenditures; meetings
Sec. 4. The board shall choose, annually, at its first regular meeting in January, one (1) of its members president, and another of its members vice president to perform the duties of the president during the absence or disability of the president. The eligible entity shall provide a suitable office for the board in the entity, or, at the option of the board, at the airport, at the expense of the department of aviation, where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times. Before February 2 each year the board shall make a report to the executive of its proceedings with a full statement of its receipts and disbursements for the preceding year, including a report of the acquisition of air navigation facilities and of other property that has come under the control of the board, improvements made, general character of the work of the board, and progress of aviation and air commerce under its control. Money received by the board shall be paid into the entity's treasury and credited to the department of aviation, and all expenditures relating to the property and business under the control of the department, except as otherwise provided, may be provided for by special levy of taxes under section 7 of this chapter, and shall be paid from the entity's treasury when ordered by the board. A majority of the members constitutes a quorum, and an action of the board must be taken by a majority of the members at a regular or duly called special meeting. In case of a tie vote on any question, the executive shall decide. The board shall fix a time for holding regular meetings. Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport. Special meetings of the board may be called at any time by its president, or by any two (2) of its members, upon a written request to the secretary. Whenever in the opinion of the president or of any two (2) members, a special meeting is necessary, he or they shall cause the secretary to notify the members by mailing written notice of the time of the meeting, at least one (1) day before the meeting. A member may waive notice in writing and the presence of a member at a special meeting is considered a waiver of notice.
As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.137-2000, SEC.1.

IC 8-22-2-5

Powers of board

Sec. 5. (a) The board may adopt and use a seal. Applications, assurances, contracts, and other instruments necessary in the board's performance of its duties and the exercise of its powers may be executed in its name or in the name of the eligible entity, as the case may be, by the president or vice president of the board and attested by its secretary or assistant secretary. However, the board may by resolution prescribe another method of execution.

(b) The board, on behalf of the eligible entity, exclusively has the following powers:

(1) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports and landing fields and other air navigation facilities, for the use of airplanes and other aircraft, either inside or outside the corporate limits of the entity, subject to statutory limitations; to acquire by lease (with or without the option to purchase) airports, landing fields, air navigation facilities, and any other structures, equipment, and related improvements; and to erect, install, construct and maintain at those airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public; and the fiscal body of the entity may by ordinance provide that any land suitable for these purposes that is owned by the entity shall be put under the control of the board of aviation commissioners for aviation and public purposes. However, if at the time of the creation, appointment, and qualification of the board in an entity, the entity owns or controls an airport, landing field, or other air navigation facilities, then the exclusive control, management, and authority over the airport, landing field, or other air navigation facilities shall at once be transferred to the board without the adoption of an ordinance; and the department, board, officer, or officers of the entity, or other persons having possession or control, shall at once turn over and deliver to the board all personal property, records, books, plans, maps, and other papers and documents relating to the aviation business of the entity. The unexpended balance of any fund or funds appropriated by the entity for aviation purposes becomes a part of the aviation fund of the department of aviation. Before land may be purchased by an entity for the establishment of an airport or landing field or an airport or landing field may be established by an entity the action or acquisition of land must be granted by the aeronautics commission of Indiana.

(2) To elect a secretary from its membership or to employ a secretary, and to employ superintendents, managers, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate their compensation, in accordance with the

appropriations made by the fiscal body of the entity. All employees shall be selected irrespective of their political affiliations.

(3) To make rules and regulations, consistent with law, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control. The board may require a special detail of police or hire guards to execute the orders and enforce the rules and regulations.

(4) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field. However, a lease must be approved by ordinance or resolution of the fiscal body of the entity before it takes effect.

(5) To manage and operate all airports, landing fields, and other air navigation facilities acquired or maintained by the entity; and to lease all or part of an airport, landing field, or any buildings or other structures to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, through its own employees, or otherwise. Contracts or leases for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years, and may be extended for similar terms of years, except that any parcels of the land of the airport may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years, and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility has been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport, on land belonging to the airport. A lease may be entered into for a period not to exceed ninety-nine (99) years. However, the fiscal body must pass an ordinance authorizing the board to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this chapter. All contracts and leases are subject to restrictions and conditions that the board prescribes.

(6) To sell machinery, equipment, or material under the control

of the board belonging to the eligible entity that is not required for aviation purposes. The proceeds shall be deposited with the entity's treasurer or controller to the credit of the department of aviation.

(7) To negotiate and execute contracts of sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control. However, whenever the board determines to sell part or all of aviation lands or improvements owned by the eligible entity, the sale must be in accordance with section 8 of this chapter.

(8) To vacate all or parts of roads, highways, streets, or alleys in land under control of the board in the manner provided by statute.

(9) To approve, together with the fiscal body of the entity, any state, county, city, or other highway, road, street, or other public way, railroad, power line, or other right of way that may be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(10) To construct drainage and sanitary sewers with connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them, in the same manner that the eligible entity may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of the entity to secure the proper orders and approvals.

(11) To order a public utility or public service corporation or other person to remove or to install in underground conduits, wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations of the airport or landing field, upon payment to the utility or other person due compensation for the expense of the removal or reinstallation. The board must consent to any franchise granted by state or local authorities for the construction or maintenance of any railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent to the installation of overhead electric power lines carrying a voltage of over forty-four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2)

mile of a landing area acquired or maintained under this chapter.

(12) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1981, P.L.57, SEC.28; P.L.130-1987, SEC.1; P.L.29-1999, SEC.1.

IC 8-22-2-6

Contract procedures; emergencies

Sec. 6. For all contracts for improvements and purchases, other than those for professional services and those for the acquisition of land, structures, easements, and rights-of-way, IC 5-22, IC 36-1-9.5, and IC 36-1-12 apply. In case of an emergency being declared by the board, the board may purchase necessary materials under IC 5-22-10 without advertising for bids.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.130-1987, SEC.2; P.L.85-1991, SEC.1; P.L.49-1997, SEC.35; P.L.139-2011, SEC.2.

IC 8-22-2-7

Breach of agreements; rules and regulations; taxation; reports of estimated appropriations; reserve or depreciation account

Sec. 7. (a) The board may, in the name of the eligible entity, take action to recover damages for the breach of an agreement, express or implied, relating to the operation, control, leasing, management, or improvement of the property under its control, to impose the penalties for the violation of ordinances of the entity or of its rules or regulations, and for injury to the personal or real property under its control, and to recover possession of any such property. All rules and regulations that the board adopts under this chapter shall be published in accordance with IC 5-3-1.

(b) In addition to other taxes of the eligible entity, a tax may be levied annually by the fiscal body for aviation purposes, and the entity's treasurer shall collect the taxes as other taxes are collected. When the taxes are collected they shall be deposited in the treasury of the entity in a separate fund known as the "aviation fund". Only one (1) tax levy for aviation purposes may be imposed upon the assessed property in a county, city, or town unless that unit approves by ordinance the levy of more than one (1) tax for aviation purposes. The fiscal body of the entity may appropriate and transfer to the aviation fund any sum or sums out of the general funds of the entity, in accordance with statutes providing for additional appropriations for the entities, and the fiscal body may borrow money and issue bonds of the entity for aviation purposes and shall turn the proceeds

from the bonds into the aviation fund of the entity.

(c) The board of aviation commissioners shall prepare and file with the executive of the eligible entity annually, at the time the executive designates, a full and detailed estimate of the appropriations required during the ensuing year for the maintenance and operation of the airports and landing fields showing the number of employees, including manager and secretary, and the amount of salary and wages recommended for each. Expenditures for the maintenance and operation of the airports or landing fields are limited to the appropriations of money made in advance by the fiscal body upon furnished estimates. Purchases and expenditures shall be made and allowable claims shall be paid by the board in the same manner as provided for the allowance of other claims against the entity. The fiscal body of the entity may appropriate a sufficient amount for the help, supplies, and equipment necessary for the equipment and maintenance of the airports or landing fields. The fiscal body of the entity may appropriate a sufficient amount as a rotary fund to be used by the board for the purchase of fuels and lubricants to be sold to the general public in the operation of the airport. All funds received from the sale of fuels and lubricants purchased with funds from a rotary fund shall be turned over at least once a month to the treasurer of the entity to remain in the rotary fund to be checked against by the board as other appropriations are disbursed, for the sole purpose of purchasing fuels and lubricants for sale to the public in the operation of the airport. At the end of each fiscal year, the board shall make a detailed statement to the fiscal body showing the amount of money received and paid over to the treasurer to the credit of the rotary fund and also showing the amount of fuels and lubricants on hand. If at the end of a fiscal year the accumulated rotary fund plus value of inventory of fuels and lubricants on hand exceeds the total previous appropriation to the fund by twenty-five percent (25%), the excess shall be turned over to the aviation fund. The board may incur obligations or liability of any sort on behalf of the entity only if it falls within the appropriation specifically made for that purpose. All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general aviation fund to be used by the board for aviation purposes. All funds received by the board from whatever source, except funds received from the sale of fuels and lubricants purchased by funds from the rotary fund, shall be deposited in the treasury of the entity to the credit of the aviation fund.

(d) The board may create a reserve or depreciation account for the purpose of capital improvements or replacements out of operating profits from the operation of the airport.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.81-1996, SEC.10.

IC 8-22-2-8
Sale of aviation land or improvements; ordinances

Sec. 8. (a) If the board wishes to sell part or the whole of the aviation land or improvements owned by the eligible entity, it may prepare an ordinance authorizing the sale and submit it to the fiscal body of the entity. If the fiscal body passes the ordinance, the land or improvements shall be sold as other lands or improvements of the entity are sold, and the proceeds of the sale shall be deposited in the aviation fund of the entity.

(b) If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.98-2001, SEC.1.

IC 8-22-2-9
Establishment of restricted zones; approaches to airport; zoning jurisdiction

Sec. 9. (a) In order to provide free air space for the safe descent and ascent of aircraft and for the proper and safe use of an airport or landing field acquired or maintained under this chapter, the board may, subject to approval and adoption by the fiscal body of the eligible entity, establish and fix a restricted zone or zones for a distance in any direction from the boundaries of the airport or landing field so that no building or other structure is erected high enough to interfere with the descent of an aircraft at the gliding angle necessary for safety for the usual type of operation that is conducted at the airport or landing field. The board may, in the name of the entity, acquire by condemnation, upon the payment of due compensation as provided in this chapter, the right to prevent the erection of, and to require the removal of, all buildings, towers, poles, wires, cables, other structures, and trees within the zone or zones which interfere with the gliding angle or as much of any structure or trees that interferes with the gliding angle. When so condemned a permit issued by a department or office of the entity or by any state or other authority for the erection of any structure inside the zone or zones is effective only if approved by the board.

(b) Establishment of a restricted zone or zones outside of an airport or landing field in connection with the condemnation of rights in the land constitutes condemnation and the perpetual annihilation of all rights of the owners of the property within the zone or zones to erect or maintain any building or structure that will interfere with the gliding angle. This result may also be accomplished by absolute condemnation of the land, with perpetual and irrevocable free license to use and occupy the land within the zone for all purposes except the erection of buildings or other structures above the height prescribed.

(c) The jurisdiction of each eligible entity is extended to the

promulgation, administering, and enforcement of airport zoning regulations to protect the approaches of an airport that is owned by the entity but located wholly or partially outside the corporate limits of the entity. In case of conflict with any airport zoning or other regulations promulgated by an entity, the regulations adopted under this section prevail.

(d) The zoning jurisdiction granted in this section is exclusive against jurisdiction granted by any other statute unless any other statute specifically provides otherwise.

(e) All airport zoning regulations adopted under this chapter must be reasonable and may not impose a requirement or restriction that is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations to adopt, each eligible entity and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-10

Eminent domain

Sec. 10. (a) The board of an eligible entity:

(1) may exercise the power of eminent domain for the purpose of carrying out this chapter;

(2) may award damages to landowners for real property rights appropriated; and

(3) if the board cannot agree with the owners, lessees, or occupants of real property selected by the board for the purposes in this chapter, may procure the condemnation of the property.

The board may proceed under IC 32-24-1. IC 32-24-1 applies to airports, landing fields, and restricted zones adjoining them to the extent that it is not inconsistent with this chapter.

(b) If the land on or across which it is necessary to establish and fix a restricted zone is already in use for another public purpose or has been condemned or appropriated for a use authorized by statute, and is being used for that purpose by the corporation so appropriating it, the public use or prior condemnation does not bar the right of the board to condemn the use of the ground for aviation purposes. Use by the board does not permanently prevent the use of the land for the prior public use or by the corporation condemning or appropriating it.

(c) In a proceeding prosecuted by the board to condemn the use of land for purposes permitted by this chapter, the burden is upon the board to show that its use will not permanently or seriously interfere with the continued public use of the land or by the corporation condemning it, or its successors. However, in the proceeding, the

board may require the removal or the burying beneath the surface of the ground of wires, cables, power lines, or other structures within a restricted zone established under this chapter. In a proceeding prosecuted by the board to condemn or appropriate land, the use of land, or rights in land for purposes permitted by this chapter:

(1) the board and all owners and holders of property or rights in property sought to be taken are governed by and have the same rights to procedure, notices, hearings, assessments, and payments of benefits and awards as are prescribed by statute for the appropriation and condemnation of real property; and

(2) the property owners have like powers and rights of remonstrance and of appeals to the circuit or superior court in the county in which the entity is located.

Appeals affect only the amount of the assessment of awards of the person appealing and must conform to all laws relating to appeals. The payment of all damages awarded for all lands, property, or rights in them appropriated under this chapter shall be paid entirely out of the funds under the control of the board.

(d) Notwithstanding this or any other statute or any charter, the eligible entity may take possession of the property to be acquired at any time after the filing of the petition describing the property in condemnation proceedings. It is not precluded from abandoning the condemnation of the property in any case where possession has not been taken. The board:

(1) may acquire and use any land reasonably necessary for the purposes of this chapter; and

(2) may not acquire or use land that is still being used and is necessary for the purposes for which it was previously condemned.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.2-2002, SEC.46.

IC 8-22-2-11

Recording land or rights acquired

Sec. 11. Within sixty (60) days after land or rights in land are acquired or taken under this chapter, the board shall file and cause to be recorded in the recorder's office of the county in which the land is situated a description of the land sufficiently accurate for its identification and a statement of the purpose for which it is required or taken, signed by a majority of the board.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-12

Airport and landing field operations considered public necessity and benefit; tax exemption of leasehold interests

Sec. 12. (a) The acquisition, establishment, construction, improvement, equipment, maintenance, control, and operation of municipal airports and landing fields for aircraft under this chapter

is considered to be a governmental function of general public necessity and benefit and is for the use and general welfare of all the people of Indiana, including the people residing in the eligible entity.

(b) Notwithstanding any other statute, the leasehold estate of any lessee created pursuant to a lease by the board of its aviation related property or facilities, together with any permanent structure erected on the property by the lessee is exempt from property taxation.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.60-1988, SEC.20.

IC 8-22-2-13

Sale of minerals or mineral rights

Sec. 13. The board of an eligible entity may, upon resolution of the board, sell the minerals or mineral rights or royalties, or grant leases for the removal of a mineral in or under an airport or landing field owned by the entity. They shall be sold or leased in the same manner as land is sold or leased under this chapter, and the proceeds derived from these sources shall be deposited with the treasurer of the entity in the aviation fund of the entity and expended as provided by statute for the proceeds of the sale of aviation lands. However, no sale or lease for more than one (1) year may be made, except to the highest and best bidder, after notice of sale or lease has been given within the boundaries of the entity in accordance with IC 5-3-1, the last publication having been made at least one (1) week before the date of the sale or lease.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.78, SEC.1.

IC 8-22-2-14

Joint activities; joint board of aviation commissioners

Sec. 14. Eligible entities may jointly acquire, construct, develop, improve, equip, or extend airports or property to be used for aviation purposes and maintain, operate, manage, and control it and levy and collect taxes for this purpose. Two (2) or more entities may cooperate for this purpose by contributing to the total cost and sharing the benefits and bearing the obligations accruing from it on terms that they agree upon and evidence by contract. The joint activity is subject to the same provisions and requirements provided for such activity if carried on by any one (1) of the entities individually, except that the joint board of aviation commissioners may be composed of more than four (4) but not more than seven (7) members and the maximum allowance may be increased correspondingly. In case of failure of agreement between two (2) or more entities upon petition filed by one (1) or more of the entities involved, the aeronautics commission of Indiana, after investigation and hearing, shall determine and prescribe reasonable and equitable participation including representation on the joint governing board and shall prescribe other rules and regulations as necessary.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-15
Assistance to other entities

Sec. 15. Whenever the fiscal body of an eligible entity determines that the public interest and the interest of the entity will be served by assisting another entity to exercise the powers granted by this chapter, the former entity may furnish assistance by gift, or lease with or without rental, of real property, by the donation, lease with or without rental, or loan, of personal property, and by the appropriation of monies that may be provided for by taxation or the issuance of bonds in the same manner as funds might be provided for the same purposes if the entity were exercising the powers granted in its own behalf.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-16
Transfer of funds to general fund of entity

Sec. 16. Whenever the board of an eligible entity accumulates funds that are derived from sources other than from the operation of the airport and that are not needed for the operation or maintenance of the airport, the board, upon a majority vote of its members, may without notice transfer all or part of the funds to the general fund of the entity if the funds were not derived from taxation. This section does not apply to funds derived from lands leased from the federal government.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-17
Federal, public, or private grants

Sec. 17. (a) An eligible entity acting by and through its board under IC 8-21-8 may accept, receive, and receipt for federal monies and other monies, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities, and sites for them, and comply with federal law and rules and regulations made under them for the expenditure of federal monies on airports and other air navigation facilities.

(b) Subject to IC 8-21-8, the board has exclusive power on behalf of the entity to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances, and contracts and to enter into agreements with state or federal agencies relative to the development of a municipal airport.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-18
Buildings and facilities; construction or improvements; income and

revenues; bonds; surplus

Sec. 18. (a) Subject to the approval of the fiscal body of the eligible entity, the board may contract with any person for construction, extensions, additions, or improvements of an aircraft hangar or revenue producing building or facility located or to be located on the airport of the entity, the cost of which is to be paid in the manner authorized by this section.

(b) A contract made under this section must be authorized by ordinance providing that the principal and interest of bonds issued for the payment of the cost of the construction, extensions, additions, or improvements shall be paid exclusively from the revenues and receipts of the aircraft hangars or revenue producing buildings or facilities, unless otherwise provided by this section.

(c) The fiscal body must, by ordinance, set aside the income and revenues of the buildings or facilities into a separate fund, to be used in the maintenance and operation and in payment of the cost of the construction, extensions, additions, or improvements. The ordinance must fix:

(1) the proportion of the revenues of the buildings or facilities that is necessary for the reasonable and proper operation and maintenance of them; and

(2) the proportion of the revenues that are to be set aside and applied to the payment of the principal and interest of bonds.

The ordinance may provide for the proportion of the revenues that are to be set aside as an adequate depreciation account.

(d) Whenever the board determines that there exists a surplus in funds derived from the net operating receipts of a municipal airport, then the board may recommend to the fiscal body that a designated amount of the surplus fund be appropriated by special or general appropriation to the "aviation revenue bond account" for the relief of principal or interest of bonds issued under this section. However, this surplus in funds may not include monies raised by taxation.

(e) The fiscal body may issue and sell bonds to provide for the payment of costs of the following:

(1) Airport capital improvements, including the acquisition of real property.

(2) Construction or improvement of revenue producing buildings or facilities owned and operated by the eligible entity.

(3) Payment of any loan contract.

The fiscal body may issue and sell bonds bearing interest, payable annually or semiannually, executed in the manner and payable at the times not exceeding forty (40) years from the date of issue and at the places as the fiscal body of the entity determines, which bonds are payable only out of the "aviation revenue bond account" fund. The bonds have in the hands of bona fide holders all the qualities of negotiable instruments under law.

(f) In case any of the officers whose signatures or countersignatures appear on the bonds or the coupons ceases to be

the officer before the delivery of the bonds to the purchaser, the signature or countersignatures are nevertheless valid and sufficient for all purposes, the same as if he had remained in office until the delivery of the bonds. The bonds and their interest issued against an "aviation revenue bond account" fund and the fixed proportion or amount of the revenues pledged to the fund does not constitute an indebtedness of the entity under the Constitution of the State of Indiana.

(g) Each bond must state plainly upon its face that it is payable only from the special fund, naming the fund and the ordinance creating it, and that it does not constitute an indebtedness of the entity under the Constitution of the State of Indiana. The bonds may be issued either as registered bonds or as bonds payable to bearer. Coupons and bearer bonds may be registered as to principal in the holder's name on the books of the entity, the registration being noted on the bond by the clerk or other designated officer, after which no transfer is valid unless made on the books of the entity by the registered holder and similarly noted on the bonds. Bonds so registered as to principal may be discharged from the registration by being transferred to bearer, after which it is transferable by delivery but may be registered again as to principal. The registration of the bonds as to the principal does not restrain the negotiability of the coupon by delivery, but the coupons may be surrendered and the interest made payable only to the registered holder of the bonds. If the coupons are surrendered, the surrender and cancellation of them shall be noted on the bond and then interest on the bond is payable to the registered holder or order in cash or at his option by check or draft payable at the place or one (1) of the places where the coupons are payable.

(h) The bonds shall be sold in a manner and upon terms that the fiscal body considers in the best interest of the entity.

(i) All bonds issued by an eligible entity under this section are exempt from taxation for all purposes, except that the interest is subject to the adjusted gross income tax.

(j) In fixing the proportion of the revenues of the building or facility required for operation and maintenance, the fiscal body shall consider the cost of operation and maintenance of the building or facility and may not set aside into the special fund a greater amount or proportion of the revenues and proceeds than are required for the operation and maintenance. The sums set aside for operation and maintenance shall be used exclusively for that purpose, until the accumulation of a surplus results.

(k) The proportion set aside to the depreciation fund, if a depreciation account or fund is provided for under this section, shall be expended in remedying depreciation in the building or facility or in new construction, extensions, additions, or improvements to the property. Accumulations of the depreciation fund may be invested, and the income from the investment goes into the depreciation fund.

The fund, and the proceeds of it, may not be used for any other purpose.

(l) The fixed proportion that is set aside for the payment of the principal and interest of the bonds shall, from month to month, as it is accrued and received, be set apart and paid into a special account in the treasury of the eligible entity, to be identified "aviation revenue bond account," the title of the account to be specified by ordinance. In fixing the amount or proportion to be set aside for the payment of the principal and interest of the bonds, the fiscal body may provide that the amount to be set aside and paid into the aviation revenue bond account for any year or years may not exceed a fixed sum, which sum must be at least sufficient to provide for the payment of the interest and principal of the bonds maturing and becoming payable in each year, together with a surplus or margin of ten percent (10%).

(m) If a surplus is accumulated in the operating and maintenance fund that is equal to the cost of maintaining and operating the building or facility for the twelve (12) following calendar months, the excess over the surplus may be transferred by the fiscal body to either the depreciation account to be used for improvements, extensions, or additions to property or to the aviation revenue bond account fund, as the fiscal body designates.

(n) If a surplus is created in the aviation revenue bond account in excess of the interest and principal of bonds, plus ten percent (10%), becoming payable during the calendar, operating, or fiscal year then current, together with the amount of interest or principal of bonds becoming due and payable during the next calendar, operating, or fiscal year, the fiscal body may transfer the excess over the surplus to either the operating and maintenance account, or to the depreciation account, as the fiscal body designates.

(o) All money received from bonds issued under this section shall be applied solely for the purposes listed in subsection (e). There is created a statutory mortgage lien upon buildings or facilities for which bonds are issued in favor of the holders of the bonds and of the coupons of the bonds. The buildings or facilities so constructed, extended, or improved remain subject to the statutory mortgage lien until payment in full of the principal and interest of the bonds.

(p) A holder of the bonds or of the attached coupons may enforce the statutory mortgage lien conferred by this section, and may enforce performance of all duties required by this section of the eligible entity issuing the bond or of any officer of the entity, including:

(1) the making and collecting of reasonable and sufficient rates or rentals for the use or lease of the buildings or facilities, or part of them established for the rent, lease, or use of the buildings or facilities;

(2) the segregation of the revenues from the buildings or facilities; and

(3) the application of the respective funds created by this section.

(q) If there is a default in the payment of the principal or interest of any of the bonds, a court having jurisdiction of the action may appoint an administrator or receiver to administer, manage, or operate the buildings or facilities on behalf of the entity, and the bondholders, with power to:

(1) charge and collect rates or rentals for the use or lease of the buildings or facilities sufficient to provide for the payment of the operating expenses;

(2) pay any bonds or obligations outstanding against the buildings or facilities; and

(3) apply the income and revenues thereof in accord with this section and the ordinance.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.77-1990, SEC.1; P.L.192-2002(ss), SEC.146.

IC 8-22-2-18.5

Payment of costs of airport capital improvements; loans; requirements

Sec. 18.5. (a) The board may negotiate terms and borrow money from any source for the payment of the costs of airport capital improvements, including the acquisition of real property or construction or improvement of revenue producing buildings or facilities located on an airport and owned and operated by the eligible entity, subject to the following requirements:

(1) The loan contract must be approved by resolution of the board and the fiscal body of the eligible entity that established the board.

(2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.

(3) The loan contract must state that the indebtedness is that of the board, is payable solely from revenues of the board that are derived from either airport operations or from revenue bonds, and may not be paid by a tax levied on property located within the district.

(4) The loan contract must be submitted to the department of local government finance, which may approve, disapprove, or reduce the amount of the proposed loan contract. The department of local government finance must make a decision on the loan contract within thirty (30) days after the contract is submitted for review. The action taken by the department of local government finance on the proposed loan contract is final.

(b) A loan contract issued under this chapter is issued for essential public and governmental purposes. A loan contract, the interest on the contract, the proceeds received by a holder from the sale of a loan contract to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at

maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

(c) After a board enters into a loan contract, the board may use funds received from state or federal grants to satisfy the repayment of part or all of the loan contract.

As added by P.L.77-1990, SEC.2. Amended by P.L.90-2002, SEC.327; P.L.61-2012, SEC.2.

IC 8-22-2-19
Validation of acts

Sec. 19. All acts of an eligible entity in establishing an airport or landing field, and all other acts in connection with them, taken by the entity under a prior statute, including all bonds issued, authorized, or sold under that statute or any other statute, the proceeds of which have been either used or designed for purposes stated in this chapter, and all acts of officials relating to any of the matters stated, are ratified as if authorized by statute.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-2-20
Violations; exception; offense

Sec. 20. A person who recklessly violates this chapter, except for section 18, commits a Class B misdemeanor.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3

Chapter 3. Local Airport Authorities

IC 8-22-3-0.3

Transfer of board of aviation commissioners after January 25, 1985; applicable law

Sec. 0.3. (a) This section applies to each board of aviation commissioners from which powers, rights, obligations, functions, and assets are to be transferred, under section 33 of this chapter, to an airport authority established by P.L.100-1985.

(b) The provisions of section 33 of this chapter governing the transfer of assets apply to all assets held for the use of the board of aviation commissioners on January 25, 1985. Assets held for the use of the board of aviation commissioners on that date may not be transferred for the use of any other board or department of local government after that date, except as provided in section 3 of this chapter.

As added by P.L.220-2011, SEC.203.

IC 8-22-3-1

Establishment; jurisdiction; name

Sec. 1. Whenever the fiscal body of one (1) or more eligible entities, acting individually or jointly, adopts an ordinance or a resolution in favor of the establishment of an airport authority under this chapter, there is established an airport authority. The authority has jurisdiction over a district with boundaries coterminous with the jurisdictional boundaries of the entity or entities adopting the ordinance or resolution. The authority must have a name including the words "airport authority."

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-1.1

Establishment of airport authorities in Allen County

Sec. 1.1. (a) Notwithstanding section 1 of this chapter, an airport authority is established in Allen County.

(b) For the purposes of this chapter, an authority established under this section shall be treated as if it had been established by an ordinance of the fiscal body of the county. However, section 2 of this chapter does not apply to such an authority.

(c) The name of an authority established under this section is the "Fort Wayne-Allen County Airport Authority".

As added by P.L.100-1985, SEC.1. Amended by P.L.12-1992, SEC.67; P.L.119-2012, SEC.98.

IC 8-22-3-2

Remonstrance against establishment of authority; petition; certification

Sec. 2. (a) A remonstrance against the establishment of an

authority may be made by petition of the registered voters of the district. The petition must be in writing, must bear the signature, date, and address of residence of the remonstrator, and must be filed in the office of the circuit court clerk of the county containing the greatest percentage of population of the district not later than thirty (30) days following the adoption of the ordinance. If at least the number of the registered voters of the district required under IC 3-8-6-3 to place a candidate on the ballot, as certified by the clerk, remonstrate, the clerk shall certify the question under IC 3-10-9 to the county election board of each county in which the district is located. The question of the establishment of an authority shall be submitted to the voters of the district at the next primary or general election at which the question can be placed on the ballot under IC 3-10-9-3. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state: "Shall the airport authority be established?".

(b) Upon certification by the clerk that a remonstrance was not filed by the required number of registered voters and in the time and manner provided, or that the question was submitted to the voters and received the affirmative vote of a majority of those voting upon the question, the authority is established effective as of the next January 1 or July 1 following the certification, whichever date is earlier. The certification by the clerk shall be submitted to the fiscal body of each entity adopting the ordinance or resolution under section 1 of this chapter.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.10-1988, SEC.218; P.L.12-1995, SEC.105.

IC 8-22-3-3

Executive and legislative powers of board

Sec. 3. The board of an authority shall exercise the executive and legislative powers of the authority as provided by this chapter.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1981, P.L.11, SEC.68.

IC 8-22-3-4

Members of board

Sec. 4. (a) Except as provided in subsections (b), (c), (d), (e), (f), and (g) and section 4.3 of this chapter, the board consists of four (4) members, whenever the fiscal body of an eligible entity, acting individually, establishes an authority. Except as provided in subsection (h) and section 4.5(f) of this chapter, the members of the board shall be appointed by the executive of the entity, and not more than two (2) members of the board may be of the same political party.

(b) In the event that two (2) cities or one (1) city and one (1) town act jointly to establish an authority under this chapter, the board consists of five (5) members. The executive of each city or town

shall each appoint two (2) members to the board. The county executive shall appoint one (1) member to the board. Each member appointed by an executive must be of a different political party than the other appointed member.

(c) In the event that an authority is established by a city or town and a county, acting jointly, the board consists of six (6) members. The executive of each entity shall appoint three (3) members. Not more than two (2) members appointed by each executive may be of the same political party.

(d) In the event that an authority was established under IC 19-6-3 (before its repeal on April 1, 1980) the board consists of five (5) members. Three (3) members of the board shall be appointed by the mayor of the city, and two (2) members of the board shall be appointed by the board of commissioners of the county. Not more than two (2) members representing the city may be members of the same political party, and not more than one (1) member representing the county may be a member of the same political party.

(e) Except as provided in section 4.1(b)(3) of this chapter, the county executive of each Indiana county that is adjacent to a county establishing an authority under this chapter and in which the authority owns real property may appoint one (1) advisory member to the board. An advisory member who is appointed under this subsection:

(1) must be a resident of the adjacent county;
(2) may not vote on any matter before the board;
(3) serves at the pleasure of the appointing authority; and
(4) serves without compensation or payment for expenses.

(f) The board of an authority established in a city having a population of more than sixteen thousand four hundred (16,400) but less than seventeen thousand (17,000) consists of five (5) members. The members of the board shall be appointed by the executive of the eligible entity, and not more than three (3) members of the board may be of the same political party.

(g) This subsection does not apply to a board subject to subsection (b), (c), (d), or (f). Notwithstanding subsection (a), the fiscal body of an eligible entity may adopt an ordinance or a resolution providing that the board consists of five (5) members. If the board consists of five (5) members, not more than three (3) members may be of the same political party.

(h) If an airport authority is established under this section by the fiscal body of Clark County, the board must consist of four (4) members. Subject to section 4.5(f) of this chapter (concerning the initial members of the board):

(1) three (3) of the members of the board shall be appointed by the county executive of Clark County; and
(2) one (1) of the members of the board shall be appointed by the legislative body of the town of Sellersburg.

The board may consist of five (5) members if the fiscal body of Clark

County adopts an ordinance or resolution as provided in subsection (g). Subject to section 4.5(f) of this chapter (concerning the initial members of the board), if the board consists of five (5) members, three (3) of the members of the board shall be appointed by the county executive of Clark County, one (1) of the members of the board shall be appointed by the fiscal body of Clark County, and one (1) of the members of the board shall be appointed by the legislative body of the town of Sellersburg.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.101-1985, SEC.1; P.L.333-1989(ss), SEC.3; P.L.3-1990, SEC.37; P.L.116-1995, SEC.3; P.L.111-2001, SEC.1; P.L.170-2002, SEC.69; P.L.134-2005, SEC.4; P.L.119-2012, SEC.99; P.L.84-2013, SEC.1.

IC 8-22-3-4.1

Members of board for county having consolidated city

Sec. 4.1. (a) This section applies only to the board of an airport authority established for a county having a consolidated city.

(b) The board consists of members appointed as follows:

(1) The mayor of the consolidated city shall appoint five (5) members. Each member appointed under this subdivision must be a resident of the county having the consolidated city.

(2) The majority leader of the legislative body of the county having the consolidated city shall appoint one (1) member. The member appointed under this subdivision must be a resident of the county having the consolidated city.

(3) The county executive of each Indiana county that fulfills all of the following requirements shall each appoint one (1) member:

(A) The county is adjacent to the county having the consolidated city.

(B) The county has a population of:

(i) more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000);

(ii) more than seventy thousand (70,000) but less than seventy thousand fifty (70,050); or

(iii) more than two hundred seventy thousand (270,000) but less than three hundred thousand (300,000).

(C) The authority owns real property in the county.

The county executive of a county represented on the board under this subdivision may not appoint an advisory member under section 4(e) of this chapter.

Not more than three (3) members appointed under subdivision (1) may be members of the same political party.

(c) The member of the board appointed under subsection (b)(2) must also be a resident of a township that:

(1) is located in the county having the consolidated city; and

(2) has a population of:

(A) less than fifty thousand (50,000); or

(B) more than one hundred thirty-three thousand (133,000) but less than one hundred forty thousand (140,000).

(d) A member of the board appointed under subsection (b)(3)(B)(i) must be a resident of a township:

(1) located in the county making the appointment; and

(2) having a population of more than twenty-five thousand (25,000) but less than twenty-eight thousand (28,000).

(e) The county executive of a county that is not otherwise represented on the board and that is located not more than one thousand two hundred (1,200) feet from a certified air carrier airport that is owned or operated by the authority may appoint one (1) advisory member to the board. An advisory member appointed under this subsection:

(1) must be a resident of:

(A) the county making the appointment; and

(B) one (1) of the two (2) townships in the county located nearest to the airport;

(2) may not vote on any matter before the board;

(3) serves at the pleasure of the appointing authority; and

(4) serves without compensation or payment for expenses.

(f) A member of the board holds office for four (4) years and until the member's successor is appointed and qualified.

(g) If a vacancy occurs in the board, the authority that appointed the member that vacated the board shall appoint an individual to serve for the remainder of the unexpired term.

(h) A board member may be reappointed to successive terms.

(i) A board member may be impeached under the procedure provided for the impeachment of county officers.

(j) A board member appointed under subsection (b)(3) may not vote on a matter before the board relating to imposing, increasing, or decreasing property taxes in the county having the consolidated city.

As added by P.L.116-1995, SEC.4. Amended by P.L.170-2002, SEC.70; P.L.83-2004, SEC.1; P.L.139-2011, SEC.3; P.L.119-2012, SEC.100.

IC 8-22-3-4.2

Authority established under IC 8-22-3-1.1; members of board

Sec. 4.2. In the event that an authority is established under section 1.1 of this chapter, the board consists of six (6) members. Three (3) members of the board shall be appointed by the board of commissioners of the county, and three (3) members of the board shall be appointed by the mayor of the second class city. Not more than two (2) members appointed by the board of commissioners of the county may be members of the same political party and not more than two (2) members appointed by the mayor of the second class city may be members of the same political party.

As added by P.L.100-1985, SEC.2.

IC 8-22-3-4.3

Members of certain boards; annual financial audit; annual report

Sec. 4.3. (a) This section applies only to the board of an airport authority that:

(1) is not located in a county containing a consolidated city;

(2) is established by a city; and

(3) has entered into a federal interstate compact.

(b) The board of an airport authority described in subsection (a) consists of members appointed as follows:

(1) Four (4) members appointed by the executive of the city in which the airport is located. Not more than two (2) members appointed under this subdivision may be members of the same political party.

(2) One (1) member appointed by the executive of the county in which the airport is located.

(3) One (1) member appointed by the executive of the county (other than the county in which the airport is located) that is closest geographically to the airport.

(4) One (1) member appointed by the governor.

(c) A member of the board holds office for four (4) years and until the member's successor is appointed and qualified.

(d) If a vacancy occurs in the board, the authority that appointed the member that vacated the board shall appoint an individual to serve for the remainder of the unexpired term.

(e) A board member may be reappointed to successive terms.

(f) A board member may be impeached under the procedure provided for the impeachment of county officers.

(g) The board member appointed under subsection (b)(4) serves as the president of the board.

(h) On September 1, 2013, the term of each member serving on the board of the airport authority originally established by the city of Gary is terminated. The appointing authorities required to make appointments to the board under this section shall make new appointments to the board as soon as possible after August 31, 2013.

(i) Each person appointed by an appointing authority under subsection (b) must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

(1) Aviation management at an executive level.

(2) Regional economic development.

(3) Business or finance.

(j) A person appointed by an appointing authority under subsection (b) may not personally have, or be employed by or have an ownership interest in an entity that has, a significant contractual or business relationship with the airport authority.

(k) The board of an airport authority described in subsection (a) shall contract with a certified public accountant for an annual financial audit of the airport authority. The certified public accountant may not be selected without review of the accountant's

proposal and approval of the accountant by the state board of accounts. The certified public accountant may not have a significant financial interest, as determined by the board of the airport authority, in a project, facility, or service owned by, funded by, or leased by or to the airport authority. The certified public accountant shall present the annual financial audit not later than four (4) months after the end of the airport authority's fiscal year. The board of the airport authority shall pay the cost of the annual financial audit. In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of the airport authority. The airport authority shall pay the cost of any audit by the state board of accounts.

(l) The board of the airport authority shall, not later than four (4) months after the end of the airport authority's fiscal year, submit an annual report of the board's activities for the preceding fiscal year to:

(1) the budget agency, for review by the budget committee; and

(2) the legislative council.

An annual report submitted under this section to the legislative council must be in an electronic format under IC 5-14-6. The annual report must set forth a complete operating and financial statement of the airport authority for the airport authority's preceding fiscal year.

As added by P.L.134-2005, SEC.5. Amended by P.L.230-2013, SEC.4; P.L.192-2015, SEC.6.

IC 8-22-3-4.4

General assembly findings regarding board of Indianapolis Airport Authority

Sec. 4.4. The general assembly finds that development of the certified air carrier airport, owned and operated by the Indianapolis Airport Authority, may impact persons residing outside Marion County but within close proximity to the airport. In order to address the concerns of these persons, the general assembly finds that it is appropriate to appoint to the board of the Indianapolis Airport Authority (described in section 4.1 of this chapter) a member from a county, described in section 4.1(e) of this chapter, that is located in close proximity to a certified air carrier airport described in this section.

As added by P.L.220-2011, SEC.204.

IC 8-22-3-4.5

Members of a board established by Clark County

Sec. 4.5. (a) This section applies only to an airport authority established under this chapter by the fiscal body of Clark County.

(b) The following apply to the authority:

(1) The authority shall be named the South Central Regional Airport Authority.

(2) The budget and tax levies of the authority must be approved by the fiscal body of Clark County as provided in IC 6-1.1-17-20.

(3) The authority may not issue bonds or enter into a lease payable in whole or in part from property taxes unless the authority obtains the approval of the fiscal body of Clark County as provided in IC 6-1.1-17-20.5.

(c) The board must at all times maintain liability insurance coverage for the authority that provides general liability coverage in an amount determined sufficient by the board.

(d) The board must issue for each year an annual report that includes at least the following:

(1) The reports submitted to the board under section 21 of this chapter by the treasurer of the authority for the year.

(2) An audited balance sheet, an audited cash flow statement, and an audited income statement for the year.

(3) Minutes of each meeting of the board held during the year.

(4) A report of any pending or potential litigation involving the authority or the board, including a discussion of potential loss resulting from the pending or potential litigation.

(e) The board must each year present the annual report issued under subsection (d):

(1) at a public meeting of the county executive of Clark County;

(2) at a public meeting of the fiscal body of Clark County; and

(3) at a public meeting of the legislative body of the town of Sellersburg.

(f) Notwithstanding sections 4 and 5 of this chapter or any other law, the following apply to the membership of the board of the authority:

(1) Subject to subdivision (2), the individuals serving as members of the Clark County board of aviation commissioners at the time the authority is established shall become the initial members of the board of the authority.

(2) If:

(A) the Clark County board of aviation commissioners consists of five (5) members at the time the authority is established; and

(B) the board of the authority consists of only four (4) members;

the county executive of Clark County shall determine which four (4) of the members of the Clark County board of aviation commissioners shall become the initial members of the board of the authority.

(3) The terms of the individuals who serve as the initial members of the board of the authority as provided in subdivision (1) expire on January 1 of the first calendar year that begins at least twelve (12) months after the authority is established.

(4) Upon the expiration of the terms of the individuals who serve as the initial members of the board of the authority, the members of the board shall be appointed as provided in section

4(h) of this chapter.

(g) The general assembly finds that by enacting this section and section 4(h) of this chapter, Clark County will have the opportunity to advance the economic development potential of the county through the airport authority, the military base reuse authority, and the ports of Indiana.

As added by P.L.84-2013, SEC.2.

IC 8-22-3-5

Board membership; prerequisites; restrictions

Sec. 5. (a) This subsection applies only in counties that contain a consolidated city or at least one (1) second class city. To be eligible to be a member of the board, a person must have the following qualifications:

(1) Be at least eighteen (18) years old.

(2) Except as provided in section 4.1 of this chapter, be a resident of the county in which the eligible entity is located.

(3) Not be actively engaged as:

(A) a principal owner;

(B) a majority member or majority shareholder;

(C) a director;

(D) an officer; or

(E) an employee with managerial or supervisory responsibilities;

of any entity engaged in commercial aeronautics.

(4) Not hold any other governmental office (by appointment or election) that has statutory fiscal or management review of the board's actions.

(5) Not serve as a member of any other agency, board, commission, department, or other governmental entity that:

(A) is located within the jurisdiction of the authority; and

(B) has statutory fiscal or management review of the authority's actions.

(b) This subsection does not apply to a county if the county contains a consolidated city or a second class city. To be eligible to be a member of the board, a person must:

(1) be at least eighteen (18) years of age;

(2) be a resident of the county in which the eligible entity is located; and

(3) not be actively engaged as:

(A) a principal owner;

(B) a majority member or majority shareholder;

(C) a director;

(D) an officer; or

(E) an employee with managerial or supervisory responsibilities;

of any entity engaged in commercial aeronautics in a county that the board serves.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.129-1987, SEC.2; P.L.5-1988, SEC.54; P.L.116-1995, SEC.5; P.L.134-2005, SEC.6; P.L.61-2012, SEC.3.

IC 8-22-3-6

Appointment of board members; staggered terms; vacancies; reappointment; impeachment

Sec. 6. (a) The board members shall be appointed as soon as possible after the adoption of an ordinance establishing an authority under this chapter. The term of each member starts at noon on the day the authority is established, at which time the board members shall meet and organize as the board.

(b) Members of the board shall be appointed as follows:

(1) One (1) member for an initial term of one (1) year.

(2) One (1) for an initial term of two (2) years.

(3) If a third or fourth appointment is required, one (1) for an initial term of three (3) years and one (1) for an initial term of four (4) years.

(4) If a fifth appointment is required, one (1) for an initial term of four (4) years.

(5) If a sixth appointment is necessary, one (1) for an initial term of four (4) years.

At the expiration of the respective terms, a member or members shall be appointed to fill the vacancies caused by the expiration. The members so appointed hold office for a term of four (4) years and until their successors are appointed and qualified. If the authority was established under IC 19-6-3 (before its repeal on April 1, 1980), at the expiration of the members' terms the mayor or the board of county commissioners shall appoint a member or members to fill the vacancies caused by the expiration. The members so appointed hold office for a term of three (3) years and until their successors are appointed and qualified.

(c) If a vacancy occurs in the board by resignation or otherwise, a member shall be appointed for the remainder of the term.

(d) A board member is eligible for reappointment to successive terms.

(e) A board member may be impeached under the procedure provided for the impeachment of county officers.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.3-1990, SEC.38; P.L.116-1995, SEC.6; P.L.134-2005, SEC.7.

IC 8-22-3-6.1

Authority established under IC 8-22-3-1.1; appointment of board members; terms; vacancies; reappointment; impeachment

Sec. 6.1. (a) Notwithstanding section 6 of this chapter, the board members of an authority established under section 1.1 of this chapter shall be appointed on or before June 15, 1985. The term of each member starts at noon on the day the authority is established, at

which time the board members shall meet and organize as the board.

(b) Members of the board shall be appointed as follows: two (2) members for an initial term of one (1) year, two (2) members for an initial term of two (2) years, and two (2) members for an initial term of three (3) years. At the expiration of the respective terms, a member or members shall be appointed to fill the vacancies caused by the expiration. The members so appointed shall hold office for a term of four (4) years and until their successors are appointed and qualified.

(c) If a vacancy occurs in the board by resignation or otherwise, a member shall be appointed for the remainder of the term.

(d) A board member is eligible for reappointment to successive terms.

(e) A board member may be impeached under the procedure provided for the impeachment of county officers.

As added by P.L.100-1985, SEC.3.

IC 8-22-3-6.5

Cooperation agreements with contiguous counties

Sec. 6.5. (a) This section applies only to an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980).

(b) As used in this section, "cooperative agreement" means an agreement entered into by the authority and an eligible county under subsection (d).

(c) As used in this section, "eligible county" means a county that is contiguous to the county in which the authority has jurisdiction.

(d) The authority and an eligible county may enter into a cooperative agreement concerning the operations, functions, projects, activities, funding, or capital expenditures of the authority under this chapter or IC 8-22-3.5.

(e) A cooperative agreement must provide for the following:

(1) The appointment to the board of the authority of one (1) or more additional members, including advisory members, representing the eligible county.

(2) The duration of the cooperative agreement.

(3) The purpose of the cooperative agreement.

(4) The manner of financing, staffing, and supplying a joint undertaking under the cooperative agreement.

(5) Establishing and maintaining a budget for a joint undertaking under the cooperative agreement.

(6) The partial or complete termination of the cooperative agreement.

(7) Any other matters the authority and the eligible county determine are necessary or desirable.

(f) A cooperative agreement may provide for the following:

(1) A trial period, not to exceed three (3) years, during which the eligible county:

(A) may cooperate in an advisory capacity; and

(B) may not be required to participate in financing activities under the cooperative agreement.

(2) The establishment of a separately appointed board to administer the cooperative agreement following the conclusion of the trial period described in subdivision (1).

(g) A proposed cooperative agreement must be approved by the:

(1) executive; and

(2) fiscal body;

of the eligible county before the eligible county may enter into the cooperative agreement.

(h) A cooperative agreement entered into under this section is not subject to IC 36-1-7.

(i) The general assembly finds the following:

(1) The authority and all eligible counties face unique and distinct challenges and opportunities related to transportation and economic development that are different in scope and type from those faced by other units of local government in Indiana due to:

(A) the status of the authority and the eligible counties in relationship to the southwest extension of Interstate Highway 69;

(B) the distance of the authority and the eligible counties from other major centers of commerce, industry, and economic activity in the state; and

(C) the relative inaccessibility of southwest Indiana to markets.

(2) A unique approach is required to fully take advantage of the economic development potential of the authority and an eligible county.

As added by P.L.97-2007, SEC.1.

IC 8-22-3-7

Conflicts of interest

Sec. 7. A member of the board is ineligible to hold an appointive office or employment for the authority. A member of the board may not have a pecuniary interest (as defined in IC 35-44.1-1-4(a)(3)) in any contract with or claim against the authority.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.154-2016, SEC.4.

IC 8-22-3-8

Compensation and expenses

Sec. 8. (a) Except as provided in subsections (b) and (c), the members of the board shall serve without compensation, but shall be paid their actual expenses for travel conducted in the interest of the board.

(b) The fiscal body of the entity may provide a per diem for the members of the board in an amount that does not exceed thirty-five

dollars ($35) for each whole or part day a member is engaged in board activities. The members of the board shall also be paid their actual expenses under subsection (a).

(c) If the authority is established by more than one (1) entity, the fiscal bodies of the entities, acting jointly, may provide a per diem for the members of the board in an amount that does not exceed thirty-five dollars ($35) for each whole or part day a member is engaged in board activities. The members of the board shall also be paid their actual expenses under subsection (a).

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.106-1993, SEC.1.

IC 8-22-3-9

Election of officers; meetings; record of proceedings; internal affairs

Sec. 9. (a) Except as provided in section 4.3(g) of this chapter, the board shall elect, at its first regular meeting to be conducted on the first July 1 or January 1 after appointment of the board members, and annually thereafter, one (1) of its members president, and another of its members vice president, who performs the duties of the president during the absence of or disability of the president. The board shall keep a suitable office at the airport where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

(b) The board shall provide by rule for regular meetings to be held not less than at monthly intervals throughout the year.

(c) The board shall convene in a special meeting when one is called. The president or a majority of the members of the board may call a special meeting. The board shall establish by rule a procedure for calling special meetings.

(d) Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport. The board may adjourn any regular or special meeting to a specific day designated at the time of adjournment, and that meeting is a continuation of the meeting so adjourned. This subsection does not apply to an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980).

(e) A majority of the members of the board constitutes a quorum for a meeting. The board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(f) The board shall keep a written record of its proceedings, which shall be available for public inspection in the office of the board. The board shall record the aye and nay tally of the vote for each ordinance or resolution.

(g) The board shall adopt a system of rules of procedure under which its meetings are to be held. The board may suspend the rules of procedure by unanimous vote of the members of the board who

are present at the meeting. The board may not suspend the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.

(h) The board may supervise its internal affairs as do local legislative and administrative bodies.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.3-1990, SEC.39; P.L.107-1993, SEC.1; P.L.137-2000, SEC.2; P.L.230-2013, SEC.5.

IC 8-22-3-10

Proposal and adoption of ordinances

Sec. 10. (a) A member of the board may introduce a draft of a proposed ordinance at a meeting of the board. A person who introduces a draft shall provide at the time of introduction a written copy of the draft. The board shall assign to each draft a distinguishing number and the date when introduced.

(b) Not more than seven (7) days after the introduction of a draft of an ordinance nor less than seven (7) days before the final passage of a draft of an ordinance, the board shall publish a notice that the proposed ordinance is pending final action by the board. The notice shall be published in each county within the jurisdiction of the board in accordance with IC 5-3-1. Notice of an ordinance establishing a budget must be in accordance with IC 6-1.1-17.

(c) The board shall include in the notice reference to the subject matter of the proposed ordinance and the time and place a hearing will be had and shall indicate that the proposed ordinance is available for public inspection at the office of the board. The board may include in one (1) notice a reference to the subject matter of each draft that is pending and for which notice has not already been given.

(d) An ordinance is not invalid because the reference to the subject matter of the draft was inadequate if it was sufficient to advise the public of the general subject matter of the proposed ordinance.

(e) The board shall, not later than the date of notice, place five (5) copies of the proposed draft on file in the office of the board for public inspection.

(f) At a meeting for which notice has been given as required by this section, the board may take final action on the proposed ordinance or may postpone final consideration of it to a designated meeting in the future without giving additional notice.

(g) Before adopting an ordinance, the board must give an opportunity to persons present at the meeting to give testimony, evidence, or argument for or against the proposed ordinance in person or by counsel, under reasonable rules as to the number of persons who may be heard and time limits that the board adopts.

(h) When an ordinance is adopted, the board shall also designate the effective date of the ordinance. If the board fails to designate the effective date of the ordinance in the record of the proceedings of the

board, the ordinance takes effect on the fourteenth day after its passage.

(i) When the board adopts an ordinance, the board shall have copies of it made available to the public.

(j) The board may provide for the printing of the ordinances of the authority in pamphlet form or for bound volumes and may distribute them without charge, or may charge the cost of printing and distribution.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.78, SEC.2.

IC 8-22-3-11

Powers and duties of board; tax rates

Sec. 11. (a) The board may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, to sue and be sued in its own name.

(2) To have all the powers and duties conferred by statute upon boards of aviation commissioners. The board supersedes all boards of aviation commissioners within the district. The board has exclusive jurisdiction within the district.

(3) To protect all property owned or managed by the board.

(4) To adopt an annual budget and levy taxes in accordance with this chapter.

(A) The board may not levy taxes on property in excess of the tax rate specified in subsection (b), except as provided in sections 17 and 25 of this chapter.

(B) Clause (A) and subsection (b) do not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).

(C) The board of an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980) may levy taxes on property not in excess of six and sixty-seven hundredths cents ($0.0667) on each one hundred dollars ($100) of assessed valuation.

(5) To incur indebtedness in the name of the authority in accordance with this chapter.

(6) To adopt administrative procedures, rules, and regulations.

(7) To acquire property, real, personal, or mixed, by deed, purchase, lease, condemnation, or otherwise and dispose of it for use or in connection with or for administrative purposes of the airport; to receive gifts, donations, bequests, and public trusts and to agree to conditions and terms accompanying them and to bind the authority to carry them out; to receive and administer federal or state aid; and to erect buildings or structures that may be needed to administer and carry out this chapter.

(8) To determine matters of policy regarding internal organization and operating procedures not specifically provided for otherwise.
(9) To adopt a schedule of reasonable charges and to collect them from all users of facilities and services within the district.
(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the board in accordance with procedures adopted by the board.
(11) To employ personnel that are necessary to carry out the duties, functions, and powers of the board.
(12) To establish an employee pension plan. The board may, upon due investigation, authorize and begin a fair and reasonable pension or retirement plan and program for personnel, the cost to be borne by either the authority or by the employee or by both, as the board determines. If the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), the entire cost must be borne by the authority, and ordinances creating the plan or making changes in it must be approved by the mayor of the city. The plan may be administered and funded by a trust fund or by insurance purchased from an insurance company licensed to do business in Indiana or by a combination of them. The board may also include in the plan provisions for life insurance, disability insurance, or both.
(13) To sell surplus real or personal property in accordance with law. If the board negotiates an agreement to sell trees situated in woods or forest areas owned by the board, the trees are considered to be personal property of the board for severance or sale.
(14) To adopt and use a seal.
(15) To acquire, establish, construct, improve, equip, maintain, control, lease, and regulate municipal airports, landing fields, and other air navigation facilities, either inside or outside the district; to acquire by lease (with or without the option to purchase) airports, landing fields, or navigation facilities, and any structures, equipment, or related improvements; and to erect, install, construct, and maintain at the airport or airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and the public. The Indiana department of transportation must grant its approval before land may be purchased for the establishment of an airport or landing field and before an airport or landing field may be established.
(16) To fix and determine exclusively the uses to which the airport lands may be put, including land use planning and zoning. All uses must be necessary or desirable to the airport or the aviation industry and must be compatible with the uses of the surrounding lands as far as practicable. The jurisdiction granted under this subdivision is superior to that of any other

local government unit or entity with respect to airport lands.
(17) To elect a secretary from its membership, or to employ a secretary, an airport director, superintendents, managers, a treasurer, engineers, surveyors, attorneys, clerks, guards, mechanics, laborers, and all employees the board considers expedient, and to prescribe and assign their respective duties and authorities and to fix and regulate the compensation to be paid to the persons employed by it in accordance with the authority's appropriations. All employees shall be selected irrespective of their political affiliations.
(18) To make all rules and regulations, consistent with laws regarding air commerce, for the management and control of its airports, landing fields, air navigation facilities, and other property under its control.
(19) To acquire by lease the use of an airport or landing field for aircraft pending the acquisition and improvement of an airport or landing field.
(20) To manage and operate airports, landing fields, and other air navigation facilities acquired or maintained by an authority; to lease all or part of an airport, landing field, or any buildings or other structures, and to fix, charge, and collect rentals, tolls, fees, and charges to be paid for the use of the whole or a part of the airports, landing fields, or other air navigation facilities by aircraft landing there and for the servicing of the aircraft; to construct public recreational facilities that will not interfere with air operational facilities; to fix, charge, and collect fees for public admissions and privileges; and to make contracts for the operation and management of the airports, landing fields, and other air navigation facilities; and to provide for the use, management, and operation of the air navigation facilities through lessees, its own employees, or otherwise. Contracts for the maintenance, operation, or use of the airport or any part of it may be made for a term not exceeding fifteen (15) years and may be extended for similar terms of years. However, the airport, including all or part of its land, facilities, or structures, may be leased for any use connected with the operation and convenience of the airport for an initial term not exceeding forty (40) years and may be extended for a period not to exceed ten (10) years. If a person whose character, experience, and financial responsibility have been determined satisfactory by the board offers to erect a permanent structure that facilitates and is consistent with the operation, use, and purpose of the airport on land belonging to the airport, a lease may be entered into for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease. The board may not grant an exclusive right for the use of a landing area under its jurisdiction. However, this does not prevent the making of leases in accordance with other provisions of this

chapter. All contracts, and leases, are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities. For the airport authority established by the city of Gary, the board may approve a lease, management agreement, or other contract:

(A) with a person:

(i) who is selected by the board using the procedures under IC 36-1-9.5; and

(ii) whose character, experience, and financial responsibility have been determined satisfactory by the board; and

(B) to use, plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair, manage, maintain, or finance all or any part of the airport and its landing fields, air navigation facilities, and other buildings and structures for a period not to exceed ninety-nine (99) years. However, the board must pass an ordinance to enter into such a lease, management agreement, or other contract. All contracts, leases, and management agreements are subject to restrictions and conditions that the board prescribes. The authority may lease its property and facilities for any commercial or industrial use it considers necessary and proper, including the use of providing airport motel facilities. A lease, management agreement, or other contract entered into under this section or any other provision of this chapter may be entered into without complying with IC 5-23.

(21) To sell machinery, equipment, or material that is not required for aviation purposes. The proceeds shall be deposited with the treasurer of the authority.

(22) To negotiate and execute contracts for sale or purchase, lease, personal services, materials, supplies, equipment, or any other transaction or business relative to an airport under the board's control and operation. However, whenever the board determines to sell part or all of aviation lands, buildings, or improvements owned by the authority, the sale must be in accordance with law.

(23) To vacate all or parts of roads, highways, streets, or alleys, whether inside or outside the district, in the manner provided by statute.

(24) To annex lands to itself if the lands are owned by the authority or are streets, roads, or other public ways.

(25) To approve any state, county, city, or other highway, road, street or other public way, railroad, power line, or other right-of-way to be laid out or opened across an airport or in such proximity as to affect the safe operation of the airport.

(26) To construct drainage and sanitary sewers with

connections and outlets as are necessary for the proper drainage and maintenance of an airport or landing field acquired or maintained under this chapter, including the necessary buildings and improvements and for the public use of them in the same manner that the authority may construct sewers and drains. However, with respect to the construction of drains and sanitary sewers beyond the boundaries of the airport or landing field, the board shall proceed in the same manner as private owners of property and may institute proceedings and negotiate with the departments, bodies, and officers of an eligible entity to secure the proper orders and approvals; and to order a public utility or public service corporation or other person to remove or to install in underground conduits wires, cables, and power lines passing through or over the airport or landing field or along the borders or within a reasonable distance that may be determined to be necessary for the safety of operations, upon payment to the utility or other person of due compensation for the expense of the removal or reinstallation. The board must consent before any franchise may be granted by state or local authorities for the construction of or maintenance of railway, telephone, telegraph, electric power, pipe, or conduit line upon, over, or through land under the control of the board or within a reasonable distance of land that is necessary for the safety of operation. The board must also consent before overhead electric power lines carrying a voltage of more than four thousand four hundred (4,400) volts and having poles, standards, or supports over thirty (30) feet in height within one-half (1/2) mile of a landing area acquired or maintained under this chapter may be installed.

(27) To contract with any other state agency or instrumentality or any political subdivision for the rendition of services, the rental or use of equipment or facilities, or the joint purchase and use of equipment or facilities that are necessary for the operation, maintenance, or construction of an airport operated under this chapter.

(28) To provide air transportation in furtherance of the duties and responsibilities of the board.

(29) To promote or encourage aviation-related trade or commerce at the airports that it operates.

(30) To provide aviation services to public use airports within or outside Indiana either directly or through an affiliate entity established by the board.

(b) Except as provided in sections 17 and 25 of this chapter, a board may impose a tax rate that does not exceed the following:

(1) If the total assessed valuation is three hundred million dollars ($300,000,000) or less, a tax rate of ten cents ($0.10) per one hundred dollars ($100) of assessed valuation.

(2) If the total assessed valuation is more than three hundred million dollars ($300,000,000) but not more than four hundred

fifty million dollars ($450,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) three hundred thousand dollars ($300,000); plus

(B) the amount that would be raised by applying a tax rate of eight and thirty-three hundredths cents ($0.0833) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds three hundred million dollars ($300,000,000).

(3) If the total assessed valuation is more than four hundred fifty million dollars ($450,000,000) but not more than six hundred million dollars ($600,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) three hundred seventy-four thousand eight hundred fifty dollars ($374,850); plus

(B) the amount that would be raised by applying a tax rate of six and sixty-seven hundredths cents ($0.0667) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds four hundred fifty million dollars ($450,000,000).

(4) If the total assessed valuation is more than six hundred million dollars ($600,000,000) but not more than nine hundred million dollars ($900,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) four hundred thousand two hundred dollars ($400,200); plus

(B) the amount that would be raised by applying a tax rate of five cents ($0.05) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds six hundred million dollars ($600,000,000).

(5) If the total assessed valuation is more than nine hundred million dollars ($900,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) four hundred fifty thousand dollars ($450,000); plus

(B) the amount that would be raised by applying a tax rate of three and thirty-three hundredths cents ($0.0333) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds nine hundred million dollars ($900,000,000).

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.1; Acts 1982, P.L.82, SEC.1; P.L.130-1987, SEC.3; P.L.3-1990, SEC.40; P.L.106-1993, SEC.2; P.L.29-1999, SEC.2; P.L.29-1999, SEC.3; P.L.98-2001, SEC.2; P.L.182-2009(ss), SEC.268; P.L.139-2011, SEC.4; P.L.139-2013, SEC.2; P.L.166-2014, SEC.37.

IC 8-22-3-11.6

Consolidation of law enforcement and fire protection

Sec. 11.6. (a) This section applies only to an airport authority

established for a county having a consolidated city.

(b) The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that the fire department of the airport authority is consolidated into the fire department of the consolidated city, and that the fire department of the consolidated city shall provide fire protection services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.

(c) The legislative body of the consolidated city and the governing body of the airport authority may adopt substantially similar ordinances providing that the law enforcement services of the airport authority are consolidated into the consolidated law enforcement department of the consolidated city, and that the law enforcement department of the consolidated city shall provide law enforcement services for the airport authority. If ordinances are adopted under this section, the consolidation shall take effect on the date agreed to by the legislative body of the consolidated city and the governing body of the airport authority in the ordinances.

As added by P.L.227-2005, SEC.7.

IC 8-22-3-12

Contracts for improvements and purchases

Sec. 12. For all contracts for improvements and purchases, other than those for professional services and those for the acquisition of land, easements, and rights-of-way, IC 5-22, IC 36-1-9.5, and IC 36-1-12 apply.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1981, P.L.57, SEC.29; P.L.85-1991, SEC.2; P.L.49-1997, SEC.36; P.L.139-2011, SEC.5.

IC 8-22-3-13

Damages for breach of agreements; penalties for violations; injuries to properties; publication of rules and regulations

Sec. 13. The board may take action to recover damages for the breach of an agreement, express or implied, relating to the operation, control, leasing, management, or improvement of the property under its control, to impose the penalties for the violation of ordinances or of its rules or regulations, and for injury to the personal or real property under its control, and to recover possession of any such property. All rules and regulations that the board adopts under this chapter shall be published in accordance with IC 5-3-1.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.81-1996, SEC.11.

IC 8-22-3-14

Establishment of restricted zones; eminent domain; zoning

jurisdiction

Sec. 14. (a) In order to provide free air space for the safe descent and ascent of aircraft and for the proper and safe use of an airport or landing field acquired or maintained under this chapter, the board may establish by ordinance or ordinances a restricted zone or zones of a distance in any direction from the boundaries of the airport or landing field so that no building or other structure is erected high enough to interfere with the descent of an aircraft at an approach angle necessary for safety for the usual type of operation that is conducted at the airport or landing field. If the authority was established under IC 19-6-3 (before its repeal on April 1, 1980), this action is subject to approval by the fiscal body of any eligible entity within or coterminous with the boundaries of the district.

(b) The board may acquire by condemnation or purchase, upon the payment of due compensation, the right to prevent the erection of, and to require the removal of, all buildings, towers, poles, wires, cables, other structures, and trees within the zone or zones that interfere with the gliding angle or as much of any structure or trees that interfere with the gliding angles. When a restricted zone or zones has been established, a permit issued by a department or office of an eligible entity or by any state or other authority for the erection of any structure extending into such zone or zones is effective only if approved by the board. Establishment of a restricted zone or zones outside of an airport or landing field, in connection with the condemnation of the rights in the land, constitutes condemnation and the perpetual annihilation of all rights of the owners of the property within the zone or zones to erect or maintain any building or structure that will interfere with the gliding angle. This result may be accomplished by absolute condemnation of the land, with perpetual and irrevocable free license to use and occupy the land within the zone for all purposes except the erection of buildings or other structures above the height so prescribed.

(c) The part of a restricted zone that extends below fifty (50) feet measured vertically from the land may be established only by purchase or proceedings in eminent domain. That part of a restricted zone that is fifty (50) or more feet above the surface of the land is in effect immediately upon the adoption of a zoning ordinance. However, the owners of land beneath a restricted zone have the right to recover damages that may be proven in an action brought for that purpose. In an action for damages the owner has the burden of proving damage by reason of the establishment of the restricted zone.

(d) The zoning jurisdiction granted in this section is exclusive against jurisdiction granted by any other statute unless the other statute specifically provides otherwise. In case of conflict with any airport zoning or other regulations promulgated by an eligible entity, the regulations adopted under this section prevail.

(e) All airport zoning regulations adopted under this chapter must be reasonable and may not impose a requirement or restriction that

is not reasonably necessary to effectuate the purposes of this chapter. In determining what regulations to adopt, the board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable. However, this section does not apply to the location, relocation, erection, construction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures on lands owned by a public utility or railroad.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.2; P.L.3-1990, SEC.41.

IC 8-22-3-15

Eminent domain; procedures

Sec. 15. (a) The board:

(1) may exercise the power of eminent domain to carry out this chapter;

(2) may award damages to landowners for real estate and property rights appropriated; and

(3) if the board cannot agree with the owners, lessees, or occupants of real estate selected by the board for the purposes in this chapter, may procure the condemnation of the property.

The board may proceed under IC 32-24-1. IC 32-24-1 applies to airports, landing fields, and restricted zones adjoining them to the extent that it is not inconsistent with this chapter.

(b) If the land on and across which it is necessary to establish and fix a restricted zone is already in use for another public purpose or has been condemned or appropriated for a use authorized by statute, and is being used for that purpose by the corporation so appropriating it, the public use or prior condemnation does not bar the right of the board to condemn the use of ground for aviation purposes. Use by the board does not permanently prevent the use of the land for the prior public use or by the corporation condemning or appropriating it.

(c) In a proceeding prosecuted by the board to condemn the use of land for purposes permitted by this chapter, the burden is upon the board to show that its use will not permanently or seriously interfere with the continued public use of the land or by the corporation condemning it, or its successors. However, in the proceeding the board may require the removal or the burying beneath the surface of the ground of wires, cables, power lines, or other structures within a restricted zone established under this chapter.

(d) The board may not take or disturb property or facilities belonging to a public utility or common carrier engaged in interstate commerce if the property or facilities are required for the proper and convenient operation of the utility or carrier, unless provision is made for the restoration, relocation, or duplication of the property or

facilities elsewhere, at the sole cost of the board.
As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.3; P.L.2-2002, SEC.47.

IC 8-22-3-16
Issuance of bonds

Sec. 16. (a) The board may issue general obligation bonds of the authority for the purpose of procuring funds to pay the cost of acquiring real property, or constructing, enlarging, improving, remodeling, repairing, or equipping buildings, structures, runways, or other facilities, for use as or in connection with or for administrative purposes of the airport. The issuance of the bonds must be authorized by ordinance of the board providing for the amount, terms, and tenor of the bonds and for the time and character of notice and the mode of making sale. If one (1) airport is owned by the authority, an ordinance authorizing the issuance of bonds for a separate second airport is subject to approval as provided in this section. The bonds bear interest and are payable at the times and places that the board determines but running not more than twenty-five (25) years after the date of their issuance, and they must be executed in the name of the authority by the president of the board and attested by the secretary who shall affix to each of the bonds the official seal of the authority. The interest coupons attached to the bonds may be executed by placing on them the facsimile signature of the president of the board.

(b) The issuance of general obligation bonds must be approved by resolution of the following body:

(1) When the authority is established by an eligible entity, by its fiscal body.

(2) When the authority is established by two (2) or more eligible entities acting jointly, by the fiscal body of each of those entities.

(3) When the authority was established under IC 19-6-2 (before its repeal), by the mayor of the consolidated city, and if a second airport is to be funded, also by the city-county council.

(4) When the authority was established under IC 19-6-3 (before its repeal), by the county council.

(c) The airport director shall manage and supervise the preparation, advertisement, and sale of the bonds, subject to the authorizing ordinance. Before the sale of the bonds, the airport director shall cause notice of the sale to be published once each week for two (2) consecutive weeks in two (2) newspapers of general circulation published in the district, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest bidder, in accordance with the procedures for selling public bonds. After the bonds have been properly sold and executed, the airport

director shall deliver them to the treasurer of the authority and take a receipt for them, and shall certify to the treasurer the amount which the purchaser is to pay for them, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and airport director or superintendent shall report their actions to the board.

(d) The provisions of IC 6-1.1-20 and IC 5-1 relating to:

(1) the filing of a petition requesting the issuance of bonds and giving notice of them;

(2) the giving of notice of determination to issue bonds;

(3) the giving of notice of hearing on the appropriation of the proceeds of bonds and the right of taxpayers to appeal and be heard on the proposed appropriation;

(4) the approval of the appropriation by the department of local government finance;

(5) the right of:

(A) taxpayers and voters to remonstrate against the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or

(B) voters to vote on the issuance of bonds, in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a); and

(6) the sale of bonds at public sale for not less than par value;

are applicable to proceedings under this chapter for the issuance of general obligation bonds.

(e) Bonds issued under this chapter are not a corporate obligation or indebtedness of any eligible entity but are an indebtedness of the authority as a municipal corporation. An action to question the validity of the bonds issued or to prevent their issue must be instituted not later than the date set for sale of the bonds, and all of the bonds after that date are incontestable.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.90-2002, SEC.328; P.L.219-2007, SEC.94; P.L.146-2008, SEC.364.

IC 8-22-3-17

Special tax levy; collection; bonds exempt from taxation

Sec. 17. (a) For the purpose of raising money to pay all bonds issued under section 16 of this chapter and any interest on them, the principal of and interest on any outstanding bonds or obligations payable from taxes and assumed under section 33 of this chapter, and leases entered into under IC 8-22-3.6 that are payable in whole or in part from a property tax levy, the board shall levy each year a special tax upon all of the property, both real and personal, located within the district in a manner and in an amount to meet and pay the principal of the bonds as they severally mature, together with all interest accruing on them, and to pay lease rentals as they become due, after taking into account all other revenues pledged to the payment of the bonds or lease rentals.

(b) The board shall file the tax levied each year with the county

auditor of the county in which the district is located under IC 6-1.1-17.

(c) The tax levied shall be collected and enforced by the treasurer of the county under IC 6-1.1, and as the tax is collected by the treasurer of the county it shall be paid over to the treasurer of the authority. The treasurer shall accumulate and keep the tax in a separate fund to be known as the "airport authority bond fund", which shall be applied to the payment of the bonds and the interest on them as they severally mature and to the payment of lease rentals and to no other purposes.

(d) The bonds issued under this chapter and the interest on them are exempt from taxation for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.4; P.L.21-1990, SEC.42; P.L.108-1993, SEC.1; P.L.254-1997(ss), SEC.16.

IC 8-22-3-18
Repealed

(Repealed by P.L.1-1991, SEC.80.)

IC 8-22-3-18.1
Capital improvements; revenue bond issues and related matters

Sec. 18.1. (a) The board may:

(1) finance capital improvements, including the acquisition of real estate;
(2) refund any bonds; or
(3) pay any loan contract;

by borrowing money and issuing revenue bonds from time to time under this section.

(b) The issuance of revenue bonds must be authorized by ordinance of the board in at least one (1) series, may bear a date or dates, may mature at a time or times not exceeding forty (40) years from their respective dates, may bear interest, may be in a denomination or denominations, may be in a form, either coupon or registered, may carry registration and conversion privileges, may be executed in a manner, may be payable in a medium of payment and at a place or places, may be subject to terms of redemption, with or without a premium, may be declared or become due before the maturity date, may provide for the replacement of mutilated, destroyed, stolen, or lost bonds, may be authenticated in a manner and upon compliance with conditions, and may contain other terms and covenants that the ordinance of the board provides. Notwithstanding the form or tenor of the bonds, and in the absence of express recitals on their faces that the bonds are nonnegotiable, the bonds are negotiable instruments.

(c) The issuance of revenue bonds must be approved as follows:

(1) When the authority is established by an eligible entity, by the entity's executive.
(2) When the authority is established by at least two (2) eligible entities acting jointly, by the executive of each of those entities.
(3) When the authority was established under IC 19-6-2 (before its repeal on April 1, 1980), by the executive of the consolidated city.
(4) When the authority was established under IC 19-6-3 (before its repeal on April 1, 1980), by the county fiscal body.

For purposes of this subsection, the entire legislative body of a town is considered the executive of the town.

(d) The bonds must be executed in the name of the authority by the president of the board and attested by the secretary, and interest coupons may be executed by placing on the interest coupons the facsimile signature of the president of the board. The bonds are valid and binding obligations of the authority for all purposes, notwithstanding that before delivery of the bonds any of the persons whose signatures appear on the bonds have ceased to be officers of the entity or authority, as if the persons had continued to be officers of the entity and authority until after delivery. The validity of the authorization and issuance of the bonds is not dependent on or affected in any way by proceedings taken for the improvement for which the bonds are to be issued, or by contracts made in connection with the improvement. An ordinance authorizing revenue bonds must provide that a revenue bond contain a recital that the bond is issued under this chapter, and a bond containing the recital under authority of an ordinance is considered valid and issued in conformity with this chapter.

(e) At the discretion of the board, the revenue bonds shall be sold either under the procedures for selling public bonds or at a negotiated sale. The bonds may be sold in installments at different times, or an entire issue or series may be sold or exchanged at one (1) time. Any issue or series of the bond may be sold in part or sold in part in installments at different times or at one (1) time.

(f) The bonds are special obligations of the authority and are payable solely from and secured by a lien upon the revenues of all or part of the facilities of the authority, as shall be more fully described in the ordinance of the board authorizing the issuance of the bonds, and, subject to the Constitution and to the prior or superior rights of any person, the board may by ordinance pledge and assign for the security of the bonds all or part of the gross or net revenues of the enterprise.

(g) All bonds of the same issue shall be equally and ratably secured, without priority by reason of number, date of bonds, of sale, of execution, or of delivery, by a lien upon the revenues in accordance with this section and the ordinance authorizing the issuance of the bonds.

(h) This chapter does not alter the rights granted to or the

agreements made with the holders of any notes, bonds, or other obligations of the board outstanding on April 1, 1980.

(i) The bonds, and interest on the bonds, are not a debt of the authority or the board, nor a charge, a lien, or an encumbrance, legal or equitable, upon property of the board, or upon income, receipts, or revenues of the board other than those revenues of the facilities that have been pledged to the payment of the bonds. Every bond must recite in substance that the bond, including interest, is payable solely from the revenues pledged to the bond's payment, and that the board is under no obligation to pay the bond, except from those revenues.

(j) The bonds and the income from the bonds are exempt from taxation, except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(k) In order that the payment of the revenue bonds and the interest on the bonds be adequately secured, the board and its officers, agents, and employees shall:

(1) pay or cause to be paid punctually the principal of every bond, and the interest on every bond, on the date or dates and at the place or places and in the manner and out of the funds mentioned in the bonds and in the attached coupons, in accordance with the ordinance authorizing their issuance;

(2) operate the facilities of the authority, the revenues of which are pledged to the bonds, in an efficient and economical manner and establish, levy, maintain, and collect fees, tolls, rentals, rates, and other charges that may be necessary or proper, which must be at least sufficient after making due and reasonable allowance for contingencies and for a margin of error in the estimates:

(A) to pay all current expenses of operation, maintenance, and repair of the facilities;

(B) to pay the interest on and principal of the bonds as the bonds become due and payable;

(C) to comply in all respects with the terms of the ordinance authorizing the issuance of bonds or any other contract or agreement with the holders of the bonds; and

(D) to meet any other obligations of the board that are charges, liens, or encumbrances upon the revenues of the facilities;

(3) operate and maintain the facilities and every part of the facilities in good working order and condition;

(4) preserve the security of the bonds and the rights of the holders, and warrant and defend the rights against all claims and demands of all persons;

(5) pay the lawful claims for labor, materials, and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or part of the revenues, superior to the lien of the bonds, or that might impair the security of the bonds, to the end that the priority and security of the bonds be fully preserved;

(6) hold in trust the revenues pledged to the payment of the bonds for the benefit of the holders of the bonds and apply the revenues only as provided by the ordinance authorizing the issuance of the bonds or, if the ordinance is modified, as provided in the ordinance as modified; and

(7) keep proper books of record and accounts of the facilities (separate from all other records and accounts) in which complete and correct entries are made of all transactions relating to the facilities or part of the facilities, the revenues of which are pledged and that, together with all other books and papers of the board, are at all times subject to the inspection of the holder or holders of not less than ten percent (10%) of the bonds then outstanding or the holder's or the holders' representative duly authorized in writing.

None of the duties in this subsection require the expenditure in any manner or for any purpose by the board of any funds other than revenues received or receivable from the enterprise or facilities.

(l) The board may insert provisions in an ordinance or a resolution authorizing the issuance of revenue bonds, which becomes a part of the contract with the holders of the revenue bonds, as to:

(1) limitations on the purpose to which the proceeds of sale of any issue of revenue bonds, or any notes, bonds, or other obligations payable from the revenues to finance the improving of the facilities may be applied;

(2) limitations on the issuance of additional bonds, or additional notes, bonds, or other obligations to finance the improving of the facilities, including liens;

(3) limitations on the right of the board to restrict and regulate the use of the facilities;

(4) the amount and kind of insurance to be maintained on the facilities and the use and disposition of insurance money;

(5) pledging all or part of the revenues of the facilities to which the board's right exists;

(6) covenanting against pledging all or part of the revenues of the facilities to which its right exists;

(7) events of default and terms and conditions upon which the bonds become or may be declared due before maturity and as to the terms and conditions upon which declaration and its consequences may be waived;

(8) the rights, liabilities, powers, and duties arising upon the breach by it of any covenants, conditions, or obligations;

(9) the vesting in a trust or trustees the right to enforce covenants made to secure, to pay, or in relation to the bonds, as to the powers and duties of the trustee or trustees, and the limitation of liabilities, and as to the terms and conditions upon which the holders of the bonds or any proportion or percentage of the holders of the bonds may enforce any covenants made or duties imposed under this chapter;

(10) a procedure by which the terms of an ordinance authorizing revenue bonds, or any other contract with bondholders, such as an indenture of trust or similar instrument, may be amended or abrogated and as to the amount of bonds, the holders of which must consent to them and the manner in which such consent may be given;

(11) the execution of all instruments necessary or convenient in the exercise of the powers granted by this chapter or in the performance of the duties of the board and the officers, agents, and employees of them;

(12) refraining from pledging, claiming, or taking the benefit or advantage of any stay or extension law whenever enacted, which may affect the duties or covenants of the board in relation to the bonds, or the performance or the lien of the bonds;

(13) the purchase out of funds available, including the proceeds of revenue bonds, of outstanding notes, bonds, or obligations and the price or prices at which and the manner in which purchases may be made; and

(14) other acts and things that may be necessary, convenient, or desirable in order to secure the bonds, or that may tend to make the bonds more marketable.

This section does not authorize the board to make covenants, to perform an act, or to do anything that requires the expenditure by the board of funds other than revenues received or receivable from the facilities.

(m) In the event that the board defaults in the payment of the principal or interest on any of the revenue bonds after the bonds become due, whether at maturity or upon call for redemption, and the default continues for a period of thirty (30) days, or in the event that the board or the board's officers, agents, or employees fail or refuse to comply with this chapter or default in an agreement made with the holders of the bonds, any holder or holders of revenue bonds, or a trustee for the holder or holders of the bonds, has the right to apply in an appropriate judicial proceeding to the circuit or superior court of the county in which the district is situated, in which the facilities are located, or in any court of competent jurisdiction, for the appointment of a receiver of the facilities, whether or not the holder, holders, or trustee is seeking or has sought to enforce any other right or to exercise any remedy in connection with the bonds. Upon application, the circuit or superior court may appoint, and if the application is made by the holders of twenty-five percent (25%) in principal amount of the bonds then outstanding or by a trustee for holders of the bonds in that amount shall appoint, a receiver for the enterprise.

(n) The receiver appointed shall, directly or by the receiver's agents and attorneys, enter into and upon and take possession of the facilities, the revenues of which are pledged, and every part of the

facilities, and may exclude the board, the board's officers, agents, and employees, and all persons claiming under them. The receiver may have, hold, use, operate, manage, and control the facilities in the name of the board or otherwise, as the receiver considers best, and may exercise all rights and powers of the board with respect to the facilities as the board itself might do. The receiver shall maintain, restore, and insure the facilities, shall make all necessary repairs, shall establish, levy, maintain, and collect fees, tolls, rentals, and other charges in connection with the facilities that the receiver considers necessary or proper and reasonable, and shall collect and receive all revenues, deposit the revenues in a separate account, and apply the revenues in the manner that the court directs.

(o) Whenever all that is due upon the revenue bonds and interest on the bonds, and upon other notes, bonds, or other obligations, and interest on the notes, bonds, or obligations, having a charge, lien, or encumbrance on the revenues of the facilities and under the terms of covenants or agreements with bondholders has been paid or deposited, and all defaults have been cured and made good, the court may in its discretion, and after notice and hearing that the court considers reasonable and proper, direct the receiver to surrender possession of the facilities to the board, with the right of the holders of the bonds to secure the appointment of a receiver upon subsequent default remaining in force.

(p) The receiver shall act under the direction and supervision of the court making the appointment and is at all times subject to the orders and decrees of the court, including possible removal. Nothing contained in this section limits or restricts the jurisdiction of the court to enter other or further orders and decrees as the court considers necessary or appropriate for the exercise by the receiver of functions specifically set forth.

(q) Subject to contractual limitations binding upon the holders or a trustee of an issue of revenue bonds, including but not limited to the restrictions of the exercise of a remedy to a specified proportion or percentage of the holders, a holder or trustee of the bonds may, for the equal benefit and protection of all holders of revenue bonds similarly situated:

(1) by mandamus or other suit, action, or proceeding at law or in equity enforce rights against the board and any of the board's officers, agents, and employees and require and compel the board or the board's officers, agents, or employees to perform and carry out duties and obligations under this chapter and covenant agreements with bondholders;

(2) by action or suit in equity require the board to account as if the board were the trustee of an express trust;

(3) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders; or

(4) bring suit upon the bonds.

No remedy conferred by this chapter upon a holder or trustee of

revenue bonds is intended to be exclusive of any other remedy, but each remedy is in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this chapter or by any other law. No waiver of a default or breach of duty or contract, whether by a holder or trustee of revenue bonds extends to or affects a subsequent default or breach of duty or contract or impairs any rights or remedies on them. No delay or omission of a bondholder or trustee extends to or affects a subsequent default or breach of duty or contract or impairs any rights or remedies. No delay or omission of a bondholder or trustee to exercise a right or power accruing upon default impairs the right or power or may be construed to be a waiver of the default or acquiescence in it. Every substantive right and every remedy conferred upon the holders of revenue bonds may be enforced and exercised from time to time and as often as is expedient. In case any suit, action, or proceeding to enforce a right or exercise a remedy is brought or taken and then discontinued or abandoned, or is determined adversely to the holder or trustee of the revenue bonds, then the board and the holder or trustee shall be restored to their former positions and rights and remedies as if no suit, action, or proceeding had been brought or taken.

(r) Refunding or refunding and improvement revenue bonds may be issued in accordance with the provisions for the refinancing or refinancing and improving of any of the facilities for which revenue bonds or a loan contract have been issued or made under this section or section 19 of this chapter.

(s) This section constitutes full authority for the issuance of revenue bonds. No procedure, proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, by a board, an officer, a commission, a department, an agency, or an instrumentality of the state, or by an eligible entity is required to issue revenue bonds or to do any act or perform anything under this chapter, except as presented by this chapter. The powers conferred by this chapter are in addition to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred in another section of this chapter or by any other statute.
As added by P.L.1-1991, SEC.81. Amended by P.L.254-1997(ss), SEC.17.

IC 8-22-3-19
Temporary loans; loan contracts; requirements; tax exemption

Sec. 19. (a) Temporary loans may be made by the board in anticipation of the collection of taxes of the authority actually levied and in course of collection for the fiscal year in which the loans are made. The loans must be authorized by ordinance and evidenced by warrants in the form provided by the authorizing ordinance. The warrants must state the total amount of the issue, the denomination of the warrant, the time and place payable, the rate of interest, the

funds in anticipation of which they are issued and out of which they are payable, and a reference to the ordinance authorizing them and the date of its adoption. The ordinance authorizing temporary loans must appropriate and pledge a sufficient amount of the current revenue in anticipation of which they are issued and out of which they are payable. The warrants evidencing the temporary loans must be executed, sold, and delivered as are bonds of the authority.

(b) The board may negotiate terms and borrow money from any source under a loan contract, subject to the following requirements:

(1) The loan contract must be approved by resolution of the board.

(2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.

(3) This subdivision applies only to loan contracts entered into under this subsection before July 1, 2013. The loan contract must state that the indebtedness:

(A) is that of the authority;

(B) is payable solely from revenues of the authority that are derived from either airport operations or from revenue bonds; and

(C) may not be paid by a tax levied on property located within the district.

(4) This subdivision applies only to loan contracts entered into under this subsection after June 30, 2013. The loan contract must state that the indebtedness:

(A) is that of the authority;

(B) is payable solely from:

(i) a cumulative building fund established under section 25 of this chapter;

(ii) revenues of the authority that are derived from either airport operations or from revenue bonds; or

(iii) both items (i) and (ii); and

(C) may not be paid by a general operating fund tax levied on property located within the district.

(5) The loan contract must be submitted to the department of local government finance, which may approve, disapprove, or reduce the amount of the proposed loan contract. The department of local government finance must make a decision on the loan contract within thirty (30) days after it is submitted for review. The action taken by the department of local government finance on the proposed loan contract is final.

(c) Any loan contract issued under this chapter is issued for essential public and governmental purposes. A loan contract, the interest on it, the proceeds received by a holder from the sale of a loan contract to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation as provided in IC 6-8-5.

(d) After the board of an authority enters into a loan contract, the board may use funds received from state or federal grants to satisfy the repayment of part or all of the loan contract.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.6; P.L.101-1987, SEC.4; P.L.90-2002, SEC.329; P.L.61-2012, SEC.4; P.L.230-2013, SEC.6.

IC 8-22-3-20

Treasurer

Sec. 20. (a) The board shall appoint a person to act as treasurer of the authority, who shall give bond in the sum and with conditions that the board prescribes and with surety that the board approves. The treasurer is appointed for a term of one (1) year unless sooner removed for cause, but may be appointed for additional terms of one (1) year. All money payable to the authority shall be paid to the treasurer, who shall deposit it under IC 5-13-6. Money so deposited may be invested in accordance with IC 5-13-9.

(b) The treasurer shall keep an accurate account of all appropriations made and all taxes levied by the authority, of all money owing or due the authority, and of all money received and disbursed. He shall preserve all vouchers for payment and disbursements made, in accordance with the statutes relative to the preservation of public records. The treasurer shall issue all warrants for the payment of money from the funds of the authority, but a warrant may be issued for the payment of a claim only if the claim has been allowed in accordance with the procedure prescribed by the regulations of the board. All warrants must be countersigned by the president or vice president.

(c) Payroll and similar warrants may be executed with facsimile signatures.

(d) Whenever the treasurer is requested to issue a warrant, he may require evidence that the amount claimed is justly due and in conformity with law and for that purpose may summon before him any officer, agent, or employee of the district, or other person, and examine him under similar oath or affirmation, which oath or affirmation the treasurer may administer.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.7; P.L.19-1987, SEC.26.

IC 8-22-3-21

Annual report of accounts

Sec. 21. The treasurer shall submit to the board annually, and more often if required by the board, a report of the accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and funds are derived and in what manner they have been disbursed.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-22
Audit of records; submission of records of account

Sec. 22. (a) The state board of accounts shall audit the records of the authority and shall prescribe or approve all accounting forms and records used by the authority.

(b) In addition, the treasurer shall, if required by the board, submit his records of account as treasurer of the authority to a certified public accountant or firm of certified public accountants, as selected by the board, for audit. That person shall prepare and submit a certified account of the records of account to the board exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and funds are derived and in what manner they have been disbursed.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.79, SEC.8.

IC 8-22-3-23
Budget

Sec. 23. (a) The board shall annually prepare a budget for the purpose of operating and maintenance expenditures of the authority and shall calculate the tax levy necessary to provide funds for the operating expenditures necessary to carry out the powers, duties, and functions of the authority. The budget must be prepared and submitted:

(1) before or at the same time;
(2) in the same manner; and
(3) with notice;

as provided by the statutes relating to the preparation of budgets by eligible entities. The budget is subject to the same review by the county tax adjustment board and the department of local government finance as exists under the general statutes relating to budgets of eligible entities.

(b) If the eligible entity that established the authority is a county, city, or town, the fiscal body of that entity may review and modify the authority's operating and maintenance budget and the tax levy to meet it, in the same manner as the budgets and tax levies of executive departments of that entity are reviewed and modified. This power includes the power to reduce any item of salary.

(c) Whenever a tax levy is required to finance the budget of an authority that was established by a city or town, the fiscal body of the county also may review the budget and tax levy of the authority, unless the district:

(1) lies wholly within, or coincides with, the boundaries of a city or town;
(2) is not the recipient of funds from a county-wide tax levy made specifically for the operating and maintenance budget for that authority; and
(3) was established by the fiscal body of the city or town, acting

independently.

However, the budget and tax levy of the authority are subject to review or modification by the fiscal body of the city or town with which it shares territory, in the same manner as the budgets and tax levies of the executive departments of that city or town are reviewed or modified.

(d) If an authority was established by another eligible entity or by two (2) or more eligible entities acting jointly, its operating and maintenance budget and the tax levy to meet it is subject to review and modification by the same body that reviews and modifies the budget of each of those entities in the same manner as the budgets and tax levies of those entities, including reduction of any item of salary.

(e) This subsection applies only to the airport authority established by the city of Gary. The following provisions apply if the board enters into a lease, management agreement, or other contract under an application approved by the Federal Aviation Administration under which the lessee or other operator agrees to lease, manage, or operate all or substantially all of the airport and its landing fields, air navigation facilities, and other buildings and structures owned by the authority:

(1) The board shall, to the extent permitted by federal law or any grant agreement, make distributions to the city of Gary from the payments received under the lease, management agreement, or other contract.

(2) The distributions to the city of Gary shall be made in installments and on the dates determined by the fiscal body of the city, and shall be paid to the fiscal officer of the city for deposit in the city's general fund.

(3) Money distributed to the city of Gary under this subsection may be used for any legal or corporate purpose of the city and may not be used to reduce the city's maximum levy under IC 6-1.1-18.5, but may be used at the discretion of the city fiscal body to reduce the property tax levy of the city for a particular year.

(f) The general assembly finds the following:

(1) The city of Gary faces:

(A) unique and distinct challenges due to high levels of unemployment, the character and occupancy of real estate, and the general economic conditions of the community; and

(B) unique and distinct opportunities related to transportation and economic development;

that are different in scope and type than those faced by other units of local government in Indiana.

(2) A unique approach is required to fully take advantage of the economic development potential of the city of Gary, the Gary/Chicago International Airport, and the Lake Michigan shoreline.

(3) The powers and responsibilities provided to the airport authority established by the city of Gary by subsection (e) and the other provisions of this chapter are appropriate and necessary to carry out the public purposes of encouraging economic development and further facilitating the provision of air transportation services and economic development projects in the city of Gary.

(4) The exercise of the powers and responsibilities granted to the airport authority established by the city of Gary by subsection (e) and the other provisions of this chapter is critical to economic development not only in the city of Gary, but throughout northwest Indiana, and is a public purpose.

(5) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.107-1993, SEC.2; P.L.90-2002, SEC.330; P.L.182-2009(ss), SEC.269.

IC 8-22-3-24

Assessment and collection of tax levy; transfer to authority's cumulative building fund

Sec. 24. The tax levy under section 23 of this chapter, as finally approved by the department of local government finance, must be assessed and collected by the county treasurer of the county or counties within which the district is located as other taxes are levied and collected. The county treasurer shall remit all taxes so collected to the treasurer of the authority. Each year, the board may transfer to the authority's cumulative building fund an amount not to exceed five percent (5%) of the taxes received under this section in that year.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.90-2002, SEC.331; P.L.257-2013, SEC.34.

IC 8-22-3-25

Cumulative building fund; levy and investment of tax; limitations on spending for intrastate air transportation

Sec. 25. (a) Subject to subsection (c), the board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport needed to carry out this chapter and to facilitate and support commercial air transportation.

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

(1) thirty-three hundredths of one cent ($0.0033) on each one hundred dollars ($100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly

with an eligible entity that is not a city;

(2) one and thirty-three hundredths cents ($0.0133) on each one hundred dollars ($100) of assessed value of taxable property within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and

(3) for any other district not described in subdivision (1) or (2), the tax rate specified in subsection (c).

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this chapter.

(c) For any district not described in subsection (b)(1) or (b)(2), the board may impose a tax rate that does not exceed the following:

(1) If the total assessed valuation is three hundred million dollars ($300,000,000) or less, a tax rate of one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation.

(2) If the total assessed valuation is more than three hundred million dollars ($300,000,000) but not more than four hundred fifty million dollars ($450,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) fifty thousand one hundred dollars ($50,100); plus

(B) the amount that would be raised by applying a tax rate of one and thirty-three hundredths cents ($0.0133) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds three hundred million dollars ($300,000,000).

(3) If the total assessed valuation is more than four hundred fifty million dollars ($450,000,000) but not more than six hundred million dollars ($600,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) fifty-nine thousand eight hundred fifty dollars ($59,850); plus

(B) the amount that would be raised by applying a tax rate of one cent ($0.01) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds four hundred fifty million dollars ($450,000,000).

(4) If the total assessed valuation is more than six hundred million dollars ($600,000,000) but not more than nine hundred million dollars ($900,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) sixty thousand dollars ($60,000); plus

(B) the amount that would be raised by applying a tax rate of

sixty-seven hundredths of a cent ($0.0067) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds six hundred million dollars ($600,000,000).

(5) If the total assessed valuation is more than nine hundred million dollars ($900,000,000), the tax rate necessary to raise property tax revenue equal to the sum of:

(A) sixty thousand three hundred dollars ($60,300); plus

(B) the amount that would be raised by applying a tax rate of thirty-three hundredths of a cent ($0.0033) (as adjusted under IC 6-1.1-18-12) per one hundred dollars ($100) of assessed valuation that exceeds nine hundred million dollars ($900,000,000).

(d) Spending under subsection (a) to facilitate and support commercial intrastate air transportation is subject to a maximum of one million dollars ($1,000,000) cumulatively for all years in which money is spent under that subsection.

As added by Acts 1980, P.L.8, SEC.73. Amended by Acts 1980, P.L.78, SEC.3; Acts 1981, P.L.11, SEC.69; Acts 1981, P.L.45, SEC.7; P.L.19-1987, SEC.27; P.L.3-1990, SEC.43; P.L.17-1995, SEC.11; P.L.6-1997, SEC.138; P.L.91-1997, SEC.1; P.L.2-1998, SEC.36; P.L.1-1999, SEC.23; P.L.1-1999, SEC.24; P.L.224-2003, SEC.281; P.L.139-2013, SEC.3; P.L.166-2014, SEC.38.

IC 8-22-3-26

Board to act as board of finance

Sec. 26. The board shall act as a board of finance under IC 5-13.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.19-1987, SEC.28.

IC 8-22-3-27

Officers' and employees' bonds

Sec. 27. The board may require a bond from any of the officers or employees of the authority in an amount, upon terms and conditions, and with surety that the board designates.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-28

Public necessity and benefit; tax exemption of leasehold interests

Sec. 28. (a) The acquisition, establishment, construction, improvement, equipment, maintenance, control, and operation of airports and landing fields for aircraft under this chapter is a governmental function of general public necessity and benefit, and is for the use and general welfare of all the people of Indiana, as well as of the people residing in the district.

(b) Notwithstanding any other statute, the leasehold estate of any lessee created pursuant to a lease by the board of its aviation related property or facilities, together with any permanent structure erected

on the property by the lessee is exempt from property taxation.

(c) This subsection applies to property, facilities, or permanent structures leased by the board of an airport authority established for a county containing a consolidated city. Notwithstanding subsection (a), any property, facilities, or permanent structures subject to a lease entered into or renewed after July 1, 1995, is not entitled to a property tax exemption if the property, facility, or structure is not used for aviation related purposes.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.60-1988, SEC.21; P.L.116-1995, SEC.7.

IC 8-22-3-29

Assistance to other entity or authority

Sec. 29. Whenever the fiscal body of an eligible entity determines that the public interest of the entity will be served by assisting any other entity or an authority in executing the powers granted by this chapter, the former entity may furnish assistance by gift, or lease with or without rental, of real property, by donation, lease with or without rental, or loan, of personal property, and by the appropriation of monies, which may be provided for by taxation or the issuance of bonds in the same manner as funds might be provided for the same purpose if the entity was exercising the powers granted in its own behalf.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-30

Expenses before tax collection

Sec. 30. (a) All expenses incurred by the board that must be paid prior to the collection of taxes levied under this chapter shall be met and paid in the following manner. The board shall from time to time certify the items of expense to the controller of the city, clerk-treasurer of the town, or auditor of the county in which the district is located, directing him to pay the amounts, and the fiscal officer shall draw his warrant or warrants upon the treasurer of the city, town, or county, as applicable, which warrant or warrants shall be paid out of the general funds of the city, town, or county not already appropriated, without special appropriations being made by the fiscal body or approval by any other body.

(b) In case there are no unappropriated general funds of the city, town, or county, the fiscal officer shall recommend to the fiscal body the temporary transfer, from other funds of the city, town, or county, of a sufficient amount to meet the items of expense or the making of a temporary loan for the purpose. The fiscal body affected shall immediately make the transfer of funds or authorize the temporary loans in the same manner that other transfers and temporary loans are made by the city, town, or county. The total amount to be advanced may not exceed fifty thousand dollars ($50,000) and the fund or funds of the city, town, county, or other entity from which the

advancement is made shall be fully reimbursed and repaid by the authority out of the first proceeds of the special taxes levied under this chapter. No part of the funds advanced may be used in the acquisition of real property.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-31
Federal, public, or private grants of funds

Sec. 31. (a) The authority, acting by and through its board under IC 8-21-8, may accept, receive, and receipt for federal, other public, or private monies for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, other air navigation facilities, and sites for them, and comply with federal laws made for the expenditure of federal monies upon airports and other air navigation facilities.

(b) Subject to IC 8-21-8, the board has exclusive power to submit to the proper state and federal agencies applications for grants of funds for airport development and to make or execute representations, assurances and contracts, to enter into covenants and agreements with state or federal agency or agencies relative to the development of an airport, and to comply with all federal and state laws pertaining to the acquisition, development, operation, and administration of airports and properties by the authority.

(c) This subsection applies only to the airport authority established by the city of Gary. The authority may assign the powers described in this section to a lessee or other operator with whom it enters into a lease, management agreement, or other contract under section 11(a)(20) of this chapter if the board has determined that the lessee or other operator has the expertise and experience to operate the facilities of the authority in accordance with prudent airport operating standards.
As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.182-2009(ss), SEC.270; P.L.166-2014, SEC.39.

IC 8-22-3-32
Violations; offense

Sec. 32. A person who recklessly violates this chapter commits a Class B misdemeanor.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-33
Transfer of powers and duties to airport authority

Sec. 33. (a) On the date of the organization and first meeting of the board of an authority, all powers, rights, and obligations, airports and landing fields, and administrative functions within the jurisdiction of a duly constituted board of aviation commissioners existing within the district of the authority are transferred to and vested in the board of the authority. The board of aviation

commissioners is then dissolved and the terms of its members terminated.

(b) All books, plans, records, maps, and all other personal property of the dissolved board of aviation commissioners become the property of the authority. The authority takes title to and ownership of all accounts receivable and all contracts and other assets of the aviation department of a city, town or county within the district, including all monies held for use of the aviation department whether appropriated or not. The authority is obligated for all debts and other obligations of the aviation department, including the obligation to pay the unpaid balance of the principal and interest of any bonds of the city, town, or county, to the extent the monies of the bonds were expended in the capital investment of an airport transferred to the authority.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-3-34

Special police; powers

Sec. 34. (a) The special police authorized by this chapter possess all the common law and statutory powers of the police of the entity that established the authority by ordinance, including the power of fresh pursuit upon adjoining streets and roads.

(b) An operator (as defined in IC 5-23-2-8) who enters into an operating agreement with an authority under IC 5-23 may exercise the special police powers granted by this section during the term of the operating agreement. A person employed by an operator to exercise special police powers under this subsection must have training that is at least equivalent to the minimum training requirements established for law enforcement officers under IC 5-2-1.

(c) This section does not apply to an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980).

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.3-1990, SEC.44; P.L.84-1996, SEC.1; P.L.49-1997, SEC.37.

IC 8-22-3-35

Sale of aviation land, buildings, or improvements

Sec. 35. In the event the board of an authority determines to sell part or all of the aviation land, buildings, or improvements owned by the authority, it may enact an ordinance authorizing the sale in accordance with this chapter. The land, buildings, or improvements must be sold as other land, buildings, or improvements of an eligible entity are sold. This section does not apply to an authority that was established under IC 19-6-2 or IC 19-6-3 (before their repeal on April 1, 1980).

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.3-1990, SEC.45.

IC 8-22-3.5

Chapter 3.5. Airport Development Zones

IC 8-22-3.5-1

Application of chapter

Sec. 1. This chapter applies to the following:

(1) Each county having a consolidated city.

(2) Each city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).

(3) Each county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).

(4) Each county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(5) Each county having a population of more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000).

(6) Each county having a population of more than one hundred fifteen thousand (115,000) but less than one hundred twenty-five thousand (125,000).

(7) Each city having a population of more than fifty-five thousand (55,000) but less than sixty thousand (60,000).

As added by P.L.86-1991, SEC.1. Amended by P.L.108-1993, SEC.2; P.L.115-1995, SEC.3; P.L.85-1996, SEC.1; P.L.91-1997, SEC.3; P.L.170-2002, SEC.71; P.L.124-2006, SEC.1; P.L.182-2009(ss), SEC.271; P.L.119-2012, SEC.101.

IC 8-22-3.5-2

"Commission" defined

Sec. 2. As used in this chapter, "commission" refers to the following:

(1) With respect to a county having a consolidated city, the metropolitan development commission acting as the redevelopment commission of the consolidated city, subject to IC 36-3-4-23.

(2) With respect to a city described in section 1(2) of this chapter, the board of the airport authority for the city.

(3) With respect to a county described in section 1(3) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(4) With respect to a county described in section 1(4) or 1(5) of this chapter, the board of an airport authority that is jointly established by the county and a municipality under IC 8-22-3.

(5) With respect to a county described in section 1(6) of this chapter, the board of an airport authority that is established by the county.

(6) With respect to a city described in section 1(7) of this chapter, the board of aviation commissioners for the city.

As added by P.L.86-1991, SEC.1. Amended by P.L.108-1993, SEC.3; P.L.115-1995, SEC.4; P.L.85-1996, SEC.2; P.L.91-1997, SEC.4; P.L.124-2006, SEC.2; P.L.182-2009(ss), SEC.272.

IC 8-22-3.5-2.5
"Eligible entity" defined

Sec. 2.5. Notwithstanding IC 8-22-1-6, as used in this chapter, "eligible entity" refers to any of the following:

(1) A consolidated city.

(2) A city described in section 1(2) of this chapter.

(3) A city in a county described in section 1(3) of this chapter.

(4) A county described in section 1(4) of this chapter.

(5) A city located in a county described in section 1(4) of this chapter.

(6) A county described in section 1(5) of this chapter.

(7) A city located in a county described in section 1(5) of this chapter.

(8) A county described in section 1(6) of this chapter.

(9) A city described in section 1(7) of this chapter.

As added by P.L.108-1993, SEC.4. Amended by P.L.115-1995, SEC.5; P.L.85-1996, SEC.3; P.L.91-1997, SEC.5; P.L.124-2006, SEC.3; P.L.182-2009(ss), SEC.273.

IC 8-22-3.5-3
"Qualified airport development project"; use or expansion by successor tenant

Sec. 3. (a) As used in this chapter, "qualified airport development project" means an airport development project that has a cost of the project (as defined in IC 4-4-10.9-5) greater than:

(1) five hundred million dollars ($500,000,000), if the project is to be located in a county having a consolidated city; or

(2) two hundred fifty thousand dollars ($250,000), if the project is to be located in:

(A) a city described in section 1(2) or 1(7) of this chapter; or

(B) in a county described in section 1(3), 1(4), 1(5), or 1(6) of this chapter.

Except as provided by subsection (b), the term includes any portion or expansion of the original qualified airport development project used by one (1) or more successor tenants.

(b) For purposes of section 9 of this chapter, the definition of "qualified airport development project" does not include any portion of, or expansion of, the original qualified airport development project used by a successor tenant unless the commission adopts a resolution to amend the definition to include that portion or expansion.
As added by P.L.86-1991, SEC.1. Amended by P.L.108-1993, SEC.5; P.L.115-1995, SEC.6; P.L.85-1996, SEC.4; P.L.91-1997, SEC.6; P.L.224-2003, SEC.267; P.L.124-2006, SEC.4; P.L.182-2009(ss), SEC.274.

IC 8-22-3.5-4
Definitions

Sec. 4. As used in this chapter, the following terms have the meanings set forth in IC 6-1.1-1:

(1) Assessment date.
(2) Assessed value or assessed valuation.
(3) Tangible property.
(4) Taxing district.
(5) Taxing unit.

As added by P.L.86-1991, SEC.1.

IC 8-22-3.5-5
Designation of airport development zone area; resolution; approval

Sec. 5. (a) The commission may designate an area within the jurisdiction of a board of aviation commissioners under IC 8-22-2 or an airport authority under IC 8-22-3 as an airport development zone if the commission finds by resolution the following:

(1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the board of aviation commissioners or airport authority should be declared an airport development zone.
(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

(b) If the airport development zone will be located in a consolidated city or in a county described in section 1(3), 1(4), 1(5), or 1(6) of this chapter, the resolution adopted under subsection (a) must also include a finding that there has been proposed a qualified airport development project to be located in the airport development zone, with the proposal supported by:

(1) financial and economic data; and

(2) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(c) If the airport development zone will be located in a city described in:

(1) section 1(2) of this chapter, the resolution adopted under subsection (a) must also include findings stating that the most recent federal decennial census for the city indicates the following:

(A) The unemployment rate for the city is at least thirteen percent (13%).

(B) The population of the city has decreased by at least ten percent (10%) as compared to the population reported in the preceding federal decennial census for the city.

(C) The median per capita income for city residents does not exceed eighty percent (80%) of the median per capita income for all residents of the United States.

(D) At least twenty-five percent (25%) of the population of the city is below the federal income poverty level (as defined in IC 12-15-2-1); or

(2) section 1(7) of this chapter, the resolution adopted under subsection (a) must also include findings stating the following:

(A) There has been proposed a qualified airport development project to be located in the airport development zone, with the proposal supported by:

(i) financial and economic data; and

(ii) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(B) The city has Interstate Highway 69 serving the airport and the city's residents and facilitating commerce and free travel within and through the midwestern United States.

(d) The resolution adopted under subsection (a) must describe the boundaries of the area. The description may be by reference to the area's location in relation to public ways or streams, or otherwise, as determined by the commission.

(e) If the airport development zone will be located in a county described in section 1(4), 1(5), or 1(6) of this chapter, the resolution adopted under subsection (a) and any qualified airport development project to be located in the airport development zone, must be approved by the executive of:

(1) the county, if the entire airport development zone or

qualified airport development project will be located outside the boundaries of any municipality located in the county;

(2) a municipality located in the county, if the entire airport development zone or qualified airport development project will be located within the boundary of the municipality; or

(3) the county and a municipality located in the county, if the airport development zone or qualified airport development project will be located within the boundary of the county and in part within the boundary of the municipality.

As added by P.L.86-1991, SEC.1. Amended by P.L.108-1993, SEC.6; P.L.115-1995, SEC.7; P.L.85-1996, SEC.5; P.L.91-1997, SEC.7; P.L.165-2003, SEC.2; P.L.124-2006, SEC.5; P.L.182-2009(ss), SEC.275.

IC 8-22-3.5-6

Notice; adoption of resolution; hearings

Sec. 6. (a) After adoption of the resolution under section 5 of this chapter, the commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit that has authority to levy property taxes in the geographic area where the airport development zone is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the airport development zone, including the following:

(i) The estimated economic benefits and costs incurred by the airport development zone, as measured by increased employment and anticipated growth of real property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the area designated as an airport development zone and must state that written remonstrances may be filed with the commission until the time designated for the hearing. The notice must also name the place, date, and time when the commission will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the proposed airport development zone designation and will determine the public utility and benefit of the proposed airport development zone designation. The commission shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax

rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. All persons affected in any manner by the hearing, including all taxpayers within the taxing district of the airport authority, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the commission affecting the airport development zone if the commission gives the notice required by this section.

(b) At the hearing, which may be recessed and reconvened from time to time, the commission shall hear all persons interested in the proceedings and shall consider all written remonstrances and objections that have been filed. After considering the evidence presented, the commission shall take final action determining the public utility and benefit of the proposed airport development zone designation and confirming, modifying and confirming, or rescinding the resolution. The final action taken by the commission shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by section 7 of this chapter.

As added by P.L.86-1991, SEC.1. Amended by P.L.25-1995, SEC.59.

IC 8-22-3.5-7

Remonstrances; appeals

Sec. 7. (a) A person who filed a written remonstrance with the commission under section 6 of this chapter and is aggrieved by the final action taken may, within ten (10) days after that final action, file with the office of the clerk of the circuit or superior court of the county a copy of the commission's resolution and the person's remonstrance against the resolution, together with the person's bond as provided by IC 34-13-5-7.

(b) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of filing of the appeal. The court shall decide the appeal based on the record and evidence before the commission, not by trial de novo, and may confirm the final action of the commission or sustain the remonstrances. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

As added by P.L.86-1991, SEC.1. Amended by P.L.1-1998, SEC.91.

IC 8-22-3.5-8

Special taxing district

Sec. 8. The airport development zone created by the commission under this chapter is a special taxing district authorized by the general assembly to enable the eligible entity to provide special

benefits to taxpayers in the airport development zone by promoting economic development that is of public use and benefit.
As added by P.L.86-1991, SEC.1. Amended by P.L.108-1993, SEC.7; P.L.115-1995, SEC.8.

IC 8-22-3.5-9
Allocation of tax proceeds; notice to county auditor and other officers; valuation of property

Sec. 9. (a) As used in this section, "base assessed value" means:

(1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 or 9.5 of this chapter, notwithstanding the date of the final action taken under section 6 of this chapter; plus

(2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) A resolution adopted under section 5 of this chapter and confirmed under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

(c) The allocation provision must:

(1) apply to the entire airport development zone; and

(2) require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).

(d) Except as otherwise provided in this section:

(1) the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the tangible property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units; and

(2) the excess of the proceeds of the property taxes imposed for

the assessment date with respect to which the allocation and distribution are made that are attributable to taxes imposed after being approved by the voters in a referendum or local public question conducted after April 30, 2010, not otherwise included in subdivision (1) shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted.

(e) All of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development zone and, when collected, paid into special funds as follows:

(1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.

(2) The commission may determine that a portion of tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds or a loan contract of the board of aviation commissioners or airport authority for a qualified airport development project, to the payment of leases for a qualified airport development project, or to the payment of principal and interest on bonds issued by an eligible entity to pay for qualified airport development projects in the airport development zone or serving the airport development zone.

(3) The commission may determine that a part of the tax proceeds shall be allocated to a project fund and used to pay expenses incurred by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(4) Except as provided in subsection (f), all remaining tax proceeds after allocations are made under subdivisions (1), (2), and (3) shall be allocated to a project fund and dedicated to the reimbursement of expenditures made by the commission for a qualified airport development project that is in the airport development zone or is serving the airport development zone.

(f) Before July 15 of each year, the commission shall do the following:

(1) Determine the amount, if any, by which tax proceeds allocated to the project fund in subsection (e)(3) in the following year will exceed the amount necessary to satisfy

amounts required under subsection (e).

(2) Provide a written notice to the county auditor and the officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(A) state the amount, if any, of excess tax proceeds that the commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (d)(1); or

(B) state that the commission has determined that there are no excess tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subsection (d)(1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess tax proceeds determined by the commission.

(g) When money in the debt service fund and in the project fund is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the board of aviation commissioners or airport authority for the financing of qualified airport development projects, all lease rentals payable on leases of qualified airport development projects, and all costs and expenditures associated with all qualified airport development projects, money in the debt service fund and in the project fund in excess of those amounts shall be paid to the respective taxing units in the manner prescribed by subsection (d)(1).

(h) Property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection (e)(2).

(i) Notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.

(j) Notwithstanding any other law, the assessed value of all taxable tangible property in the airport development zone, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the tangible property as valued without regard to this section; or

(2) the base assessed value.

As added by P.L.86-1991, SEC.1. Amended by P.L.108-1993, SEC.8; P.L.115-1995, SEC.9; P.L.91-1997, SEC.8; P.L.255-1997(ss), SEC.8; P.L.90-2002, SEC.332; P.L.246-2005, SEC.84; P.L.124-2006, SEC.6; P.L.97-2007, SEC.2; P.L.146-2008, SEC.365; P.L.182-2009(ss), SEC.276; P.L.203-2011, SEC.3.

IC 8-22-3.5-9.5
Authorization to amend resolution in Vanderburgh County

Sec. 9.5. (a) This section applies to a commission located in a county described in section 1(5) of this chapter.

(b) The commission may amend a resolution adopted before January 1, 2006, under section 5 of this chapter to include a provision with respect to the allocation and distribution of property taxes.

(c) For purposes of determining the allocation and distribution of property taxes under this chapter, the "base assessed value" means the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's amended resolution adopted under this section.

(d) An amendment adopted under this section must be approved by the executive of:

(1) the county, if the entire airport development zone is located outside the boundaries of any municipality located in the county;

(2) a municipality located in the county, if the entire airport development zone is located within the boundary of the municipality; or

(3) the county and a municipality located in the county, if the airport development zone is located within the boundary of the county and partly within the boundary of the municipality.

As added by P.L.124-2006, SEC.7.

IC 8-22-3.5-9.8
Authorization to enter into an agreement with a taxpayer for waiver of review of an assessment of property taxes in an allocation area during the term of bonds or lease obligations payable from allocated property taxes

Sec. 9.8. A commission may enter into a written agreement with a taxpayer who owns, or is otherwise obligated to pay property taxes on, tangible property that is or will be located in an allocation area established under this chapter in which the taxpayer waives review of any assessment of the taxpayer's tangible property that is located in the allocation area for an assessment date that occurs during the

term of any specified bond or lease obligations that are payable from property taxes in accordance with an allocation provision for the allocation area and any applicable statute, ordinance, or resolution. An agreement described in this section may precede the establishment of the allocation area or the determination to issue bonds or enter into leases payable from the allocated property taxes.
As added by P.L.249-2015, SEC.23.

IC 8-22-3.5-10
Repealed

(As added by P.L.86-1991, SEC.1. Amended by P.L.1-1994, SEC.38; P.L.91-1997, SEC.9; P.L.192-2002(ss), SEC.147; P.L.1-2004, SEC.50 and P.L.23-2004, SEC.52; P.L.124-2006, SEC.8; P.L.219-2007, SEC.95. Repealed by P.L.146-2008, SEC.813.)

IC 8-22-3.5-11
Rules and procedures; adjustment of base assessed value

Sec. 11. (a) The state board of accounts and the department of local government finance shall make the rules and prescribe the forms and procedures that the state board of accounts and department consider appropriate for the implementation of this chapter.

(b) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value (as defined in section 9 of this chapter) one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the airport development zone's special funds under section 9 of this chapter.

(c) After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value (as defined in section 9 of this chapter) to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the airport development zone's special funds under section 9 of this chapter.
As added by P.L.86-1991, SEC.1. Amended by P.L.90-2002, SEC.333; P.L.154-2006, SEC.66.

IC 8-22-3.5-12
Repealed

(As added by P.L.86-1991, SEC.1. Amended by P.L.91-1997, SEC.10; P.L.124-2006, SEC.9. Repealed by P.L.146-2008, SEC.813.)

IC 8-22-3.5-14
Repealed

(As added by P.L.108-1993, SEC.9. Amended by P.L.115-1995,

SEC.10; P.L.85-1996, SEC.6; P.L.90-2002, SEC.334; P.L.192-2002(ss), SEC.148; P.L.4-2005, SEC.117; P.L.124-2006, SEC.10; P.L.146-2008, SEC.366; P.L.182-2009(ss), SEC.277. Repealed by P.L.288-2013, SEC.70.)

IC 8-22-3.5-15
State income tax incentives for attracting or retaining airport development projects in a consolidated city

Sec. 15. (a) As used in this section, "state income tax liability" means a tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); or

(2) any other tax imposed by this state and based on or measured by either gross income or net income.

(b) The attraction or retention of qualified airport development projects to a consolidated city within Indiana is a governmental function of general public benefit for all the citizens of Indiana.

(c) As an incentive to attract or retain qualified airport development projects to Indiana, for a period of thirty-five (35) years, beginning January 1, 1991, persons that locate and operate a qualified airport development project in an airport development zone in a consolidated city shall not incur, notwithstanding any other law, any state income tax liability as a result of:

(1) activities associated with locating or retaining the qualified airport development project in the consolidated city;

(2) the construction, modification, alteration, or completion of the qualified airport development project;

(3) the employment of personnel or the ownership or rental of property at or in conjunction with the qualified airport development project; or

(4) the operation of, or the activities at or in connection with, the qualified airport development project.

(d) The department of state revenue shall adopt rules under IC 4-22-2 to implement this section.

As added by P.L.41-1994, SEC.2. Amended by P.L.192-2002(ss), SEC.149; P.L.224-2003, SEC.268.

IC 8-22-3.5-16
Repealed

(As added by P.L.91-1997, SEC.11. Amended by P.L.90-2002, SEC.335. Repealed by P.L.124-2006, SEC.11.)

IC 8-22-3.5-17
Repealed

(As added by P.L.91-1997, SEC.12. Repealed by P.L.124-2006, SEC.11.)

IC 8-22-3.6

Chapter 3.6. Leases of Qualified Airport Development Projects

IC 8-22-3.6-1

Definitions applicable to chapter

Sec. 1. The definitions in IC 8-22-3.5 apply throughout this chapter.

As added by P.L.108-1993, SEC.10.

IC 8-22-3.6-2

"Airport project" defined

Sec. 2. As used in this chapter, "airport project" means:

(1) any property or project that could be financed with the proceeds of bonds issued under IC 8-22-3; or

(2) any qualified airport development project.

As added by P.L.108-1993, SEC.10.

IC 8-22-3.6-3

Authority to enter lease; terms; public hearing and proceedings; funds for payment; actions to contest lease; options to buy

Sec. 3. (a) An authority that is located in a:

(1) city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400);

(2) county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); or

(3) county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

may enter into a lease of an airport project with a lessor for a term not to exceed fifty (50) years and the lease may provide for payments to be made by the airport authority from property taxes levied under IC 8-22-3-17, taxes allocated under IC 8-22-3.5-9, any other revenues available to the airport authority, or any combination of these sources.

(b) A lease may provide that payments by the authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the authority or the eligible entity for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the authority only after a public hearing by the board at which all interested parties are provided the opportunity to be heard. After the public hearing, the board may adopt an ordinance authorizing the execution of the lease if it finds that the service to be provided throughout the term of the lease will

serve the public purpose of the authority and is in the best interest of the residents of the authority district.

(d) Upon execution of a lease providing for payments by the authority in whole or in part from the levy of property taxes under IC 8-22-3-17, the board shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the authority district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be.

(e) Upon the filing of a petition under subsection (d), the county auditor shall immediately certify a copy of the petition, together with any other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for a hearing in the authority district, which must be not less than five (5) or more than thirty (30) days after the time is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the board, and to the first fifty (50) petitioners on the petition, by a letter signed by the commissioner of the department of local government finance and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance or on the appeal, upon the necessity for the execution of the lease, and as to whether the payments under it are fair and reasonable, is final.

(f) An authority entering into a lease payable from any sources permitted under this chapter may:

(1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; or

(2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the airport authority to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(h) Except as provided in this section, no approvals of any governmental body or agency are required before the authority enters into a lease under this section.

(i) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the later of:

(1) the public hearing described in subsection (c); or

(2) the publication of the notice of the execution and approval of the lease described in subsection (d), if the lease is payable in whole or in part from tax levies.

However, if the lease is payable in whole or in part from tax levies and an appeal has been taken to the department of local government finance, an action to contest the validity or enjoin the performance must be brought within thirty (30) days after the decision of the department of local government finance.

(j) If an authority exercises an option to buy an airport project from a lessor, the authority may subsequently sell the airport project, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the authority through auction, appraisal, or arms length negotiation. If the airport project is sold at auction, after appraisal, or through negotiation, the board shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

As added by P.L.108-1993, SEC.10. Amended by P.L.115-1995, SEC.11; P.L.85-1996, SEC.7; P.L.90-2002, SEC.336; P.L.170-2002, SEC.72; P.L.224-2007, SEC.97; P.L.146-2008, SEC.367; P.L.119-2012, SEC.102.

IC 8-22-3.6-4

Qualified lessors

Sec. 4. Any of the following persons may lease a project to an authority under this chapter:

(1) A not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) An airport development authority established under IC 8-22-3.7.

As added by P.L.108-1993, SEC.10.

IC 8-22-3.7

Chapter 3.7. Airport Development Authority

IC 8-22-3.7-1

"Airport project"

Sec. 1. As used in this chapter, "airport project" has the meaning set forth in IC 8-22-3.6-2.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-2

"Bonds"

Sec. 2. As used in this chapter, "bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-3

"Development authority"

Sec. 3. As used in this chapter, "development authority" refers to an airport development authority created by this chapter.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-4

"Development board"

Sec. 4. As used in this chapter, "development board" refers to the board of directors of a development authority.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-4.5

"Eligible entity"

Sec. 4.5. Notwithstanding IC 8-22-1-6, as used in this chapter, "eligible entity" means the following:

(1) A city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).

(2) A county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).

(3) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

As added by P.L.108-1993, SEC.11. Amended by P.L.115-1995, SEC.12; P.L.85-1996, SEC.8; P.L.170-2002, SEC.73; P.L.119-2012, SEC.103.

IC 8-22-3.7-5

Creation of authority

Sec. 5. A "_____ Airport Development Authority" (the blank to be filled in with the name of the eligible entity) may be created by an eligible entity as a separate body corporate and politic

and as an instrumentality of the eligible entity to finance airport projects for lease to the authority in that eligible entity. A development authority may be created by ordinance of the legislative body of the eligible entity.
As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-6
Development board; membership; term; removal; oath

Sec. 6. (a) The development board is composed of three (3) members, who must be residents of the eligible entity. The members of a development board for a development authority established by an eligible entity described in section 4.5(1) of this chapter are appointed by the executive of the eligible entity. The members of a development board for a development authority established by an eligible entity described in section 4.5(2) or 4.5(3) of this chapter are appointed as follows:

(1) One (1) member is appointed by the county executive.

(2) One (1) member is appointed by the executive of the city with the largest population in the county.

(3) One (1) member is appointed by the board of an airport authority that is located in the county.

(b) A member is entitled to serve a three (3) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the development board, the officer or entity that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A member may be removed for cause by the officer or entity that appointed the member.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(f) A member may not receive a salary, and no profit or money of the development authority inures to the benefit of a member.
As added by P.L.108-1993, SEC.11. Amended by P.L.115-1995, SEC.13; P.L.85-1996, SEC.9.

IC 8-22-3.7-7
Meetings; quorum

Sec. 7. (a) Immediately after January 15 of each year, the development board shall hold an organizational meeting. It shall elect one (1) of the members of the development board president, another vice president, and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The development board may elect an assistant secretary-treasurer.

(b) Special meetings may be called by the president of the development board or any two (2) members of the development

board.

(c) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-8

Bylaws and rules

Sec. 8. The development board may adopt the bylaws and rules that it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-9

Purposes of authority

Sec. 9. The development authority is organized for the following purposes:

(1) Financing, constructing, and leasing airport projects to the authority.

(2) Financing and constructing additional improvements to airport projects owned by the development authority and leasing them to the authority.

(3) Acquiring all or a portion of one (1) or more airport projects from the authority by purchase or lease and leasing these airport projects back to the authority, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more airport projects from the authority by purchase or lease to fund or refund indebtedness incurred on account of those airport projects to enable the authority to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the authority considers to be unduly burdensome.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-10

Authorized activities of authority; dissolution

Sec. 10. (a) The development authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip airport projects;

(2) lease those airport projects to the authority;

(3) sue, be sued, plead, and be impleaded, but all actions against the development authority must be brought in the circuit or superior court of the county in which the development authority is located;

(4) lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with airport projects;

(5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes

authorized by this chapter;

(6) with permission of the owner or occupant, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of an airport project;

(7) design, order, contract for, and construct, reconstruct, and renovate any airport projects or improvements thereto;

(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for construction of airport projects or improvements to them;

(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; and

(10) take any other action necessary to implement its purposes as set forth in section 9 of this chapter.

(b) Whenever the development board determines that the purposes for which the development authority was formed have been substantially fulfilled and that all bonds issued and all other obligations incurred by the development authority have been fully paid or satisfied or provision for the payment of the bonds and obligations has been made in accordance with the terms of the resolution or trust indenture securing them, the development board may declare the development authority dissolved. On the effective date of the resolution of dissolution, the title to all funds and other property owned by the development authority at the time of the dissolution vests in the authority. However, if the authority is not in existence, the title vests in the eligible entity.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-11

Refund of bonds; lease back

Sec. 11. (a) Bonds issued under IC 8-22-3 may be refunded as provided in this section.

(b) The authority may lease all or a portion of an airport project to the development authority, which may be at a nominal lease rental with a lease back to the authority, conditioned upon the development authority assuming bonds issued under IC 8-22-3 and issuing its bonds to refund those bonds.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-12

Reasonableness of leases; leases of airport projects from development authority

Sec. 12. (a) Before a lease may be entered into, the authority must find that the lease rental provided for is fair and reasonable.

(b) A lease of an airport project from the development authority to the authority:

(1) must comply with IC 8-22-3.6;

(2) may not require payment of lease rental for a newly constructed airport project or for improvements to an existing airport project except to the extent that the airport project or improvements to the project have been completed and are ready for occupancy or use;

(3) may contain provisions:

(A) allowing the authority to continue to operate an existing airport project until completion of the improvements, reconstruction, or renovation; and

(B) requiring payment of lease rentals for an existing airport project being used, reconstructed, or renovated;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the authority to purchase the airport project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the airport project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of an airport project;

(7) may provide that the authority shall agree to:

(A) pay all taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority; and

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(8) may provide that the lease rental payments by the authority shall be made from any one (1) or more of the sources set forth in IC 8-22-3.6.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-13

Authority for leases between development authority and authority

Sec. 13. This chapter and IC 8-22-3.6 contain full and complete authority for leases between the development authority and the authority. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board, authority or the eligible entity or any other officer, department, agency, or instrumentality of the state or any political subdivision are required to enter into any lease, except as prescribed in this chapter and IC 8-22-3.6.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-14

Leases; authority approval of plans and specifications of project

Sec. 14. If the lease provides for an airport project or improvements to an airport project to be constructed by the

development authority, the plans and specifications shall be submitted to and approved by the authority.
As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-15
Party walls; easements; licenses

Sec. 15. The development authority and the authority may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.
As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-16
Sales or leases of projects to development authority

Sec. 16. (a) The authority may lease for a nominal lease rental or sell to the development authority one (1) or more airport projects or portions of airport projects or land upon which an airport project is located or is to be constructed.

(b) Any lease of all or a portion of an airport project by the authority to the development authority must be for a term equal to the term of the lease of that airport project back to the authority.

(c) The authority or the eligible entity may sell property to the development authority for the amount that the authority or the eligible entity determines to be in the best interest of the authority or the eligible entity, which amount may be paid from the proceeds of bonds of the development authority.

(d) The authority may sublease an airport project or portion of an airport project to any person or entity for a term not to exceed the term of the lease from the development authority, upon the terms and at the rental that the authority determines to be in the best interest of the authority.
As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-17
Bond issues

Sec. 17. (a) The development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring property;

(2) constructing, improving, reconstructing, or renovating one (1) or more airport projects; or

(3) funding or refunding bonds issued under this chapter or IC 8-22-3.

(b) The bonds are payable solely from the lease rentals from the lease of the airport project for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the

resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within fifty (50) years.

(f) The development board shall sell the bonds at public or private sale upon terms determined by the development board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of airport projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the airport project and all related buildings, facilities, structures, and improvements;

(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 airport projects suitable for use and operations;

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

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

(6) reserves for principal and interest;

(7) interest during construction and for a period thereafter determined by the board, but in no event to exceed five (5) years;

(8) financial advisory fees;

(9) insurance during construction;

(10) municipal 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, and interest on, the bonds being refunded or refinanced.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-18

Law governing issuance; bonds as legal investment

Sec. 18. (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 board of any other officer, department, agency, or instrumentality of the state or of any political subdivision are required to issue any bonds, 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 associates, credit unions, banks of discount and deposit, savings banks, private 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.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-19
Trust indentures securing bonds

Sec. 19. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development 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 lease rentals, receipts, and income from leased airport projects;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and the board;

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

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

However, the trust indenture may not mortgage airport projects.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-20
Bonds issued upon exercise of option to purchase

Sec. 20. If the authority exercises its option to purchase leased property, it may issue its bonds authorized by statute.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-21
Exemptions from taxation

Sec. 21. (a) All:

(1) property owned by the development authority;

(2) revenues of the development authority; and

(3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-19 and other securities registration

statutes.
As added by P.L.108-1993, SEC.11. Amended by P.L.254-1997(ss), SEC.18; P.L.27-2007, SEC.9.

IC 8-22-3.7-22
Actions to contest validity of bonds; conditions

Sec. 22. Any action to contest the validity of bonds to be issued under this chapter may not be brought after:

(1) fifteen (15) days following the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the time limitations set forth in IC 5-1-14-13.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-23
Impairment of bondholder rights

Sec. 23. The general assembly covenants that it will not:

(1) repeal or amend this chapter, IC 8-22-3.5, or IC 8-22-3.6 in a manner that would adversely affect owners of outstanding bonds, or payment of any lease rentals, secured by the revenues pledged under this chapter, IC 8-22-3.5, or IC 8-22-3.6; or

(2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter or IC 8-22-3.6.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-24
Financing powers as public purpose

Sec. 24. This provision of alternative financing power to eligible entities, development authorities, and authorities in order to finance airport projects is a public purpose.
As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-25
Supplemental nature of chapter

Sec. 25. This chapter is supplemental to other statutes and does not supersede any other provisions of the Indiana Code.
As added by P.L.108-1993, SEC.11.

IC 8-22-4
Chapter 4. Joint State Airport Authorities

IC 8-22-4-1
Creation of authority; members

Sec. 1. (a) Governmental units in each of two (2) party states may combine in the creation of an airport authority for the purpose of jointly supporting and operating an airport terminal and all attached properties. The governmental units are not limited as to number, character, or size, except that the airport authority must be composed of an equal number of members from each party state, designated or appointed by the legislative body of the participating governmental unit. The federal government may be represented by a nonvoting agent or representative if authorized by federal law.

(b) The airport authority is established when resolutions or ordinances containing identical agreement provisions are duly adopted by the legislative bodies of the governmental units to be combined into the airport authority. If passage is by resolution, it may be joint or several, but the resolution or ordinance of the combining governmental units must provide for the number of members, the residence requirements of the members, the length of term of the members, and the appointment of an additional member by the governor of each party state. If the member appointed by the governor is selected from the membership or staff of the aeronautics commission of the state, there is no limitation as to place of residence, and the length of tenure of office is at the pleasure of the governor.

(c) The respective members of the airport authority, except any member representing the federal government, are each entitled to one (1) vote. An action of the membership of the airport authority is official only if taken at a meeting in which a majority of the voting members from each party state are present and a majority of those from each state concur. An action that does not comply with these requirements may be ratified within thirty (30) days by the concurrence of a majority of the members of each party state. In the absence of a member, his vote may be cast by another representative or member of his state if the representative casting the vote has a written proxy in the proper form required by the airport authority.
As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-4-2
Powers and duties

Sec. 2. (a) The airport authority may sue and be sued, and shall adopt an official seal.

(b) The airport authority may appoint and remove or discharge personnel as may be necessary for the performance of the airport's functions irrespective of the civil service, personnel, or other merit system laws of either of the party states.

(c) The airport authority shall elect annually, from its membership, a chairman, a vice chairman, and a treasurer.

(d) The airport authority may establish and maintain or participate in programs of employee benefits as may be appropriate to afford employees of the airport authority terms and conditions of employment similar to those enjoyed by the employees of each of the party states.

(e) The airport authority may borrow, accept, or contract for the services of personnel from a state, the United States, or a subdivision or agency of either, from an interstate agency, or from any other institution or person.

(f) The airport authority may accept for its purposes and functions donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from a state, the United States, or a subdivision or agency of either, from an interstate agency, or from any other institution or person. The authority may receive, utilize and dispose of the property.

(g) The airport authority may establish and maintain facilities that may be necessary for the transaction of its business. The airport authority may acquire, hold, and convey real and personal property and any interest in it, and may enter into contracts for improvements upon real estate appurtenant to the airport, including farming, extracting minerals, subleasing, subdividing, promoting and developing of real estate that aids and encourages the development and service of the airport. The airport authority may engage contractors to provide airport services and shall carefully observe all appropriate federal or state regulations in the operation of the air facility.

(h) The airport authority may adopt official rules and regulations for the conduct of its business and may amend or rescind them when necessary.

(i) The airport authority shall annually make a report to the governor of each party state concerning the activities of the airport authority for the preceding year, embodying in the report recommendations that have been adopted by the airport authority. The copies of the report shall be submitted to the legislature or general assembly of each of the party states at any regular session. A copy submitted to the general assembly must be in an electronic format under IC 5-14-6. The airport authority may issue additional reports that are necessary.

As added by Acts 1980, P.L.8, SEC.73. Amended by P.L.28-2004, SEC.74.

IC 8-22-4-3

Funding; revenue bonds; loans; budget; expenses and costs; records

Sec. 3. (a) A party state is not obligated to appropriate funds of the state for the development, support, and maintenance of the airport

authority. All revenue received from the air facility and the property, both real and personal, within the jurisdiction and control of the airport authority must be applied to the maintenance and development of the air facility. All limitations upon expenditures, which may be an element of title to the real estate held by the airport authority, must be observed.

(b) Revenue bonds to be retired exclusively from income received from the operation of the air facility may be issued by the airport authority and in the name of the authority in accordance with the statutes of the state in which the air facility is located that prescribe the terms and conditions for the issuance of revenue bonds by airport authorities.

(c) The airport authority may secure loans from private financing and offer as collateral those assets, real, personal or mixed, in accordance with the statutes of the state in which the airport is located.

(d) Each year the airport authority shall prepare a budget of its estimated expenditures for the fiscal year beginning on January 1 of the succeeding year and shall before July 2 submit a copy of the report to the various combining governmental units. The estimated expenditures must be allocated and pro rated equally between the various combining governmental units and a statement of the allocated amount must be included in the copy of the budgetary report submitted to the combining governmental units. To provide funds to pay its share of the proposed expenditures, each combining governmental unit may annually levy a tax on property located within the governmental unit at a rate sufficient to raise funds to pay its pro rated share of estimated expenditures. The tax shall be levied and collected in the same manner as other property taxes are levied and collected by the governmental unit and in accordance with the statutes of the state in which the unit is located. The money raised by the tax levy shall be appropriated and distributed to the airport authority by the governmental unit. Funds so appropriated shall be used exclusively for the development and maintenance of the air facility.

(e) The airport authority may meet any of its obligations, in whole or in part, with funds made available to it under section 2 of this chapter. However, the airport authority must take specific action to set aside those funds before incurring an obligation to be met in whole or in part in this manner.

(f) The expenses and other costs for each member of the airport authority shall be met by the airport authority in accordance with the standards and procedures that it establishes under its bylaws, rules, and regulations.

(g) The airport authority shall keep accurate records of all receipts and disbursements. The receipts and disbursements of the airport authority are subject to an annual audit and accounting procedures established under its bylaws. All receipts and disbursements of funds

handled by the airport authority shall be audited by a qualified public accountant and the report of the audit shall be incorporated into and become a part of the annual report of the airport authority.

(h) The accounts of the airport authority shall be kept open to inspection by the general public at any reasonable times.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-4-4

Powers and functions

Sec. 4. The airport authority may:

(1) operate and conduct an airport;

(2) operate farming operations on real estate appurtenant to the airport;

(3) exercise the power of eminent domain in accordance with the statutes of the state in which the airport is located;

(4) maintain, operate, and extend water and sewer systems on the land appurtenant to the airport, and make and collect charges for services;

(5) construct and lease industrial and aviation buildings on the land appurtenant to the airport;

(6) lease land owned by a combining governmental unit suitable for an airport facility for a term of not less than ninety-nine (99) years;

(7) secure expert guidance on the development of an area air facility so that the interests of the area are best served and implement that development under the statutes of the party states;

(8) establish and fix by ordinance a restricted zone for distances in any direction from the boundaries of the airport facility that is necessary and practicable, regulating the height of structures to provide free air space for access by aircraft and for the safe use of the airport, all in accordance with the statutes of the party state in which the airport is located;

(9) accept, receive, and receipt for federal monies and other monies, public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, other air navigation facilities, and sites for them;

(10) buy and sell machinery for aviation purposes; and negotiate and contract for personal services, materials and supplies; whenever personal property is to be purchased or sold, there must be due notice and competitive bidding as required by the statutes of the state in which the airport is located; and

(11) perform all functions and do all acts that are necessary to the total development of a commercial and industrial air facility, in accordance with the laws of the party states.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-4-5
Effectiveness of authority

Sec. 5. The authority to combine into an airport authority becomes effective at the time when reciprocal authorizing legislation is enacted by a party state authorizing governmental units in that state to combine with governmental units in Indiana in an airport authority.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-4-6
Effect of chapter

Sec. 6. This chapter does not affect IC 8-22-5.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-4-7
Approval by other states

Sec. 7. Before commencement of proceedings for the acquisition and establishment of airports, landing fields, or other air navigation facilities, approval of the acquisition or establishment of the airports, landing fields or other air navigation facilities must be secured and granted by the respective aeronautics commissions of the party states.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-5

Chapter 5. Local Participation in Interstate Airports

IC 8-22-5-1

Interstate airport facilities; approval

Sec. 1. The governing body of a county, city, village, town, or other political subdivision of an adjoining state whose statutes permit may acquire, establish, construct, own, control, lease, equip, improve, maintain, and operate airports, landing fields, or other air navigation facilities in Indiana, subject to statutes, rules, and regulations of Indiana applicable to its political subdivisions in aeronautical projects, but subject to the laws of the adjoining state in matters relating to financing the projects. The aeronautics commission of Indiana must approve the acquisition and establishment of the airports, landing fields, or other air navigation facilities before commencement of proceedings for acquisition or establishment.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-5-2

Rights of political subdivisions of adjoining state

Sec. 2. The political subdivision of an adjoining state has all the rights, privileges, and duties of political subdivisions of Indiana, including the power of eminent domain, which must be exercised in accordance with Indiana law, as to property not devoted to public use, and the power jointly with political subdivisions of Indiana to acquire, establish, construct, own, control, lease, equip, improve, maintain, and operate airports, landing fields, or other air navigation facilities.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-5-3

Powers of political subdivisions of state in air navigation facilities of adjoining state

Sec. 3. The governing body of any political subdivision of Indiana may acquire, establish, construct, own, control, lease, equip, improve, maintain, and operate airports, landing fields, or other air navigation facilities in an adjoining state if the statutes of the adjoining state permit that action, subject to statutes, rules, and regulations of the adjoining state applicable to its own political subdivisions in aeronautical projects, but subject to Indiana law in matters relating to the financing of such projects. The aeronautics commission of Indiana must approve the acquisition and establishment of an airport or landing field in an adjoining state before the acquisition or establishment.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-22-5-4

Reciprocity

Sec. 4. This chapter does not apply unless the statutes of the adjoining state permit political subdivisions of Indiana to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and otherwise control airports, landing fields, or other air navigation facilities in that state, with all privileges, rights, and duties applicable to the political subdivisions of the adjoining state in aeronautical projects, including all tax privileges and immunities, the power of eminent domain as to property not devoted to public use, and the power jointly with political subdivisions of adjoining states to acquire, establish, construct, own, control, lease, equip, improve, maintain and operate airports, landing fields, or other air navigation facilities.

As added by Acts 1980, P.L.8, SEC.73.

IC 8-23

ARTICLE 23. INDIANA DEPARTMENT OF TRANSPORTATION

IC 8-23-1

Chapter 1. Definitions

IC 8-23-1-1

Application throughout article

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.112-1989, SEC.5.

IC 8-23-1-2

Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-1-3

Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-1-4

Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-1-5

Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-1-6

Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-1-7

Application of additional definitions

Sec. 7. The definitions in IC 36-1-2 apply to this article.

As added by P.L.18-1990, SEC.165.

IC 8-23-1-8

"Abandonment" defined

Sec. 8. "Abandonment" means the cessation of use of right-of-way activity upon a site with no intention to reclaim or use the site again for highway purposes.

As added by P.L.18-1990, SEC.166.

IC 8-23-1-9

"Adjacent area" defined

Sec. 9. "Adjacent area" means an area that is adjacent to and

within six hundred sixty (660) feet of the nearest edge of the right-of-way of an interstate or primary highway.
As added by P.L.18-1990, SEC.167.

IC 8-23-1-10
"Agency" defined
Sec. 10. "Agency" has the meaning set forth in IC 4-22-2-3.
As added by P.L.18-1990, SEC.168.

IC 8-23-1-11
"Arterial highway" defined
Sec. 11. "Arterial highway" means a highway designed primarily for through traffic, usually on a continuous route.
As added by P.L.18-1990, SEC.169.

IC 8-23-1-12
"Arterial street" defined
Sec. 12. "Arterial street" means a street designed primarily for through traffic, usually on a continuous route.
As added by P.L.18-1990, SEC.170.

IC 8-23-1-13
"Authority" defined
Sec. 13. "Authority" refers to the Indiana finance authority established under IC 4-4-11.
As added by P.L.18-1990, SEC.171. Amended by P.L.235-2005, SEC.121.

IC 8-23-1-14
"Automobile graveyard" defined
Sec. 14. "Automobile graveyard" means an establishment or place of business that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.
As added by P.L.18-1990, SEC.172.

IC 8-23-1-14.3
"Changeable message sign" defined
Sec. 14.3. (a) "Changeable message sign" means a sign that satisfies all of the following:
(1) The message on the sign may be changed mechanically, electronically, or by remote control.
(2) The static display on the face of the sign:
(A) does not display any copy or message that moves, appears to move, or flashes; and
(B) lasts at least eight (8) seconds.
(3) A message change takes no more than two (2) seconds.
(b) The term includes electronic billboards and trimovement

signs.
As added by P.L.66-2007, SEC.1.

IC 8-23-1-14.5
"Commerce corridor" defined

Sec. 14.5. "Commerce corridor" means that part of a recognized system of highways that:

(1) directly facilitates intrastate, interstate, or international commerce and travel;

(2) enhances economic vitality and international competitiveness; or

(3) provides service to all parts of Indiana and the United States.

As added by P.L.87-1991, SEC.1.

IC 8-23-1-15
"Commissioner" defined

Sec. 15. "Commissioner" refers to the commissioner of the department.
As added by P.L.18-1990, SEC.173.

IC 8-23-1-16
"County arterial highway system" defined

Sec. 16. "County arterial highway system" means a system of highways designated by the county highway authority as having the greatest general importance to the county and for which responsibility is assigned to the county highway authority.
As added by P.L.18-1990, SEC.174.

IC 8-23-1-17
"County local highway system" defined

Sec. 17. "County local highway system" means the roads and streets used primarily for access to residence, business, farm, or other abutting property and for which responsibility is assigned to the county highway authority.
As added by P.L.18-1990, SEC.175.

IC 8-23-1-18
"Curb" defined

Sec. 18. "Curb" means a stone or row of stones, or a similar construction of concrete or other material, along the margin of a roadway as a limit to the roadway and a restraint upon and protection to the adjoining sidewalk space.
As added by P.L.18-1990, SEC.176.

IC 8-23-1-19
"Department" defined

Sec. 19. "Department" refers to the Indiana department of

transportation established under IC 8-23-2-1.
As added by P.L.18-1990, SEC.177.

IC 8-23-1-20
"Directional and other official signs and notices" defined

Sec. 20. "Directional and other official signs and notices" includes signs and notices pertaining to natural, scenic, and historical attractions that are required or authorized by law and conform to the national standards adopted by the United States Secretary of Commerce under 23 U.S.C. 131(c).
As added by P.L.18-1990, SEC.178.

IC 8-23-1-20.5
"Electronic billboard" defined

Sec. 20.5. "Electronic billboard" means a programmable sign capable of presenting a large amount of:

(1) text;
(2) symbolic imagery; or
(3) both text and symbolic imagery.

As added by P.L.66-2007, SEC.2.

IC 8-23-1-21
"Erect" defined

Sec. 21. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish. The term does not include an activity performed as an incident to the change of an advertising message or normal maintenance or repair of a sign structure.
As added by P.L.18-1990, SEC.179.

IC 8-23-1-22
"Executive" defined

Sec. 22. "Executive" has the meaning set forth in IC 36-1-2-5. However, for a consolidated city, the term means the city-county council.
As added by P.L.18-1990, SEC.180.

IC 8-23-1-22.5
"Extraordinary cost" defined

Sec. 22.5. "Extraordinary cost" means the cost to a utility to relocate existing facilities that is either:

(1) more than ten percent (10%) of the total operating revenue received by the utility during the utility's most recent full fiscal year; or
(2) more than fifty percent (50%) of the total estimated cost of a proposed highway or bridge construction or improvement project.

As added by P.L.63-1992, SEC.1.

IC 8-23-1-23
"Highway, street, or road" defined

Sec. 23. "Highway, street, or road" means a public way for purposes of vehicular traffic, including the entire area within the right-of-way. However, the term does not include a highway for purposes of IC 8-2.1.

As added by P.L.18-1990, SEC.181.

IC 8-23-1-24
"Information center" defined

Sec. 24. "Information center" means an area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within Indiana and providing other information that the department considers desirable.

As added by P.L.18-1990, SEC.182.

IC 8-23-1-25
"Interstate system" defined

Sec. 25. "Interstate system" means the part of the national system of interstate and defense highways located within Indiana as officially designated by the department and approved by the United States Secretary of Commerce under 23 U.S.C.

As added by P.L.18-1990, SEC.183.

IC 8-23-1-26
"Junk" defined

Sec. 26. "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles or automobile parts, iron, steel, and other old scrap ferrous or nonferrous material.

As added by P.L.18-1990, SEC.184.

IC 8-23-1-27
"Junkyard" defined

Sec. 27. "Junkyard" means an establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. The term includes garbage dumps and sanitary fills. The term does not include a scrap metal processing facility.

As added by P.L.18-1990, SEC.185.

IC 8-23-1-28
"Limited access facility" defined

Sec. 28. "Limited access facility" means a highway or street designed for through traffic, over, from, or to which owners or occupiers of abutting land or other persons have either no right or easement or a limited right or easement of direct access, light, air, or view because their property abuts upon the limited access facility or

for any other reason. The highways or streets may be parkways from which trucks, busses, and other commercial vehicles are excluded or freeways open to use by all customary forms of highway and street traffic.
As added by P.L.18-1990, SEC.186.

IC 8-23-1-29
"Maintain" defined
Sec. 29. "Maintain" means allow to exist.
As added by P.L.18-1990, SEC.187.

IC 8-23-1-30
"Main-traveled way" defined
Sec. 30. "Main-traveled way" means the traveled way of a highway on which through traffic is carried. For a divided highway, the term includes the traveled way of each of the separated roadways for traffic in opposite directions. The term does not include frontage roads, turning roadways, or parking areas.
As added by P.L.18-1990, SEC.188.

IC 8-23-1-31
"Municipal arterial street system" defined
Sec. 31. "Municipal arterial street system" means a system of arterial streets and highways designated by the municipal street authority as having the greatest importance to the municipality and for which responsibility is assigned to the municipal street authority.
As added by P.L.18-1990, SEC.189.

IC 8-23-1-32
"Municipal local street system" defined
Sec. 32. "Municipal local street system" means roads and streets used primarily for access to residence, business, or other abutting property and for which responsibility is assigned to the municipal street authority.
As added by P.L.18-1990, SEC.190.

IC 8-23-1-33
"Primary system" defined
Sec. 33. "Primary system" means the part of connected main highways as officially designated by the department and approved by the United States Secretary of Commerce under 23 U.S.C.
As added by P.L.18-1990, SEC.191.

IC 8-23-1-34
"Road paving material" defined
Sec. 34. "Road paving material" means bituminous or portland concrete surfaces.
As added by P.L.18-1990, SEC.192.

IC 8-23-1-35
"Safety rest area" defined

Sec. 35. "Safety rest area" means an area or site established and maintained within adjacent areas by or under public supervision or control for the convenience of the traveling public.

As added by P.L.18-1990, SEC.193.

IC 8-23-1-36
"Scrap metal processing facility" defined

Sec. 36. "Scrap metal processing facility" means an establishment having facilities for processing iron, steel, or nonferrous metal and whose principal product is scrap iron, steel, or scrap for sale for remelting purposes only.

As added by P.L.18-1990, SEC.194.

IC 8-23-1-37
"Secretary" defined

Sec. 37. "Secretary" refers to the United States Secretary of Transportation.

As added by P.L.18-1990, SEC.195.

IC 8-23-1-38
"Sign" defined

Sec. 38. "Sign" means an outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, or other thing that is designated, intended, or used to advertise or inform.

As added by P.L.18-1990, SEC.196.

IC 8-23-1-39
"State aid director" defined

Sec. 39. "State aid director" refers to the chief administrative officer of the office of the department that administers programs of state and federal aid to local units of government, or the officer's designee.

As added by P.L.18-1990, SEC.197.

IC 8-23-1-40
"State highway system" defined

Sec. 40. "State highway system" means the system of highways and streets that are of general economic importance to Indiana as a whole and for which responsibility is assigned to the department.

As added by P.L.18-1990, SEC.198.

IC 8-23-1-40.5
"Substantial completion" defined

Sec. 40.5. "Substantial completion" refers to the date, as determined by the department, when the construction of the contract

is sufficiently completed in accordance with the plans and specifications, as modified by any change orders, so that the construction can be used for its intended purpose.
As added by P.L.117-1995, SEC.1.

IC 8-23-1-41
"Transportation plan" defined
Sec. 41. "Transportation plan" means a statement evaluating transportation policy objectives and projecting specific long range comprehensive actions to accomplish policy objectives.
As added by P.L.18-1990, SEC.199.

IC 8-23-1-42
"Traveled way" defined
Sec. 42. "Traveled way" means the part of the roadway for the movement of vehicles. The term does not include shoulders or auxiliary lanes.
As added by P.L.18-1990, SEC.200.

IC 8-23-1-42.5
"Trimovement sign" defined
Sec. 42.5. "Trimovement sign" means a sign that displays three (3) separate images sequentially by rotating triangular cylinders.
As added by P.L.66-2007, SEC.3.

IC 8-23-1-43
"Unzoned commercial or industrial area" defined
Sec. 43. (a) "Unzoned commercial or industrial area" means an adjacent area not zoned under state or local statute, rule, or ordinance on which there is located one (1) or more permanent structures for commercial or industrial activities other than a sign or upon which a commercial or an industrial activity is actually conducted, whether or not there is a permanent structure located upon the adjacent area, and the area:

(1) extending six hundred (600) feet beyond the edge of the commercial or industrial activity as determined under subsection (c); and

(2) located along either side of an interstate or a primary highway.

The term does not include land contiguous to an interstate or a primary highway that has been designated as scenic by the state.

(b) The term does not include the following areas:

(1) Within three hundred (300) feet of a building used primarily as a residence, unless the owner of the building consents in writing to the particular commercial use.

(2) Within five hundred (500) feet of the following:

(A) A public park garden.

(B) A recreation area or forest preserve.

(C) A church or school.
(D) An officially designated historic battlefield, museum, or historical monument.
(E) A safety rest or recreation area, publicly owned, controlled, and maintained under 23 U.S.C. 319.
(F) A sanitary or other facility for the accommodation of motorists, publicly owned, controlled, and maintained under 23 U.S.C. 319.
(3) Within seven hundred fifty (750) feet of a strip of land in which an interest has been acquired by the state for the restoration, preservation, or enhancement of scenic beauty that is publicly controlled and maintained under 23 U.S.C. 319.

(c) Distance from a commercial or an industrial activity described under subsection (a):
(1) must be:
(A) measured from the outer edges of the regularly used building, parking lot, storage areas, or processing areas of the commercial or industrial activity; and
(B) parallel to the edge of the pavement of the highway; and
(2) may not be measured from the property line of the commercial or industrial activity, unless the property line is located on an area described in subdivision (1)(A).

As added by P.L.18-1990, SEC.201. Amended by P.L.61-1996, SEC.11.

IC 8-23-1-44
"Urban area" defined

Sec. 44. "Urban area" means:
(1) an urbanized area designated by the Bureau of the Census;
(2) if an urbanized area lies within more than one (1) state, the part of the area that lies within the boundaries of Indiana; or
(3) an urban place designated by the Bureau of the Census having a population of at least five thousand (5,000) that is not within an urbanized area and is within boundaries cooperatively established by the department and local officials.

As added by P.L.18-1990, SEC.202.

IC 8-23-1-44.5
"Utility" defined

Sec. 44.5. "Utility" has the meaning set forth in IC 8-1-9-2(a).

As added by P.L.63-1992, SEC.2.

IC 8-23-1-45
"Visible" defined

Sec. 45. "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity using the highway system.

As added by P.L.18-1990, SEC.203.

IC 8-23-1-46
"Work program" defined

Sec. 46. "Work program" means a schedule of steps to be followed in implementing a transportation plan, including the following:

(1) A description of the sequence of steps.
(2) The time limit within which each step is to be completed.
(3) The product of each step.
(4) The staff and resources required.

As added by P.L.18-1990, SEC.204.

IC 8-23-1-47
"Zoned commercial or industrial areas" defined

Sec. 47. "Zoned commercial or industrial areas" means those areas that are zoned for business, industry, commerce, or trade under a zoning ordinance.

As added by P.L.18-1990, SEC.205.

IC 8-23-2

Chapter 2. Indiana Department of Transportation

IC 8-23-2-1

Establishment of department

Sec. 1. The Indiana department of transportation is established.

As added by P.L.112-1989, SEC.5.

IC 8-23-2-2

Commissioner; appointment; compensation

Sec. 2. (a) The governor shall appoint a commissioner who is responsible for organizing and administering the department.

(b) The commissioner:

(1) serves at the pleasure of the governor; and

(2) is entitled to receive compensation set by the budget agency.

As added by P.L.112-1989, SEC.5.

IC 8-23-2-3

Repealed

(As added by P.L.112-1989, SEC.5. Amended by P.L.5-1989, SEC.77. Repealed by P.L.100-2012, SEC.23.)

IC 8-23-2-4

Repealed

(Repealed by P.L.1-1991, SEC.82.)

IC 8-23-2-4.1

Department responsibilities; activities

Sec. 4.1. The department is responsible for the following activities:

(1) The identification, development, coordination, and implementation of the state's transportation policies.

(2) The approval of applications for federal transportation grants from funds allocated to the state:

(A) from the Highway Trust Fund (23 U.S.C.);

(B) from the Aviation Trust Fund (49 U.S.C.);

(C) through the Federal Transit Administration (49 U.S.C. 5301 et seq.); or

(D) from any other federal grant that has a transportation component.

(3) The review, revision, adoption, and submission of budget proposals.

(4) The construction, reconstruction, improvement, maintenance, and repair of:

(A) state highways; and

(B) a toll road project or toll bridge in accordance with a contract or lease entered into with the Indiana finance authority under IC 8-9.5-8-7 or IC 8-9.5-8-8.

(5) The administration of programs as required by law, including the following:
(A) IC 8-3-1 (railroads).
(B) IC 8-3-1.5 (rail preservation).
(C) IC 8-21-1 (aeronautics).
(D) IC 8-21-9 (airports).
(E) IC 8-21-11 (aviation development program).

As added by P.L.1-1991, SEC.83. Amended by P.L.14-2003, SEC.1; P.L.235-2005, SEC.122.

IC 8-23-2-5
Department duties

Sec. 5. (a) The department, through the commissioner or the commissioner's designee, shall:

(1) develop, continuously update, and implement:
(A) long range comprehensive transportation plans;
(B) work programs; and
(C) budgets;
to assure the orderly development and maintenance of an efficient statewide system of transportation;

(2) implement the policies, plans, and work programs adopted by the department;

(3) organize by creating, merging, or abolishing divisions;

(4) evaluate and utilize whenever possible improved transportation facility maintenance and construction techniques;

(5) carry out public transportation responsibilities, including:
(A) developing and recommending public transportation policies, plans, and work programs;
(B) providing technical assistance and guidance in the area of public transportation to political subdivisions with public transportation responsibilities;
(C) developing work programs for the utilization of federal mass transportation funds;
(D) furnishing data from surveys, plans, specifications, and estimates required to qualify a state agency or political subdivision for federal mass transportation funds;
(E) conducting or participating in any public hearings to qualify urbanized areas for an allocation of federal mass transportation funding;
(F) serving, upon designation of the governor, as the state agency to receive and disburse any state or federal mass transportation funds that are not directly allocated to an urbanized area;
(G) entering into agreements with other states, regional agencies created in other states, and municipalities in other states for the purpose of improving public transportation service to the citizens; and
(H) developing and including in its own proposed

transportation plan a specialized transportation services plan for the elderly and persons with disabilities;

(6) provide technical assistance to units of local government with road and street responsibilities;

(7) develop, undertake, and administer the program of research and extension required under IC 8-17-7;

(8) allow public testimony in accordance with section 17 of this chapter whenever the department holds a public hearing (as defined in section 17 of this chapter); and

(9) adopt rules under IC 4-22-2 to reasonably and cost effectively manage the right-of-way of the state highway system by establishing a formal procedure for highway improvement projects that involve the relocation of utility facilities by providing for an exchange of information among the department, utilities, and the department's highway construction contractors.

(b) Rules adopted under subsection (a)(9):

(1) shall not unreasonably affect the cost, or impair the safety or reliability, of a utility service; and

(2) must require a utility to provide information concerning all authorized representatives of the utility for purposes of highway improvement projects and improvement projects undertaken by local units of government.

(c) A civil action may be prosecuted by or against the department, a department highway construction contractor, or a utility to recover costs and expenses directly resulting from willful violation of the rules. Nothing in this section or in subsection (a)(9) shall be construed as granting authority to the department to adopt rules establishing fines, assessments, or other penalties for or against utilities or the department's highway construction contractors.

(d) Based on information provided by utilities under rules described in subsection (b)(2), the department shall establish and publish on the department's Internet web site a searchable data base of authorized representatives of utilities for purposes of improvement projects that involve the relocation of utility facilities. A utility that provides information described in subsection (b)(2) shall:

(1) update the information provided to the department on an annual basis; and

(2) notify the department of any change in the information not more than thirty (30) days after the change occurs.

(e) Not later than August 1 of each year, the department, through the commissioner or the commissioner's designee, shall prepare for the interim study committee on roads and transportation a report that includes updates on the following:

(1) Transportation and infrastructure funding.

(2) Public-private agreements under IC 8-15.5.

(3) Public-private partnerships under IC 8-15.7.

(4) Reports and supplements prepared under IC 8-23-12.

(5) Programs and projects conducted in cooperation with Purdue University under IC 8-23-9-56.

(6) Any other information requested by the study committee.

The report must be submitted in an electronic format under IC 5-14-6.

As added by P.L.112-1989, SEC.5. Amended by P.L.18-1990, SEC.207; P.L.23-1993, SEC.20; P.L.52-1995, SEC.2; P.L.35-2005, SEC.1; P.L.5-2012, SEC.1; P.L.16-2014, SEC.3; P.L.53-2014, SEC.85.

IC 8-23-2-5.5

Coordinated use of public rights-of-way; sharing of information; adoption of rules

Sec. 5.5. (a) The department shall develop a program to coordinate the efficient and cost effective use of public rights-of-way by the department and utilities when the department undertakes an infrastructure improvement project.

(b) A program developed under subsection (a) may require the department and utilities to share the following information:

(1) Active construction and excavation permits.

(2) Locations of existing utility facilities.

(3) Short and long term project schedules.

(c) The department may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.133-2013, SEC.6.

IC 8-23-2-6

Department powers; contracts and lease with the Indiana finance authority; confidential documents

Sec. 6. (a) The department, through the commissioner or the commissioner's designee, may do the following:

(1) Acquire by purchase, gift, or condemnation, sell, abandon, own in fee or a lesser interest, hold, or lease property in the name of the state, or otherwise dispose of or encumber property to carry out its responsibilities.

(2) Contract with persons outside the department to do those things that in the commissioner's opinion cannot be adequately or efficiently performed by the department.

(3) Enter into:

(A) a contract with the Indiana finance authority under IC 8-9.5-8-7; or

(B) a lease with the Indiana finance authority under IC 8-9.5-8-8;

for the construction, reconstruction, improvement, maintenance, repair, or operation of toll road projects under IC 8-15-2 and toll bridges under IC 8-16-1.

(4) Sue and be sued, including, with the approval of the attorney general, the compromise of any claims of the department.

(5) Hire attorneys.
(6) Perform all functions pertaining to the acquisition of property for transportation purposes, including the compromise of any claims for compensation.
(7) Hold investigations and hearings concerning matters covered by orders and rules of the department.
(8) Execute all documents and instruments necessary to carry out its responsibilities.
(9) Make contracts and expenditures, perform acts, enter into agreements, and make rules, orders, and findings that are necessary to comply with all laws, rules, orders, findings, interpretations, and regulations promulgated by the federal government in order to:
(A) qualify the department for; and
(B) receive;
federal government funding on a full or participating basis.
(10) Adopt rules under IC 4-22-2 to carry out its responsibilities, including emergency rules in the manner provided under IC 4-22-2-37.1.
(11) Establish regional offices.
(12) Adopt a seal.
(13) Perform all actions necessary to carry out the department's responsibilities.
(14) Order a utility to relocate the utility's facilities and coordinate the relocation of customer service facilities if:
(A) the facilities are located in a highway, street, or road; and
(B) the department determines that the facilities will interfere with a planned highway or bridge construction or improvement project funded by the department.
(15) Reimburse a utility:
(A) in whole or in part for extraordinary costs of relocation of facilities;
(B) in whole for unnecessary relocations;
(C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;
(D) in whole for relocations covered by IC 8-1-9; and
(E) to the extent that a relocation is a taking of property without just compensation.
(16) Provide state matching funds and undertake any surface transportation project eligible for funding under federal law. However, money from the state highway fund and the state highway road construction and improvement fund may not be used to provide operating subsidies to support a public transportation system or a commuter transportation system.

(b) In the performance of contracts and leases with the Indiana finance authority, the department has authority under IC 8-15-2, in the case of toll road projects and IC 8-16-1, in the case of toll bridges necessary to carry out the terms and conditions of those contracts and

leases.

(c) The department shall:

(1) classify as confidential any estimate of cost prepared in conjunction with analyzing competitive bids for projects until a bid below the estimate of cost is read at the bid opening;

(2) classify as confidential that part of the parcel files that contain appraisal and relocation documents prepared by the department's land acquisition division; and

(3) classify as confidential records that are the product of systems designed to detect collusion in state procurement and contracting that, if made public, could impede detection of collusive behavior in securing state contracts.

This subsection does not apply to parcel files of public agencies or affect IC 8-23-7-10.

As added by P.L.112-1989, SEC.5. Amended by P.L.18-1990, SEC.208; P.L.2-1991, SEC.63; P.L.63-1992, SEC.3; P.L.39-1993, SEC.3; P.L.109-1993, SEC.1; P.L.235-2005, SEC.123; P.L.135-2013, SEC.1.

IC 8-23-2-7
Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-2-8
Repealed

(Repealed by P.L.18-1990, SEC.299.)

IC 8-23-2-9
References to certain transportation agencies as references to department of transportation

Sec. 9. After June 30, 1989, any reference to:

(1) the transportation coordinating board (IC 8-9.5-2-1, repealed);

(2) the transportation planning office (IC 8-9.5-3-1, repealed);

(3) the department of highways (IC 8-9.5-4-2, repealed); and

(4) the department of transportation (IC 8-9.5-5-2, repealed);

in any statute or rule shall be treated as a reference to the Indiana department of transportation, as established by this article.

As added by P.L.112-1989, SEC.5. Amended by P.L.1-2009, SEC.76.

IC 8-23-2-10
Preexisting rules of certain transportation agencies as rules of department of transportation

Sec. 10. Any rules of:

(1) the transportation coordinating board (IC 8-9.5-2-1, repealed);

(2) the transportation planning office (IC 8-9.5-3-1, repealed);

(3) the department of highways (IC 8-9.5-4-2, repealed); and

(4) the department of transportation (IC 8-9.5-5-2, repealed); filed with the secretary of state before July 1, 1989, shall be treated after June 30, 1989, as though they had been adopted by the Indiana department of transportation established by this article.
As added by P.L.112-1989, SEC.5. Amended by P.L.1-2009, SEC.77.

IC 8-23-2-11
Application of section; surplus property; trust bid

Sec. 11. (a) This section applies to the disposal of surplus real or personal property by the department.

(b) Whenever surplus real property or personal property is disposed of by acceptance of bids, a bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

As added by P.L.336-1989(ss), SEC.22.

IC 8-23-2-12
Engineers and land surveyors; contracts; compensation

Sec. 12. A contract for professional services of engineers or land surveyors may be made on the basis of competence and qualifications for the type of services to be performed. Compensation that the department determines to be reasonable may be negotiated.
As added by P.L.18-1990, SEC.209.

IC 8-23-2-12.5
"Contractor"; "professional services"; liability of contractors

Sec. 12.5. (a) As used in this section, "contractor" refers to a person who provides professional services under a contract with the department.

(b) As used in this section, "professional services" refers to engineering, architectural, or surveying services.

(c) Notwithstanding any provision of IC 26-2-5-1 to the contrary, the department may not require a contractor to assume any liability or indemnify the state for any amount greater than the degree of fault of the contractor.

(d) Any contractual provision in conflict with the prohibitions contained in subsection (c) is void and unenforceable.
As added by P.L.50-2008, SEC.1.

IC 8-23-2-13
Notaries public; costs and expenses; powers

Sec. 13. (a) The department shall determine the number of its employees appointed notaries public and pay the expense of appointment, the premiums on the official bond of the notaries, and the cost of official seals. An employee of the state appointed a notary public may do the following:

(1) Take acknowledgments of deeds, contracts, grants, and

other documents to or in which the state or a state agency is a party to or has an interest.

(2) Administer oaths to a person to a document, claim, statement, or other document to be filed with the state or a state agency.

(b) A notary public appointed under this section may not charge for the service.

As added by P.L.18-1990, SEC.210.

IC 8-23-2-14

Extension of engineering services and testing facilities to counties and municipalities; reimbursement

Sec. 14. The department may furnish on request of a county or municipality engineering service or consultation and extend the facilities of the department's testing laboratory for the testing of highway construction and maintenance materials or for any other highway purpose. When those services are rendered by the department, the county or municipality requesting and receiving the services shall reimburse the department to the extent of the actual cost of the service including salaries or personal services. When payment is made to the department by the county or municipality, the department shall receipt the payments into the accounts or appropriations from which the expenditures were made by the department in providing those services.

As added by P.L.18-1990, SEC.211.

IC 8-23-2-15

"Highway work zone"; use of off duty police officers to patrol highway work zones

Sec. 15. (a) As used in this section, "highway work zone" means an area where:

(1) highway construction, reconstruction, or maintenance is actually occurring; and

(2) notice is posted indicating that the highway work zone is a specific area designated with signage on the highway.

(b) The department may contract with the state police department or local law enforcement agencies to hire off duty police officers to patrol highway work zones. The duties of a police officer who is hired under this section:

(1) are limited to those duties that the police officer normally performs while on active duty; and

(2) do not include the duties of a:

(A) flagman; or

(B) security officer.

(c) The department shall use the money transferred to the department under IC 33-37-9-4(a)(6) to pay the costs of hiring off duty police officers to perform the duties described in subsection (b).

(d) All money transferred to the department under

IC 33-37-9-4(a)(6) is annually appropriated to pay off duty police officers to perform the duties described in subsection (b).
As added by P.L.64-1992, SEC.1. Amended by P.L.4-1994, SEC.2; P.L.132-2003, SEC.1; P.L.98-2004, SEC.76; P.L.217-2014, SEC.5.

IC 8-23-2-16
Repealed
(Repealed by P.L.35-1995, SEC.5.)

IC 8-23-2-17
Public hearings
Sec. 17. (a) As used in this section, "public hearing" means an assembly or a meeting by the department for the purpose of:
(1) providing information early in the process of making decisions affecting proposed highway or bridge construction or improvement projects on a county arterial highway system or the state highway system so that the public can have an impact on the decision outcome, including a meeting in which the public is provided information, opportunity for review and comment, and an accounting for the rationale for a proposed project; or
(2) complying with 23 U.S.C. 128 and 49 U.S.C. 5323(b) requirements in considering economic, social, environmental, and other effects of highway projects and proposals.
(b) Whenever the department holds a public hearing, the department shall allow any person an opportunity to be heard in the presence of others who are present to testify and in accordance with subsection (c).
(c) The department, through the commissioner or the commissioner's designee, may limit testimony at a public hearing to a reasonable time stated at the opening of the public hearing.
As added by P.L.52-1995, SEC.3. Amended by P.L.7-2015, SEC.23.

IC 8-23-2-18
Nursery stock and wildflower seed sales
Sec. 18. (a) This section does not apply to the following:
(1) The sale or distribution of nursery stock or wildflower seeds to the following:
(A) An individual who resides in Indiana.
(B) A governmental entity.
(C) A nonprofit organization or an educational institution.
(D) An agricultural research program.
(2) The exchange of nursery stock or wildflower seeds with a person or an entity.
(b) As used in this section, "nursery stock" has the meaning set forth in IC 14-8-2-184(1).
(c) The department may not sell or distribute nursery stock or wildflower seeds to the following:

(1) An individual who resides in a state other than Indiana, unless the individual:

(A) owns land in Indiana; and

(B) submits an affidavit that affirms that the nursery stock or wildflower seeds will be planted in Indiana.

(2) A retail business that sells nursery stock or wildflower seeds.

(3) A wholesale business that sells nursery stock or wildflower seeds.

As added by P.L.82-2007, SEC.1.

IC 8-23-2-18.5

Use of appropriated funds for the Hoosier State Rail Line

Sec. 18.5. (a) After review by the budget committee and approval by the budget agency, money appropriated to the Indiana department of transportation for the state fiscal year beginning July 1, 2015, or for the state fiscal year beginning July 1, 2016, for any purpose may instead be expended by the department to provide for the operation of the Hoosier State Rail Line.

(b) This section expires July 1, 2017.

As added by P.L.213-2015, SEC.124.

IC 8-23-3

Chapter 3. Federal Transportation Funds

IC 8-23-3-1

Application of chapter

Sec. 1. This chapter applies to the use of federal funds allocated to Indiana as follows:

(1) From the Highway Trust Fund (23 U.S.C.).

(2) From the Aviation Trust Fund (49 U.S.C.).

(3) Through the Urban Mass Transit Administration (49 U.S.C. 5301 et seq.).

(4) Other federal grants that have a transportation component.

As added by P.L.18-1990, SEC.212. Amended by P.L.7-2015, SEC.24.

IC 8-23-3-2

Nonapplication of chapter

Sec. 2. This chapter does not apply to grants described in section 1 of this chapter applied for before July 1, 1981.

As added by P.L.18-1990, SEC.212.

IC 8-23-3-3

Departmental approval of grants

Sec. 3. An agency must submit to the department for the department's approval an application for a grant described in section 1 of this chapter.

As added by P.L.18-1990, SEC.212.

IC 8-23-3-4

Departmental action on grants

Sec. 4. The department shall do the following:

(1) Review as soon as possible all applications for grants described in section 1 of this chapter.

(2) Approve or disapprove those applications.

As added by P.L.18-1990, SEC.212.

IC 8-23-3-5

Duties of agencies

Sec. 5. An agency shall do the following:

(1) Use a grant described in section 1 of this chapter only for the purposes set out and approved by the board in the grant application.

(2) Report to the department all expenditures from a grant described in section 1 of this chapter.

As added by P.L.18-1990, SEC.212.

IC 8-23-3-6

Allotment of funds

Sec. 6. The budget agency shall only allot funds to an agency from a grant described in section 1 of this chapter for the purposes set out and approved by the department in the grant application.
As added by P.L.18-1990, SEC.212.

IC 8-23-3-7
Filing of approved grant applications; necessity of compliance

Sec. 7. (a) Each political subdivision shall file with the department, at times prescribed by the department, copies of approved applications for grants described in section 1 of this chapter along with a copy of the grant approval letter.

(b) If a political subdivision does not comply with subsection (a) after the department has made reasonable attempts to reach an agreement with that political subdivision to obtain compliance, the department may order the auditor of state to withhold from that political subdivision the subdivision's allotted distribution of state motor fuel tax revenues. The auditor of state shall comply with the department's order.

(c) When compliance with subsection (a) is obtained, the auditor of state shall release all funds withheld under subsection (b) upon receipt of an order from the department.
As added by P.L.18-1990, SEC.212.

IC 8-23-3-8
Public mass transportation fund; establishment; use

Sec. 8. (a) The public mass transportation fund is established for the purpose of promoting and developing public mass transportation in Indiana. The fund shall be administered by the department.

(b) The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(d) This subsection applies to a calendar year beginning after December 31 of a calendar year in which an eligible county (as defined by IC 8-25-1-4) begins to carry out a public transportation project approved under IC 8-25. The distribution formula established by the department is subject to annual review by the budget committee and approval by the budget director to ensure that a public mass transportation system located in a county other than an eligible county is not adversely affected by a public transportation project carried out under IC 8-25.
As added by P.L.18-1990, SEC.212. Amended by P.L.118-1995, SEC.1; P.L.173-2003, SEC.13; P.L.153-2014, SEC.16.

IC 8-23-3-9
Repealed

(Repealed by P.L.2-1996, SEC.297.)

IC 8-23-3-10
Federal aid highways need; investigation

Sec. 10. (a) Investigations conducted by the department to determine the reasonably anticipated future need for federal aid highways and state highways may include the following:

(1) Traffic surveys.

(2) The study of transportation facilities.

(3) Research concerning the development of the regions of Indiana and contiguous territory, including the effects of growth and changes in population and economic activity.

(4) The collection and review of data relating to factors that affect the judicious planning of the construction, improvement, and maintenance of highways.

(b) An investigation conducted under subsection (a) may interrupt and stop traffic if necessary.

(c) An investigation conducted under subsection (a) may be conducted in cooperation with counties, municipalities, metropolitan planning organizations, the United States, other states, government agencies, or other persons.

(d) The department may enter into an agreement with an entity described in subsection (c) to conduct an investigation under subsection (a).

As added by P.L.81-1991, SEC.2.

IC 8-23-3-11
Deposit of revenue in grant anticipation fund

Sec. 11. Notwithstanding any other provision of this chapter, if grant anticipation revenue bonds or notes have been issued under IC 8-14.5-7, the department shall collect or cause to be collected federal highway revenues (as defined in IC 8-14.5-7-2) and shall, as provided by the department in the revenue declaration relating to the issuance of the grant anticipation revenue bonds or notes, deposit or cause to be deposited the specified part of the federal highway revenues in the grant anticipation fund.

As added by P.L.246-2005, SEC.85.

IC 8-23-4

Chapter 4. General Highway, Road, and Street Provisions

IC 8-23-4-1

Highway and street systems of state

Sec. 1. The highway and street system of Indiana consists of the following:

(1) The state highway system.

(2) A county arterial highway system in each county.

(3) A county local highway system in each county.

(4) A municipal arterial street system in each municipality.

(5) A municipal local street system in each municipality.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-2

State highway system; designation; composition; selection criteria; classification

Sec. 2. (a) The state highway system shall be designated by the department. The total extent of the state highway system may not exceed twelve thousand (12,000) miles. The state highway system consists of the principal arterial highways in Indiana and includes the following:

(1) A highway to the seat of government in each county.

(2) Connecting arteries and extensions through municipalities.

(b) In determining the highways or sections of highways that are a part of the state highway system, the department shall consider the following:

(1) The relative importance of each highway to county or municipal government.

(2) Existing business and land use.

(3) The development of natural resources, industry, and agriculture.

(4) The economic welfare of Indiana.

(5) The safety and convenience of highway users.

(6) The financial capacity of the state to reconstruct, construct, and maintain the highways selected to desirable standards.

(c) The state highway system shall be classified for purposes of management, establishment of standards, and priority for use of funds and resources. Classification of the system may conform to the department's designation of the state's federal aid system.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-3

County arterial highway systems; selection criteria; addition, relocation, and deletion

Sec. 3. (a) The county arterial highway system shall be selected by the county executive in each county. The system shall be selected on the basis of the greatest general importance to the county, after an

evaluation of each road in the county, including municipal connecting links and the state highway system. In selecting the county system, the executive shall consider the following:

(1) The kind and amount of traffic on a highway.

(2) The length and condition of a highway.

(3) The mileage that can be effectively improved to specified standards with available funds.

(4) Any other applicable data.

The arterial highways selected by the executive under this section constitute the county arterial highway system of that county.

(b) The county executive may from time to time add, relocate, or delete highways from the county arterial highway system by following the procedure provided in subsection (a).

(c) If a highway or a segment of a highway is deleted from the county arterial highway system under subsection (b), the highway or segment may:

(1) become a part of the county local highway system;

(2) if located in a municipality, become a part of the system of major streets or local streets of the municipality, subject to agreement between the county executive and the highway authority of the municipality; or

(3) be abandoned.

(d) All roads under the jurisdiction of the county highway authorities of each county not included in a county arterial highway system constitute the county local highway system of that county.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-4

Municipal arterial street systems; selection criteria; addition, relocation, and deletion; municipal local highway systems

Sec. 4. (a) The agency responsible for highways in each municipality with a population of at least five thousand (5,000) shall select a system of arterial streets for the municipality. The system shall be selected on the basis of the greatest general importance to the municipality after an evaluation of each highway in the municipality. The system may not include highways that are part of the state highway system. The system of arterial streets must connect focal points of traffic interest, provide communication with other communities and outlying areas and provide for the continuity of the county arterial highway system into or through the municipality. The agency shall use engineering standards in selecting the streets.

(b) The agency responsible for highways in each municipality with a population of less than five thousand (5,000) may limit streets selected for the arterial street system to extensions of the county arterial street system or the municipal arterial street system of adjoining municipalities into or through the municipality.

(c) The system of arterial streets selected by an agency under subsection (a) or (b) constitutes the municipal arterial street system

of that municipality.

(d) The agency responsible for highways in a municipality may from time to time add, relocate, or delete highways from the municipal arterial highway system by following the procedure provided in subsection (a) or (b).

(e) If a highway or a segment of a highway is deleted from the municipal arterial highway system under subsection (d), it may:

(1) become a part of the municipal local highway system; or

(2) be abandoned.

(f) All roads under the jurisdiction of the agency responsible for the municipal highways of each municipality not included in a municipal arterial highway system constitute the municipal local highway systems of that municipality.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-5

Changes in highway and street systems

Sec. 5. A highway or street system established under this chapter may not be changed for two (2) years following establishment of the system. A system established under this chapter shall be reviewed at five (5) year intervals, or more frequently if considered desirable, and adjustments found necessary or desirable as a result of a change in conditions may be made.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-6

Highway and street system maps

Sec. 6. The commissioner shall at all times maintain maps of Indiana, which must show all the highways that constitute the state highway system, the arterial and local highway systems of each county, and the arterial and local street systems of each municipality.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-7

Cooperation of director with executives and municipalities

Sec. 7. The state aid director shall cooperate with the executives and municipalities to ensure coordination and continuity between all systems.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-8

Changes in location of state highways

Sec. 8. The department may change the location of a state highway for the following reasons:

(1) To reduce the length of the highway.

(2) To eliminate steep grades or sharp turns.

(3) To widen narrow parts.

(4) To promote public convenience and safety.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-9
Abandonment of rights-of-way; reversion or release; consideration

Sec. 9. (a) Whenever the department determines that a part of a right-of-way of a highway will not be needed for highway, street, or road purposes, or to reach the premises of a person other than the owner of the original right-of-way, the commissioner may, by executive order, declare that part of the right-of-way to be no longer useful or necessary for a highway purpose.

(b) A part of a right-of-way subject to an order under subsection (a) ceases to be a public highway and reverts to the person lawfully entitled to the reversion.

(c) If the department acquired the right-of-way subject to an order under subsection (a) by purchase, the department shall demand a consideration in money for the release of the right-of-way, and the release becomes final only upon payment of the consideration. A payment under this subsection shall be credited to the account of the department and allocated to the fund out of which the right-of-way was purchased. The amount of consideration must be equal to the fair market value of the right-of-way as determined by appraisers employed by the department.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-10
Transfer of state highways to county and municipal systems

Sec. 10. Whenever the department determines that, because of the construction of a new state highway, the relocation of a state highway, or a change in general function or use, a part of the state highway system no longer meets the criteria established in section 2 of this chapter for a highway in the state system but that the highway continues to serve a useful purpose, that part of the system may be transferred to a county highway system or a municipal street system.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-11
Transfer of county and municipal highways and streets to state system

Sec. 11. Whenever a county or municipality determines that, because of a change in general function or use, an arterial or local highway or street serves a state function, the highway or street may be transferred to the state system.

As added by P.L.18-1990, SEC.213.

IC 8-23-4-12
Transfer of roads and streets between systems; memorandum

Sec. 12. The transfer of roads or streets between systems requires a memorandum of agreement signed by both the transferring agency

or unit of government and by the agency or unit of government assuming jurisdiction over the road. The memorandum must state the following:

(1) The purpose of the transfer.

(2) The effective date of the transfer.

(3) Any conditions agreed to by the signers.

As added by P.L.18-1990, SEC.213.

IC 8-23-5

Chapter 5. State Highways

IC 8-23-5-1

Encroachment on state highways; removal, prevention, and termination; notice; entry; costs; exceptions

Sec. 1. (a) The department may remove, prevent, or terminate an encroachment onto a state highway, right-of-way, or other department property, including drainage onto the highway, right-of-way, or other property.

(b) If the department determines that an encroachment exists, the department shall give notice by certified mail to the owner and the occupant of the property from which the encroachment has occurred and by posting a copy of the notice in a conspicuous place on the property. The notice must specify the encroachment and the period of time within which the encroachment must be removed, terminated, or prevented. The period of time specified in the notice may not be less than thirty (30) days.

(c) If the encroachment has not been removed, terminated, or prevented within the period of time specified in the notice under subsection (b), the department may enter the property from which the encroachment has occurred and take whatever action the department considers necessary to remove, terminate, or prevent the encroachment.

(d) The cost of the department's removal, termination, or prevention of an encroachment under subsection (c) shall be paid by the owner of the property from which the encroachment has occurred. The department shall bill the owner for the cost. If the bill remains unpaid for a period of thirty (30) days, the department shall file the bill with the clerk of the circuit court of the county in which the property is located. The clerk shall immediately enter the bill on the judgment docket against the owner of the property, and the bill is a lien against the property. The lien may be foreclosed in the same manner as other judgment liens, without relief from valuation or appraisement laws or right of redemption.

(e) Where an awning, canopy, marquee, advertising sign, or similar encroachment extending over a highway right-of-way was in place on August 12, 1963, and is supported entirely from outside the highway right-of-way, the encroachment may remain if the department determines that the encroachment will not impair the highway or interfere with the free and safe flow of traffic on the highway.

As added by P.L.18-1990, SEC.214.

IC 8-23-5-2

Construction and reconstruction at railroad crossings; costs

Sec. 2. (a) If a highway or road is being constructed or reconstructed so that it crosses or intersects the existing tracks of a

railroad at grade level at a point where no crossing previously existed, the department, county, city, or town under whose jurisdiction the crossing lies shall pay the cost of the construction of the new crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(b) If the owner or lessee of a railroad is constructing or reconstructing railroad tracks so that the tracks cross or intersect a highway or road at grade level at a point where no railroad crossing previously existed, the owner or lessee of the railroad shall pay the cost of the construction of the new crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(c) If a highway or road crosses or intersects the tracks of a railroad at grade level and the highway or road is reconstructed to alter the existing crossing or intersection by a change of grade, widening or changing the type of pavement, or by changing the angle of the intersection, the department, county, city, or town under whose jurisdiction the crossing lies shall pay the cost of the reconstruction of the crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After reconstruction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(d) If the owner or lessee of a railroad reconstructs or alters the tracks of a railroad that crosses or intersects a highway or road at grade level so that it is necessary to reconstruct or alter the crossing or intersection, the owner or lessee of the railroad shall pay the cost of the reconstruction or altering of the crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(e) Notwithstanding subsections (a) through (d), the department, a county, a city, or a town under whose jurisdiction a railroad crossing lies may provide highway or road surface maintenance at a railroad crossing if the department, county, city, or town requests and receives written approval from the railroad owner or lessee before commencing the highway or road surface maintenance. The cost of the maintenance may be wholly or partially borne by the department, county, city, or town upon agreement with the railroad.

(f) Any construction, reconstruction, or maintenance of highway or road surfaces provided for in this section may be paid for from funds obtained under 23 U.S.C. 130.

(g) A railroad whose tracks lie in any public highway or road shall properly grade, surface, and maintain the highway, road, and railroad tracks within the boundaries described in subsection (h):

(1) in accordance with the grade and surfacing material of the highway or road; and

(2) in a manner as to afford security for life and property of persons and vehicles using the highway or road.

(h) The railroad is responsible for the repair and maintenance of the grade and surface occupied by the railroad tracks, including the space:

(1) between the rails of a railroad track;

(2) between the railroad tracks if there are at least two (2) railroad tracks; and

(3) that extends eighteen (18) inches in width on the outside of each rail of a railroad track.

As added by P.L.18-1990, SEC.214. Amended by P.L.183-2005, SEC.1.

IC 8-23-5-3
Construction of railroad viaducts

Sec. 3. (a) The department may construct a viaduct where a railroad yard and tracks adjacent to a railroad yard intersect the direct route of a through street in a city or town that directly connects with a state highway designated as a principal arterial highway if the owner of the railroad yard or tracks agrees to grant an easement to build a viaduct. The easement shall be granted without compensation or damages allowed to the owner of the railroad yard or tracks.

(b) A viaduct authorized under subsection (a) shall be constructed according to plans and specifications adopted by the department in the same manner as state highways are constructed. The department may contract with the owner of the railroad yard or tracks to have the viaduct built by the owner of the railroad yard or tracks.

As added by P.L.18-1990, SEC.214.

IC 8-23-5-4
Improvement of certain connecting streets and roads

Sec. 4. Whenever:

(1) the department improves a state highway that is connected with a city street or road; and

(2) the state owns property in the city;

the department shall improve the part of the connecting street or road that runs through or abuts the state owned property to conform with the standards adopted for the construction and improvement of state highways.

As added by P.L.18-1990, SEC.214.

IC 8-23-5-5
Construction of sidewalks

Sec. 5. The department may construct sidewalks on and along a highway in the state highway system outside the corporate limits of a city whenever the department considers that sidewalks are necessary for the protection and safety of pedestrians.
As added by P.L.18-1990, SEC.214.

IC 8-23-5-6
Maintenance of state institution roadways

Sec. 6. (a) The department shall maintain all highways and driveways located on the premises of institutions operated by the state, including the state fairgrounds upon a request for maintenance by the institution. The expense of maintaining a highway or driveway under this subsection shall be paid by the department, subject to the approval of the governor.

(b) The department shall:

(1) maintain public roads and parking areas constructed on properties of the department of natural resources; and

(2) construct new roads on properties owned by the department of natural resources:

(A) upon the request of the department of natural resources;

(B) subject to the approval of the engineers of the department of natural resources as to the design and location of the new roads to preserve scenic values; and

(C) subject to the approval of the governor.

As added by P.L.18-1990, SEC.214. Amended by P.L.110-1993, SEC.1.

IC 8-23-5-7
Construction and maintenance of roadside parks and connecting highways

Sec. 7. (a) As part of the state highway system, the department may lay out, construct, and maintain roadside parks and highways that connect a state highway with a state park, state forest reserve, state game preserve, or a state institution. A connecting highway constructed under this subsection shall be constructed in the same manner as a state highway.

(b) Before a roadside park or connecting highway described in subsection (a) may be constructed within the boundaries of a state institution, park, reserve or preserve, the board of trustees of the state institution, park, reserve, or preserve must adopt a resolution approving the construction.

(c) The department may cooperate with a county highway authority having jurisdiction over a county highway that connects a state park, state forest reserve, state game preserve, or state recreation area with a state highway. The department shall undertake construction and maintenance responsibilities under this subsection upon the request of the department of natural resources if the request is approved by the governor.

(d) Expenditures incurred by the department in carrying out this section shall be made from the motor vehicle highway account before distribution to local units of government. Before an expenditure may be made under this subsection, an appropriation authorizing the expenditure must be made.
As added by P.L.18-1990, SEC.214.

IC 8-23-5-8
Installation of vending machines in interstate highway rest areas

Sec. 8. (a) The department may install vending machines for items including food, drink, candy, and first aid kits in rest areas on the interstate highway system.

(b) The department shall report in an electronic format under IC 5-14-6 to the general assembly through the legislative council the results of the installation.

(c) Installation of the vending machines must conform with federal and Indiana law.
As added by P.L.18-1990, SEC.214. Amended by P.L.28-2004, SEC.75.

IC 8-23-5-9
Additions to state highway system; procedures

Sec. 9. (a) The department may establish the approximate locations, using the recommended widths established by the department in the department's approved design manual for equivalent classification of roads, of rights-of-way for additions to the state highway system.

(b) If the department establishes the approximate locations and widths of rights-of-way for an addition to the state highway system under subsection (a), the department shall conduct a public hearing in at least one (1) county in which a right-of-way for the addition is located. The department shall publish notice of a hearing conducted under this subsection in two (2) newspapers of general circulation in the county in which the hearing will be conducted at least ten (10) days before the hearing. If only one (1) newspaper is published in the county, publication in that newspaper is sufficient. Notice of the hearing shall be given by mail to all owners of real property identified within the rights-of-way shown on the map prepared under subsection (c).

(c) If the department establishes the approximate locations and widths of rights-of-way for an addition to the state highway system under subsection (a), the department shall prepare a map showing the approximate location and width of each right-of-way for the proposed addition. The map must display the following:

(1) Existing highways in the area of the addition.

(2) Property lines and owners of record of property to be acquired for the rights-of-way.

(3) Other information determined necessary by the department.

The department shall approve the map, with changes (if applicable), at the public hearing conducted under subsection (b). The department shall record the approval and a copy of the approved map in the office of the recorder of each county in which land to be acquired for the addition is located.

(d) The department shall:

(1) publish notice of a recording under subsection (c) in two (2) newspapers of general circulation in each county in which an approval is recorded; however, if only one (1) newspaper is published in the county, publication in that newspaper is sufficient; and

(2) not more than sixty (60) days after an approval is recorded, send notice of the recording by certified mail to all owners of record of real property to be acquired for rights-of-way for the addition.

(e) The owner of property to be acquired for a right-of-way must give at least sixty (60) days notice by registered mail to the department before developing or otherwise improving the property. However, the owner may perform normal or emergency repairs to existing structures on the property without giving notice to the department.

(f) Not more than forty-five (45) days after receiving a notice under subsection (e), the department shall respond by providing notice to the property owner of the department's intent to acquire the property. The department shall:

(1) purchase; or

(2) exercise the right of eminent domain to acquire;

the property not more than one hundred eighty (180) days after responding under this subsection. If the department does not purchase the property or acquire the property by eminent domain within one hundred eighty (180) days after responding under this subsection, the department may subsequently acquire the property through the exercise of the right of eminent domain under IC 32-24.

(g) An owner of property to be acquired for a right-of-way may not receive damages for any development or improvement for which the owner is required to give notice to the department under subsection (e) unless the department fails to purchase or exercise the right of eminent domain to acquire the property under subsection (f).

(h) The state or a county or municipality in which an addition to the state highway system is located may acquire a right-of-way needed for the addition at any time. For purposes of this subsection, the fair market value of the property shall be determined as follows:

(1) If the property is purchased, the fair market value on the date of purchase.

(2) If the property is acquired by eminent domain, the fair market value on the date on which the complaint in condemnation was filed.

However, if the property is agricultural land, the fair market value

shall be determined under IC 32-24-1.

(i) The department shall adopt guidelines to determine whether a project constitutes an addition to the state highway system for purposes of this section. In adopting guidelines under this subsection, the department shall consider the following:

(1) The need for additional capacity.

(2) The estimated cost of the project.

(3) Whether the project is new construction or maintenance.

(j) As used in this section, "owner" does not include a utility.

(k) At the same time and in the same manner as the notice is sent under subsection (d)(2), the department shall notify the owner of property to be acquired for a right-of-way of the following:

(1) With respect to damage that occurs to the property as a result of entry onto the land for a purpose set forth in IC 8-23-7-26:

(A) a description of the owner's right to compensation for the damage from the department; and

(B) the procedure that the owner must follow to obtain the compensation.

(2) The name, mailing address, and telephone number of an individual or office within the department to which the owner may direct questions concerning the rights and procedures described in subdivision (1).

As added by P.L.99-2008, SEC.1.

IC 8-23-6

Chapter 6. State Highways in Municipalities

IC 8-23-6-1

Selection of routes; maintenance; construction of drainage structures

Sec. 1. (a) The department shall select the route of highways in the system of highways under its control through cities and towns, and may change the routes as the department determines most convenient for public travel.

(b) Notwithstanding subsection (a) and in or near the city of Mishawaka, Indiana, the portion of Capital Avenue lying between:

(1) the most recently established US 20 bypass as of January 1, 1997; and

(2) the Indiana toll road;

is designated state route number three hundred thirty-one (331).

(c) The department, to the extent of the funds available for the purpose, shall maintain and, as it determines necessary and as the funds required are available, may construct and improve the roadway of the streets or a part of the streets to the width determined by the department. As part of the construction work, the department shall construct within the limits of a street the curbs and gutters, manholes, catch basins, and the necessary drainage structures and facilities.

(d) Notwithstanding subsection (c), funds for the construction or improvement of the road designated as state route three hundred thirty-one (331) under subsection (b), to the extent funds are available for the construction or improvement, shall first be exhausted from:

(1) revenue declared excess by the Indiana toll road;

(2) federal aid designated for the local metropolitan planning organization;

(3) city and county highway funds used for such purpose; and

(4) revenue generated from local incremental finance districts;

before any funds designated to the department are used for construction or improvement of state route three hundred thirty-one (331).

As added by P.L.18-1990, SEC.215. Amended by P.L.89-1997, SEC.2.

IC 8-23-6-2

Construction of outside drainage facilities and sidewalks

Sec. 2. If the construction of a street necessitates the construction of adequate connecting facilities outside the limits of the street to provide for drainage of the street, the necessary mains, laterals, and connections shall be provided for in the plans, included as part of the construction cost, and paid out of the department's appropriation. However, if the drainage facilities outside the street are to be used for a purpose or purposes in addition to that of draining the street, a

proportionate share of the cost of construction shall be paid by the beneficiaries of the drainage other than the department in a ratio of the amount of waste water attributable to the other users as compared with the total capacity of the drainage facilities. The department shall determine the ratio. The department need not proceed with construction until the time that an agreement with the municipality has been effected concerning the payment of costs for drainage use other than that which is required for state highway drainage. If the construction of a street in the state highway system within the boundaries of a city or town necessitates the construction of a bridge, overhead or subway structure, and sidewalks are required as a part of the structure, the sidewalks shall be provided for in the plans, included as part of the construction cost, and paid out of the department's funds.
As added by P.L.18-1990, SEC.215.

IC 8-23-6-3
Construction and maintenance of streets surrounding railway tracks, pipes and conduits, drainage facilities, and sidewalks; regulation of traffic

Sec. 3. (a) Whenever a street on the state highway system is located within the boundaries of a city or town and is occupied by the track or tracks of a street railway, interurban railway, or steam railroad, the department is not required to maintain, construct, or improve the part of the street between the track or tracks and for eighteen (18) inches on the outside of the outer rails. The department shall include as part of the construction cost and pay out of department funds any expenditures necessitated by the acquisition of sufficient rights-of-way to construct the street.

(b) If there are any tracks, pipes, or conduits in a street, the department may, after determining to construct or improve the street, require the owner to restore to good condition or renew the tracks, pipes, or conduits. The owner, within ninety (90) days after being notified to do so, shall restore or renew the tracks, pipes, or conduits. For tracks, the owner shall pave the part of the street between the rails of the tracks and eighteen (18) inches on the outside in conformity with plans approved by the department.

(c) If the construction work on tracks, pipes, or conduits involves work of a nature as to be impractical or impossible of performance as a separate unit, the department may by agreement with the owner perform the work for which the owner shall reimburse the department for the cost.

(d) Upon the completion of a street, the department shall maintain the roadway of the street, including the curbs and gutters, catch basins, and inlets within the limits of the street or highway that form integral parts of the street or highway. The city or town shall maintain the sidewalks, grass plats, and the connecting drainage facilities.

(e) Whenever the department has responsibility for maintenance of a street within a city or town, the department shall regulate traffic in accordance with IC 9-21 on the street and may remove any hazard to traffic.

As added by P.L.18-1990, SEC.215. Amended by P.L.2-1991, SEC.64.

IC 8-23-6-4

Business routes; improvement and maintenance

Sec. 4. Whenever:

(1) the department designates a business route or a special route as an alternate to a state highway;

(2) the route is laid out through a city or town; and

(3) no other state highway is routed over the business or alternate route;

the city or town is responsible for any improvements to or maintenance of the street.

As added by P.L.18-1990, SEC.215.

IC 8-23-6-5

Construction, improvement, and maintenance by municipalities

Sec. 5. This chapter does not annul, limit, or abridge the right of a city or town, either at its own expense or at the expense of property owners subject to assessment, to improve the sidewalks and curbs along a street forming the route of a state highway, to construct sewers and drains, or to construct or maintain a part of the roadway of the street not improved or maintained by the department. The city or town shall provide adequate drainage for the street except as otherwise provided in this chapter. Except as expressly provided in this chapter and subject to IC 9-21, this chapter does not limit the right of a city or town to regulate traffic over a street over which a highway is routed or to relieve the city or town of liability now imposed by law. The cost of improvement, except as otherwise provided in this chapter, shall be paid for out of the funds appropriated to the department. Whenever a person, firm, limited liability company, or corporation, other than a municipal corporation, is required or obligated by a law, ordinance, or contract to keep in repair or to maintain or to construct a street, any part of a street, or any railroad, interurban railroad, or street railroad crossing, or any structure or bridge thereon, this chapter does not relieve the person, firm, limited liability company, or corporation or the receiver thereof from the duty, obligation, or contract.

As added by P.L.18-1990, SEC.215. Amended by P.L.2-1991, SEC.65; P.L.8-1993, SEC.153.

IC 8-23-6-6

Excavations, obstructions, and utility work; restrictions; violations

Sec. 6. (a) An opening may not be made in:

(1) a highway in the state highway system;
(2) the right-of-way of a state highway; or
(3) the roadway of a street of a city or town over which a state highway is routed and which the department is required to maintain;

and a structure or obstruction may not be placed in a highway or roadway of a state highway without the consent of the department. A highway or roadway may not be dug up for laying or placing a pipe, sewer, pole, wire, conduit, track, or railway or for any other purpose, and trees may not be removed from the right-of-way of a state highway without the written permit of the department, and then only in accordance with the rules of the department. The work shall be done under the supervision and to the satisfaction of the department, and the entire expense of restoring the highway or street in as good condition as before shall be paid by the person to whom the permit is given.

(b) The department may require, before the granting of a permit, that a sufficient bond be given, or cash deposit made, to insure the restoration of the highway or street. In granting a permit, the department may designate the place in the street, highway, or right-of-way thereof where the pipe, sewer, pole, wire, conduit, track, railway, or other device or thing may be constructed.

(c) A person who violates this section commits a Class C infraction.

As added by P.L.18-1990, SEC.215.

IC 8-23-7

Chapter 7. Real Property Transactions

IC 8-23-7-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 19 of this chapter by P.L.133-2007 apply only to public works contracts entered into after June 30, 2007.

As added by P.L.220-2011, SEC.205.

IC 8-23-7-1

Application of chapter

Sec. 1. Except as otherwise provided in this chapter, IC 32-24-1 applies to real property transactions conducted by the department.

As added by P.L.18-1990, SEC.216. Amended by P.L.2-2002, SEC.48.

IC 8-23-7-2

Purposes for acquiring real property

Sec. 2. The department may acquire real property for any purpose necessary to carry out this article, including the following:

(1) To locate, relocate, construct, reconstruct, repair, or maintain a state highway, including area for:

(A) the placement of a utility facility within the right-of-way of the state highway system; or

(B) the relocation of a utility facility within the right-of-way of the state highway system due to interference with a highway improvement project.

(2) To widen or straighten a highway.

(3) To clear and remove obstructions to vision at crossings and curves.

(4) To construct weigh stations and rest areas.

(5) To provide scenic easements and other areas necessary to cooperate with the federal government or carry out a federal law.

(6) To facilitate long-range transportation planning.

As added by P.L.18-1990, SEC.216. Amended by P.L.35-2005, SEC.2.

IC 8-23-7-3

Railroad rights-of-way

Sec. 3. The department may transfer fee simple title or a lesser interest in property to a railroad for a right-of-way.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-4

Description of property to be acquired; preparation and filing

Sec. 4. If:

(1) the department determines the location of a state highway; and

(2) the location of the highway requires the department to acquire real property, easements in real property, or rights in real property;

the department may prepare a metes and bounds or other description of the property or rights to be acquired. The description shall be filed in the office of the recorder in the county in which the real property is located.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-5

Notice to owners; delivery

Sec. 5. The department shall give written notice to the owners of property described in section 4 of this chapter that the department intends to acquire the real property or rights for highway purposes. The notice may be served in person or sent by certified mail to the owners of the property at the address shown on the tax records of the county.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-6

Improvement and changes in use of property; restrictions

Sec. 6. An owner receiving notice under section 5 of this chapter may not erect improvements on the real property described, subdivide the property, or make any changes in the use of the property that would affect its use for highway purposes, unless the owner first notifies the department in writing of the intended use.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-7

Improvement and changes in use of property; time limit for state action

Sec. 7. Whenever the department receives notice under section 6 of this chapter, the department has ninety (90) days to purchase the real property affected or commence condemnation proceedings. If at the end of ninety (90) days the department has not entered into a contract for the purchase of the real property or commenced condemnation proceedings, the owner may proceed with the improvement, subdivision, or use if not otherwise prohibited by law.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-8

Variances and building permits; notice to department; hearing

Sec. 8. If the property described in section 4 of this chapter lies within a political subdivision that has an ordinance regulating property use or requiring a building permit, the owner of the property shall give written notice to the department of an application or

petition for a variance or building permit. The owner shall give notice by sending a copy of the petition or application to the department by certified mail not later than ten (10) days before a hearing is held by local authorities on the petition or application. The department may remonstrate and be heard at a hearing concerning the property by an attorney or representative.
As added by P.L.18-1990, SEC.216.

IC 8-23-7-9
Improvement and changes in use of property; loss of notice rights
Sec. 9. If the department has not acquired or commenced condemnation proceedings to acquire the real property, rights, or easements described in section 4 of this chapter within three (3) years after filing the description with the county recorder, the department loses the right to receive notice of improvements, subdivisions, or changes on the property that the department acquired by filing a description under section 4 of this chapter.
As added by P.L.18-1990, SEC.216.

IC 8-23-7-10
Publication of information concerning purchased property
Sec. 10. Whenever the department purchases real property by agreement with the owner of the real property as to purchase price, the department shall, in accordance with IC 5-3-1-2(i), publish a list of the following:
(1) The owners from whom the property was purchased.
(2) The number of acres in each property purchased.
(3) The purchase price of each property.
As added by P.L.18-1990, SEC.216. Amended by P.L.64-1995, SEC.9.

IC 8-23-7-11
Vouchers for payment; attaching grant or deed copies
Sec. 11. A copy of a grant or deed purchased by the department shall be attached to each voucher submitted for payment under this chapter. The auditor of state may not draw and pay the voucher unless the copy is attached.
As added by P.L.18-1990, SEC.216.

IC 8-23-7-12
Vouchers for payment; certification; payment
Sec. 12. If condemnation proceedings have been instituted concerning real property, the department shall certify to the auditor of state that the voucher submitted is for escrow and is to be paid to the clerk of the circuit court. The voucher shall be in the amount determined and filed with the clerk of the circuit court. The payment shall be for the use and benefit of the owner of the property sought to be purchased.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-13
Sale of surplus property

Sec. 13. If the department determines that real property owned in fee simple by the department will not be needed for a purpose described in section 2 of this chapter, the commissioner may, with the approval of the budget agency, issue an order describing the surplus property and offering the surplus property for sale at or above its fair market value as determined by appraisers of the department. The department may combine or divide parcels of surplus property to facilitate the sale of the property.

As added by P.L.18-1990, SEC.216. Amended by P.L.246-2005, SEC.86.

IC 8-23-7-14
Sale of surplus property separated from abutting parcel; offer to abutting property owner

Sec. 14. If a property found to be surplus under section 13 of this chapter abuts a parcel of land from which the surplus property was separated and acquired by the department, the surplus property must first be offered for sale to the owner of the abutting property. An offer under this section shall be made by certified mail to the last known address of the owner. If the owner accepts an offer under this section, the surplus property shall be conveyed to the owner by quitclaim deed upon payment to the department of not less than the fair market value of the property as determined by the appraisers of the department.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-15
Sale of surplus property separated from abutting parcel; procedure when abutting property owner fails to accept offer

Sec. 15. (a) If an owner offered surplus property under section 14 of this chapter fails to accept the offer within thirty (30) days, the department may furnish a certified copy of:

(1) the order issued under section 13 of this chapter; and
(2) the appraised value of the surplus property;

to the department of administration.

(b) The surplus property may be sold in the same manner as other real property belonging to the state is sold at no less than its appraised value. The proceeds of the sale shall be credited to the department. A sale under this section is subject to the approval of the governor.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-16
Sale of surplus property valued at $4,000 or less

Sec. 16. If the appraised value of real property determined to be surplus under section 13 of this chapter does not exceed four thousand dollars ($4,000), the department may sell the surplus property without advertising or competitive bids for not less than the full appraised value of the surplus property upon approval by the commissioner and the governor.
As added by P.L.18-1990, SEC.216.

IC 8-23-7-17
Exchange of lands, rights, and easements; criteria

Sec. 17. Whenever the department determines that because of:

(1) a change in location of a state highway; or

(2) any other reason;

a parcel of real property owned by the department, or in which the department has rights or an easement, will not be needed, the department may exchange the parcel of property, the rights in the property, or easement in the property for a parcel of property, rights in a property, or an easement in a property, which the department determines is needed.
As added by P.L.18-1990, SEC.216.

IC 8-23-7-18
Exchange of lands, rights, and easements; valuation; payments for differences in value

Sec. 18. Before making an exchange under section 17 of this chapter, both parcels of real property shall be appraised. Any difference in value between the two parcels of property shall be paid or received by the department. A sum received under this section shall be deposited with the treasurer of state and credited to the state highway construction fund.
As added by P.L.18-1990, SEC.216.

IC 8-23-7-19
Exchange of lands, rights, and easements; improvements

Sec. 19. (a) If an exchange under section 17 of this chapter includes improvements to be constructed on either parcel of real property, the department shall enter into an agreement with the owner of the parcel of property that the department will receive. An agreement under this section must include the following:

(1) The appraisal required under section 18 of this chapter must include the value of improvements constructed or to be constructed on the property.

(2) The construction contract for improvements under this section must be guaranteed by a construction or performance bond issued by a surety company approved by the department. The department:

(A) shall require a performance bond from a contractor for a project if the estimated cost of the project is more than two

hundred thousand dollars ($200,000); and

(B) may require a performance bond from a contractor for a project if the estimated cost of the project is not more than two hundred thousand dollars ($200,000).

(3) The plans and specifications for improvements under this section must be certified by a licensed architect or engineer.

(b) The department must approve in writing the construction contract, bond, plans, and specifications for the improvements before entering into an exchange agreement under this section.

As added by P.L.18-1990, SEC.216. Amended by P.L.133-2007, SEC.10.

IC 8-23-7-20

Exchange of lands, rights, and easements; attaching construction contracts, bonds, or plans to exchange agreements

Sec. 20. The construction contract, bond, plans, and specifications required under section 19 of this chapter shall be attached to the exchange agreement for the parcels of property and incorporated by reference into the exchange agreement.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-21

Exchange of lands, rights, and easements; improvement completion requirement

Sec. 21. An exchange agreement under section 19 of this chapter is not completed until the improvements specified in the agreement have been constructed in accordance with the plans and specifications approved by the department. The department may not pay or receive any difference in value between the real properties exchanged until the improvements are completed and approved.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-22

Change of state highway to tollway

Sec. 22. (a) Subject to subsection (b), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 or enter into a public-private agreement with an operator with respect to the tollway under IC 8-15.7. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

(b) Before the governor, the department, or an operator may carry out any of the following activities under this section, the general assembly must enact a statute authorizing that activity:

(1) Determine that a highway that is in existence or under construction on July 1, 2011, should become a tollway.

(2) Impose tolls on motor vehicles for use of Interstate Highway 69.

(c) Notwithstanding subsection (b), during the period beginning July 1, 2011, and ending June 30, 2021, the general assembly is not required to enact a statute authorizing the governor, the department, or an operator to determine that all or part of the following projects should become a tollway:

(1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).

(2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.

(3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

As added by P.L.18-1990, SEC.216. Amended by P.L.47-2006, SEC.41; P.L.85-2010, SEC.24; P.L.163-2011, SEC.17; P.L.13-2013, SEC.30; P.L.94-2015, SEC.5.

IC 8-23-7-23

Change of state highway to toll road

Sec. 23. (a) Subject to subsection (c), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

(1) The consideration, if any, to be paid by the authority to the department.

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; or

(B) enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.

(b) To complete a transfer under this section, the department

must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in the certificate is under the jurisdiction and control of the authority.

(c) Before the authority or an operator may carry out any of the following activities under this section, the general assembly must enact a statute authorizing that activity:

(1) Imposing tolls on motor vehicles for use of Interstate Highway 69.

(2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.

As added by P.L.18-1990, SEC.216. Amended by P.L.47-2006, SEC.42; P.L.163-2011, SEC.18; P.L.13-2013, SEC.31; P.L.94-2015, SEC.6.

IC 8-23-7-24

Designated parts of state highway allowed to be either tollway or toll road

Sec. 24. A designated part of a state highway may become a tollway under the jurisdiction of the department under section 22 of this chapter and another designated part of the same state highway may become a toll road project under the jurisdiction of the authority under section 23 of this chapter. If a tollway and a toll road are contiguous parts of the same state highway, the contract or lease entered into under section 23 of this chapter may provide for coordination in the operation and maintenance of the tollway and the toll road project, including joint toll collection facilities and agreement on an equitable division of tolls.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-25

Change of state highways to tollways and toll roads; effectiveness of orders

Sec. 25. An order issued under section 22 or 23 of this chapter does not become effective until:

(1) all conditions in the order are satisfied; and

(2) all conditions in an agreement relating to a state highway that is the subject of an order under section 22 or 23 of this chapter entered into by the Secretary, acting by and through the federal highway administrator, and the state, acting by and through the department or the authority, are satisfied or waived.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-26

Surveys and investigations; right of entry

Sec. 26. An authorized employee or representative of the department engaged in a survey or investigation authorized by the commissioner or the commissioner's designee, including a survey or investigation for purposes of IC 8-23-5-9, may enter upon, over, or under any land or property within Indiana to conduct the survey or investigation by manual or mechanical means, which include the following:

(1) Inspecting.
(2) Measuring.
(3) Leveling.
(4) Boring.
(5) Trenching.
(6) Sample-taking.
(7) Archeological digging.
(8) Investigating soil and foundation.
(9) Transporting equipment.
(10) Any other work necessary to carry out the survey or investigation.

As added by P.L.18-1990, SEC.216. Amended by P.L.99-2008, SEC.2.

IC 8-23-7-27

Surveys and investigations; notification of occupants

Sec. 27. (a) Before an authorized employee or representative of the department enters upon, over, or under any land or water under section 26 of this chapter, the occupant of the land or water shall be notified in writing by first class United States mail of the entry not later than five (5) days before the date of entry. The employee or representative of the department shall present written identification or authorization to the occupant of the land or water before entering the land or water.

(b) At the same time and in the same manner as the notice required under subsection (a), the department shall notify the occupant and the record owner of the land or property of the following:

(1) With respect to damage that occurs to the land or property as a result of entry upon, over, or under the land or property as set forth in section 26 of this chapter:
    (A) a description of the aggrieved party's right to compensation for the damage from the department; and
    (B) the procedure that the aggrieved party must follow to obtain the compensation.
(2) The name, mailing address, and telephone number of an individual or office within the department to which an aggrieved party may direct questions concerning the rights and procedures described in subdivision (1).

As added by P.L.18-1990, SEC.216. Amended by P.L.99-2008,

SEC.3.

IC 8-23-7-28
Surveys and investigations; compensation for damages

Sec. 28. If during an entry under section 26 of this chapter damage occurs to the land or water as a result of the entry or work performed during the entry, the department shall compensate the aggrieved party. If the aggrieved party is not satisfied with the compensation determined by the department, the amount of damages shall be assessed by the county agricultural extension educator of the county in which the land or water is located and two (2) disinterested residents of the county, one (1) appointed by the aggrieved party and one (1) appointed by the department. A written report of the assessment of damages shall be mailed to the aggrieved party and the department by first class United States mail. If either the department or the aggrieved party is not satisfied with the assessment of damages, either or both may file a petition, not later than fifteen (15) days after receiving the report, in the circuit or superior court of the county in which the land or water is located. The department shall pay any compensation awarded to an aggrieved party under this section:

(1) not more than sixty (60) days after the date on which the parties agree to the amount of the compensation; or

(2) as ordered by the circuit or superior court.

As added by P.L.18-1990, SEC.216. Amended by P.L.40-1993, SEC.3; P.L.99-2008, SEC.4.

IC 8-23-7-29
Priority of actions

Sec. 29. Court proceedings to acquire real property, rights, or easements under this chapter take precedence over all cases not involving the public interest in all courts.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-30
Municipal acquisition of rights-of-way

Sec. 30. The authority given the department under this chapter to acquire lands by purchase or by the exercise of the right of eminent domain may not be construed to prohibit a municipality from:

(1) acquiring at its own expense, either by grant, purchase, or condemnation, the necessary right-of-way required by the department for the maintenance, construction, or improvement of a street of the municipality as a part of a highway under the control of the department; or

(2) entering into an agreement to pay all or any part of the costs of the necessary right-of-way.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-31

Acquisition of property, rights, and easements; legal description; taxation

Sec. 31. (a) Whenever the department acquires real property, rights, or easements for the construction, repair, and maintenance of a state highway, a legal description of all rights-of-way and easements, including the area of the land acquired, shall be filed by the department in the office of the recorder in the county in which the real property is located. The description shall be recorded in the deed records of the county. No fee may be charged for filing and recording the description. The department shall also file the description with the county auditor.

(b) Real property and interests in real property acquired for permanent highway purposes are exempt from taxation from the date of acquisition, provided that all taxes, interest, and penalties recorded on the property tax duplicates have been paid. Where real property or interests in real property are acquired after the assessment date of any year but before December 31, the taxes on the property in the ensuing year are not a lien on the property and shall be removed from the tax duplicates by the county auditor. A property owner who on or after March 1, 1965, conveyed real property or rights in real property to the department and who after July 8, 1965, is assessed taxes upon the property or rights conveyed and who pays the taxes by reason of the failure of the department to properly record the interest in the real property conveyed with the county auditor and recorder for tax purposes may recover the amount of the taxes from the department.

As added by P.L.18-1990, SEC.216.

IC 8-23-7-32

Preservation of abstracts of title, title insurance policies, and other title papers

Sec. 32. All abstracts of title, policies of title insurance, and other title papers shall be kept and preserved permanently by the department.

As added by P.L.18-1990, SEC.216.

IC 8-23-8

Chapter 8. Limited Access Facilities

IC 8-23-8-1

Planning, construction, maintenance, and regulation

Sec. 1. The department and the highway authorities of the counties and municipalities, acting alone or in cooperation with each other or any federal agency, or state or local agency of another state having authority to participate in the construction and maintenance of highways, may plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide limited access facilities for public use on all or any part of a highway whenever the department or authority that has jurisdiction over the highway determines that traffic conditions, present or future, will justify the facilities. The department or a highway authority that has jurisdiction over a highway may regulate, restrict, or prohibit the use of limited access facilities on that highway by various classes of vehicles or traffic.

As added by P.L.18-1990, SEC.217. Amended by P.L.87-1991, SEC.2.

IC 8-23-8-1.3

Commerce corridors

Sec. 1.3. (a) The department shall do the following:

(1) Determine commerce corridors within Indiana.

(2) Determine the level of service of each commerce corridor.

(3) Establish procedures for maintaining the level of service in a commerce corridor.

(4) Adopt an improvement plan for each commerce corridor that does not meet its prescribed level of service.

(b) The department may determine the feasibility of using recycled materials in the improvement of commerce corridors.

(c) Determinations under this section shall be in conformance with any similar highway designation made by the federal highway administration.

As added by P.L.87-1991, SEC.3.

IC 8-23-8-2

Division into separate roadways

Sec. 2. The department and the highway authorities may divide a limited access facility into separate roadways by the construction of raised curbings, central dividing sections, or other physical separations, or by designating the separate roadways by signs, markers, stripes, and other devices and indicate the proper lane for traffic by appropriate signs, markers, stripes, and other devices.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-3

Acquisition of property and property rights

Sec. 3. (a) The department or a highway authority may acquire private or public property and property rights for limited access facilities and service roads, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation for the laying out, widening, or improvement of highways and streets within their respective jurisdictions.

(b) In the acquisition of property or property rights for a limited access facility or a service road connected with a facility, the state, county, or municipality may acquire an entire lot, block, or tract of land, if the interests of the public will be best served, even though the entire lot, block, or tract is not immediately needed for the right-of-way.

(c) Court proceedings necessary to acquire property or property rights under this section take precedence over all other causes not involving the public interest in all courts.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-4

Designation; elimination of intersections

Sec. 4. (a) The department or the highway authority of a county or municipality may designate and establish limited access facilities as new and additional facilities or may designate and establish an existing street or highway as included within a limited access facility.

(b) The department, county, or municipality may provide for the elimination of intersections at grade of limited access facilities with existing state and county roads and municipal streets by:

(1) grade separation or service road; or

(2) closing off the roads and streets at the right-of-way boundary line of the limited access facility.

(c) After the establishment of a limited access facility, a highway or street that is not part of the facility may not intersect the facility at grade.

(d) A municipal street, a county or state highway, or other public way may not be opened into or connected with a limited access facility without the prior consent of the authority having jurisdiction over the facility. Consent under this subsection may be given only if the public interest is served.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-5

Bypass highways

Sec. 5. Whenever the department constructs a bypass highway around a municipality, the department shall designate the bypass highway as a limited access facility.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-6

Joint agreements; counties, municipalities, and federal government

Sec. 6. (a) The department may enter into agreements with a county, municipality, or the federal government concerning limited access facilities or other public ways under their jurisdiction under this chapter or any other state or federal law authorizing cooperation to carry out this chapter.

(b) A county or municipality may enter into agreements with the federal government concerning limited access facilities or other public ways under its jurisdiction under this chapter or any other state or federal law authorizing cooperation to carry out this chapter.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-7

Local service roads; access roads to service facilities

Sec. 7. (a) The department, a county, or a municipality may plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets, or designate as local service roads and streets existing roads or streets, and exercise jurisdiction over service roads under this chapter if the department, county, or municipality determines the service roads or streets are necessary or desirable. The local service roads or streets must be:

(1) of appropriate design; and

(2) separated from the limited access facility by all devices designated necessary or desirable by the proper authority.

(b) The department, to permit the establishment of adequate fuel or other service facilities by private owners or lessees for the users of a limited access facility, shall provide for access roads within the state's right-of-way of a limited access facility at points that will best serve the public interest.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-8

Ingress and egress to and from abutting lands

Sec. 8. A person is not entitled to ingress or egress to, from, or across limited access facilities to or from abutting lands, except at designated access points, as specified by rule.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-9

Offenses

Sec. 9. (a) A person may not do any of the following upon a limited access facility:

(1) Drive a vehicle over, upon, or across a curb, central dividing section, or other separation or dividing line.

(2) Make a left turn or a semicircular or U-turn except through an opening provided for the purpose in the dividing curb, separation, section, or line.

(3) Drive a vehicle except in the proper lane provided for that

purpose, in the proper direction, and to the right of the central dividing curb, separation, section, or line.

(4) Drive a vehicle into the facility from a local service road except through an opening provided for that purpose in the dividing curb, section, separation, or line that separates the local service road from the facility.

(b) A person who violates this section commits a Class C infraction.

As added by P.L.18-1990, SEC.217.

IC 8-23-8-10

State Road 331 in St. Joseph County

Sec. 10. (a) As used in this section, "designated highway" refers to the highway designated as a limited access facility under subsection (b).

(b) The department shall designate and do all acts necessary to establish the part of State Road 331 in St. Joseph County from the U.S. Highway 20 bypass to State Road 23 as a limited access facility. The designated highway shall be in operation as a limited access facility beginning not later than January 1, 2009.

(c) Neither the department nor any political subdivision may authorize any additional curb cuts or intersections after January 1, 2009, on the designated highway. The department shall limit intersections on the designated highway to the following locations:

(1) U.S. Highway 20 bypass.

(2) Ireland Road.

(3) Dragoon Trail.

(4) Twelfth Street (also known as Harrison Road).

(5) Indiana 933 (also known as Lincoln Way).

(6) Jefferson Boulevard.

(7) McKinley Highway.

(8) Day Road.

(9) Douglas Road.

(10) Cleveland Road.

(11) The Indiana Toll Road interchange and the street or road directly across from the Indiana Toll Road Interchange.

(12) State Road 23.

(d) No traffic signal may be erected at the intersection described in subsection (c)(2).

As added by P.L.182-2009(ss), SEC.279. As amended by P.L.69-2010, SEC.1; P.L.205-2013, SEC.166.

IC 8-23-9

Chapter 9. State Highway Contracts; General Powers

IC 8-23-9-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 8 of this chapter by P.L.133-2007 apply only to public works contracts entered into after June 30, 2007.

As added by P.L.220-2011, SEC.206.

IC 8-23-9-1

Opening of sealed bids

Sec. 1. On the date and at the time and place named in the notice, the commissioner shall receive all sealed proposals submitted and shall publicly open the bids. The bids may be opened at any other public place that the commissioner may designate on the day the bids are to be opened.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-2

Rejection of proposals

Sec. 2. The commissioner may reject any and all proposals for cause.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-3

Lowest and best bidder; letting of contract; determination

Sec. 3. Except as provided in sections 4 and 4.5 of this chapter, the commissioner shall let the contract for the construction, improvement, or maintenance of the road to the lowest and best bidder. The determination of the lowest and best bidder must include any requirement imposed under section 13 of this chapter. The lowest and best bid may not be for a greater sum than the estimated cost of the project.

As added by P.L.18-1990, SEC.218. Amended by P.L.89-1991, SEC.1.

IC 8-23-9-4

Acceptance of proposals; criteria

Sec. 4. Notwithstanding any other statute or rule adopted by the department, the department may accept a proposal and award a contract for the construction, improvement, or maintenance of a road if:

(1) the lowest responsive and qualified bid is:

(A) less than one million dollars ($1,000,000);

(B) one (1) of four (4) or more bids received by the department for the contract; or

(C) not more than fifteen percent (15%) above the estimated

cost of the project;

(2) the commissioner believes that awarding a contract under this section is in the best interests of the state; and

(3) the award would comply with any requirement imposed under section 13 of this chapter.

As added by P.L.18-1990, SEC.218. Amended by P.L.50-2008, SEC.2.

IC 8-23-9-4.5

Qualified work release programs; highway right-of-way maintenance; exception to competitive bid requirements

Sec. 4.5. (a) As used in this section, "qualified work release program" refers to:

(1) a work release program that is established by the department of correction under IC 11-10-8 or IC 11-10-10; or

(2) a county work release program under IC 11-12-5.

(b) Notwithstanding IC 8-23-10, but subject to IC 8-23-24.5, the commissioner may contract with a qualified work release program for the maintenance of a highway right-of-way without taking competitive bids. As used in this subsection, "highway right-of-way" includes only the grass plats.

As added by P.L.89-1991, SEC.2. Amended by P.L.182-2009(ss), SEC.278.

IC 8-23-9-5

Construction and maintenance when no satisfactory proposal received

Sec. 5. If, in the opinion of the commissioner, no satisfactory proposal has been received, the commissioner may do the following:

(1) Purchase the necessary material and equipment.

(2) Employ the necessary labor.

(3) Perform the work of constructing, improving, or maintaining the highway or highways.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-6

Spending limit when no satisfactory proposal received

Sec. 6. The commissioner may not expend more than eighty-five percent (85%) of the amount of the lowest and best proposal submitted for the kind of improvement proposed to be made when acting under section 5 of this chapter.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-7

Adoption of rules governing purchases of material and equipment

Sec. 7. The department shall adopt rules governing the purchase of material and equipment to the extent that complete competition is ensured.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-8
Bid guarantee and performance bond requirements

Sec. 8. The department:

(1) shall require each bidder to submit a bid guarantee and a performance bond payable to the state with the bidder's proposal if the estimated cost of the project is more than two hundred thousand dollars ($200,000); and

(2) may require a bidder to submit a bid guarantee and a performance bond payable to the state with the bidder's proposal if the estimated cost of the project is not more than two hundred thousand dollars ($200,000).

Instead of the bond, the department may establish by rule the requirements that, in its discretion, are necessary to assure payment of subcontractors, suppliers, and employees by the contractor.

As added by P.L.18-1990, SEC.218. Amended by P.L.133-2007, SEC.11.

IC 8-23-9-9
Bid guarantee and performance bond amounts

Sec. 9. The bid guarantee must be in the penal sum of an amount equal to five percent (5%) of the bid price. The performance bond must be in a penal sum set by the commissioner, but may not be less than an amount equal to the bidder's proposal or the contract price, where the bidder's proposal is accepted, with good and sufficient sureties, to the approval of the commissioner, conditioned upon the faithful performance of the work, in accordance with the profile, plans, and specifications set forth in the proposal, and conditioned also upon the payment by the contractor and by all subcontractors for all labor performed or materials furnished or other services rendered in the construction of the highway.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-10
Performance bonds; deposit; reinsurance; statements of amounts due

Sec. 10. The bond shall be deposited with and held by the commissioner for the use of any party interested in the bond. The commissioner may require the reinsurance of any bond in the amount, upon the terms, and with the surety approved by the commissioner. A person, firm, limited liability company, or corporation to whom any money is due for having performed labor or furnished material or any other services rendered in the construction, improvement, or maintenance of the highways shall, within one (1) year after the acceptance of the labor, material, or services by the commissioner, furnish the sureties on the bond a statement of the amount due to any person, firm, limited liability

company, or corporation.
As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.154.

IC 8-23-9-11
Actions on performance bonds

Sec. 11. Suit may not be brought against the sureties on a bond until the expiration of sixty (60) days after the furnishing of a statement under section 10 of this chapter. If the indebtedness is not paid in full at the expiration of a period of sixty (60) days, the person, firm, limited liability company, or corporation may bring an action in the person's, firm's, limited liability company's, or corporation's own name upon the bond. The action must be commenced within eighteen (18) months from the date of the final acceptance of the highway or improvement.
As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.155.

IC 8-23-9-12
Performance bond form

Sec. 12. The bond provided in this section must be in substantially the following form:

"KNOW ALL PERSONS BY THESE PRESENTS, THAT _____ as principal and _____ as surety, are firmly bound unto the state of Indiana in the penal sum of an amount equal to ____ percent of the principal's bid or the contract price, if the proposal is accepted for the payment of which, well and truly to be made, we bind ourselves, jointly and severally, and our joint and several heirs, executors, administrators, and assigns, firmly by these presents, this ____ day of _____, ____.

"THE CONDITIONS OF THE ABOVE OBLIGATIONS ARE SUCH That, Whereas, the principal is herewith submitting a bid and proposal for the erection, construction, and completion of _____ in accordance with the plans and specifications approved and adopted by the department, which are made a part of this bond:

"NOW, THEREFORE, if the department shall award the principal the contract for work and the principal shall promptly enter into a contract with the department in the name of the state of Indiana for the work and shall well and faithfully do and perform the same in all respects according to the plans and specifications adopted by the department, and according to the time, terms, and conditions specified in the contract to be entered into, and in accordance with all requirements of law, and shall promptly pay all debts incurred by the principal or any subcontractor in the construction of the work, including labor, service, and materials furnished, then this obligation shall be void; otherwise to remain in full force, virtue, and effect.

"IT IS AGREED that no modifications, omissions, or additions in

or to the terms of such contract or in or to the plans or specifications therefor shall in any wise affect the obligation of such sureties on its bond.

"IN WITNESS WHEREOF, we hereunto set our hands and seals this ___ day of _____, 20__.".

As added by P.L.18-1990, SEC.218. Amended by P.L.2-2005, SEC.29.

IC 8-23-9-13

Trust bids

Sec. 13. (a) This section applies whenever a contract is awarded under this chapter by acceptance of bids, proposals, or quotations.

(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(1) beneficiary of the trust; and

(2) settlor empowered to revoke or modify the trust.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-14

Partial payments; authorization

Sec. 14. The department may authorize partial payments to any contractor performing any work under this chapter as the work progresses under the general rules of the department.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-15

Repealed

(As added by P.L.18-1990, SEC.218. Amended by P.L.117-1995, SEC.2. Repealed by P.L.267-2001, SEC.2.)

IC 8-23-9-16

Acceptance of completed work; relief of contractor's liability

Sec. 16. (a) After complete inspection has been made and it is determined that the work has been done according to plans and specifications, the commissioner of the department may approve and accept completed work in sections of not less than one (1) mile unless otherwise permitted by the contract documents.

(b) When a section of the work has been completed and accepted, the contractor is as fully relieved of all liability for the maintenance, reconstruction, or restoration of the section of the work completed and accepted, or a part of the work, as the contractor would be if the entire contract were finally completed and accepted.

(c) If the contract consists of two (2) or more projects as defined by the department, the commissioner may approve and accept the work of a completed project, and the contractor is relieved of all liability for maintenance, reconstruction, or restoration of the project, or a part of the project, as the contractor would be if the entire contract were finally completed and accepted.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-17
Withdrawal and payment of retained percentages

Sec. 17. At any time after the contract has been substantially completed, the contractor may be permitted to draw any part of the retained percentage withheld by the department in an amount determined by the department to be in the best interest of the state, provided the contractor files a written request on forms provided by the department for requests. The department may pay to the contractor any part of the retained percentage the department determines is in the best interest of the state even though the contractor does not request payment, provided that the department notifies the contractor of the department's intent to do so at least thirty (30) days in advance of the payment. The fact that the contractor is permitted to withdraw a part of the retained percentage, or that the department pays a part of the retained percentage, shall in no way release or relieve the contractor on the contract.

As added by P.L.18-1990, SEC.218. Amended by P.L.117-1995, SEC.3; P.L.267-2001, SEC.1.

IC 8-23-9-18
Final payments; disputes

Sec. 18. (a) Each contract entered into under this chapter must provide for final payment within one hundred eighty (180) days after final acceptance of the contract. However, final payment may not be made on any amount that is in dispute or the subject of a pending claim, but final payment may be made on that part of a contract or those amounts that are not in dispute or the subject of a pending claim. Partial payment does not constitute a bar, an admission, or estoppel or have any other effect as to those payments in dispute or the subject of a pending claim.

(b) For the purpose of this section, a dispute exists when the contractor makes any claim for increase or decrease to any part of the contract or seeks additional compensation for any reason.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-19
Repealed

(As added by P.L.18-1990, SEC.218. Repealed by P.L.267-2001, SEC.2.)

IC 8-23-9-20
Repealed

(As added by P.L.18-1990, SEC.218. Repealed by P.L.267-2001, SEC.2.)

IC 8-23-9-21

Contract form; approval

Sec. 21. Every contract for highway work authorized to be made under this chapter shall be made in the name of the state, signed by the commissioner and the contracting parties, and acknowledged before an officer authorized by law to administer oaths. The contract shall be submitted to and approved by the attorney general with regard to legality and form.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-22

Hourly wage rates

Sec. 22. A bid submitted for the construction or betterment of a state highway must contain a statement stipulating the hourly rate for laborers. The hourly rate may not be lower than the hourly rate paid for common labor by the department. The hourly rate in the bid becomes a part of the contract.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-23

Residency requirement for unskilled laborers

Sec. 23. It must be a condition of every contract let by the department for the construction of a state highway or bridge that all unskilled laborers employed on the work be residents of the county or counties in which the highway or bridge is being constructed if the labor is available. The department may designate the class of labor that is unskilled. However, if this subsection is in violation of a regulation of a federal authority, the provision may be eliminated from a contract that is payable in whole or in part with federal funds.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-24

Survey monuments; procedure upon removal or burial

Sec. 24. If in the construction or maintenance of a state highway it is necessary to remove or bury a monument marking or evidencing an established corner, the department shall cause to be set in the pavement or right-of-way at the place where the monument was located a monument capable of activating a metal detection device. The top of the monument must be level with the pavement or the grade of the right-of-way. The department shall cause a memorandum of the monument to be filed in the county surveyor's office of the county.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-25

Nonperformance or abandonment of contracts; completion of work; costs and expenses

Sec. 25. Any time a contractor:

(1) fails to commence or carry forward;

(2) improperly performs;
(3) has abandoned; or
(4) fails or refuses to complete;

a contract executed under this chapter, the commissioner may relet the work or may complete the work. The commissioner shall deduct the cost and expense from any money that may be due the contractor, and if there is not sufficient money due the contractor to pay for the work, the commissioner shall require the bondsmen to pay for it. The attorney general shall prosecute suit in the name of the state for the collection of the payment under this section.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-26

Claims against contractors; filing with department

Sec. 26. A person, firm, limited liability company, or corporation to whom any money is owed for having performed labor or furnished material or other service in the construction of a highway or bridge in the state highway system or in the construction or repair of a building or other structure for the department, whether the work was performed for a contractor or subcontractor, may at any time within sixty (60) days of the performance of the last of the labor or the furnishing of the last of the material or other service and within thirty (30) days after the final acceptance of the improvement, file with the department a duly verified itemized statement of the amount due the person, firm, limited liability company, or corporation, stating whether the labor or material was performed for or furnished to a contractor or subcontractor, giving the name of the contractor or subcontractor and the dates the labor or material was performed or furnished, the rate or cost, the character of the labor, material, or service, and the post office address of the claimant.

As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.156.

IC 8-23-9-27

Claims against contractors; mailing of copies

Sec. 27. A claim under section 26 of this chapter must be filed in triplicate, and the department shall send a copy by certified mail to the contractor and to the surety on the bond of the contractor. The failure to mail copies to the contractor and surety does not affect the validity of a claim.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-28

Claims against contractors; retaining amount of claim

Sec. 28. Upon the receipt of a claim under section 26 of this chapter, the department shall retain out of the amount due the contractor the amount of the claim.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-29
Claims against contractors; allowance or rejection

Sec. 29. Within twenty (20) days of the receipt of a copy under section 27 of this chapter, the contractor shall either allow or reject the claim. The contractor shall notify the department in writing of the allowance or rejection.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-30
Claims against contractors; notice of rejection; commencement of actions

Sec. 30. If a claim is rejected in whole or in part, the department shall immediately notify the claimant of the action by certified mail. Within ninety (90) days after receiving notice of a rejection the claimant must commence an action against the contractor or the surety on the bond in a court of competent jurisdiction to recover the amount of the claim. Upon the filing of an action, the claimant shall procure a certificate from the clerk of the court under the seal of office that the action has been filed and listing the date of filing and the parties. The claimant shall promptly forward the certificate to the department.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-31
Claims against contractors; payment of amount adjudged due

Sec. 31. If an action is filed and the department notified under section 30 of this chapter, the department shall continue to hold the amount until the final determination of the action. If it is adjudged that the amount or a part is due to the claimant, the department shall pay the amount adjudged due to the claimant to the clerk of the court rendering the judgment.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-32
Claims against contractors; failure to file certificate

Sec. 32. If within ninety (90) days after the date of notice of rejection under section 29 of this chapter a claimant fails to file with the department a certificate of a clerk, the department shall pay the amount held on the claim to the contractor if otherwise entitled to receive the amount.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-33
Claims against contractors; additional remedy

Sec. 33. In addition to the remedy given in sections 26 through 31 of this chapter, a person, firm, limited liability company, or corporation may proceed against a contractor and surety as provided by section 10 of this chapter.

As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.157.

IC 8-23-9-34
Claims against contractors; filing of actions

Sec. 34. Whenever a claim has been filed under this chapter with the department by a person, firm, limited liability company, or corporation who has performed labor or furnished material or other service in the construction, repair, or maintenance of a highway or bridge in the state highway system, or in the construction, repair, or renovation of a building or structure used by the department, and against a contractor with the department, the department shall notify the person, firm, limited liability company, or corporation filing the claim that within ninety (90) days after the date of the notice the person, firm, limited liability company, or corporation must proceed by an action at law in a court of competent jurisdiction against the contractor or the surety on the contract bond of the contractor for the collection of the amount of the claim.

As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.158.

IC 8-23-9-35
Claims against contractors; mailing or publication of notice

Sec. 35. Notice under section 34 of this chapter shall be mailed to the person, firm, limited liability company, or corporation by certified mail to the last known address. If the address of the person, firm, limited liability company, or corporation is unknown, the notice shall be given by publication once each week for two (2) successive weeks in two (2) newspapers of general circulation published in the county or counties where the contract with the department was performed. In a notice given by publication, the names of all persons, firms, limited liability companies, or corporations who have filed claims against the contractor and who have not been notified by mail may be included. Notice under this section must state that action must be filed on the claim within ninety (90) days of the date of the notice.

As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.159.

IC 8-23-9-36
Claims against contractors; certificates of filing of actions

Sec. 36. Upon the filing of an action under section 34 of this chapter, the person, firm, limited liability company, or corporation filing the action shall procure from the clerk of the court where filed a certificate under the seal of the court that an action has been filed with the date of filing and the names of the parties. The certificate shall be within five (5) days after the date of filing the action forwarded by the person, firm, limited liability company, or

corporation to the department.
As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.160.

IC 8-23-9-37
Claims against contractors; retention of security for protection of claimant

Sec. 37. Upon the filing of an action and the receipt of a certificate under section 36 of this chapter, the department shall hold the money, security, or other thing held by the department for the protection of the claim, until the final determination of the action. If it is adjudged that a part of the claim is due to the person, firm, limited liability company, or corporation, the department shall pay to the clerk of the court rendering judgment out of the cash retained for the claimant the amount retained by the department for the purpose. If the department retained for the protection of the claimant a check, bond, or security other than cash, the department shall notify the claimant of the fact. The claimant shall be subrogated to the rights of the department in the check, bond, or security other than cash, to the amount of the judgment, which rights the claimant may enforce in an appropriate action.
As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.161.

IC 8-23-9-38
Claims against contractors; failure to file action and certificate

Sec. 38. If a claimant does not file an action under section 36 of this chapter within the time specified in the notice or fails to file with the department the certificate of the clerk, the department shall pay the amount held by the department on the claim to the contractor. If the claim has been protected by check, bond, or security, the check, bond, or security shall be delivered to the contractor. If the check, bond, or security has been deposited for the protection of two (2) or more claimants, the check, bond, or other security shall be held by the department for the protection of all claimants until all are either released, waived, or satisfied.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-39
Claims against contractors; additional proceedings

Sec. 39. Sections 34 through 38 of this chapter do not limit or abridge the right of a person, firm, limited liability company, or corporation to proceed against a contractor and surety as provided by section 10 of this chapter.
As added by P.L.18-1990, SEC.218. Amended by P.L.8-1993, SEC.162.

IC 8-23-9-40

Railroad crossings; separation of grades

Sec. 40. Whenever a state highway is being constructed or reconstructed and the highway crosses or intersects a railroad, the department may, if in its opinion it is practicable, separate grades at the crossings. If the department is unable to agree with the railroad as to the separation and the method of accomplishing the separation, the department shall apply to the utility regulatory commission by verified petition asking that the grades be separated at the crossing.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-41

Railroad crossings; separation of grades; rights, powers, and duties of parties involved

Sec. 41. Upon the filing of a petition under section 40 of this chapter, the utility regulatory commission has and shall exercise all of the powers and authority conferred upon it by IC 8-6-1. A railroad, interurban street railroad, or suburban street railroad whose tracks are involved in a crossing has all the rights conferred by and is subject to all the duties imposed by IC 8-6-1.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-42

Railroad crossings; separation of grades; payment of costs

Sec. 42. When any separation of grades is made by agreement or by order, the department shall pay one-half (1/2) of the total expense of a separation as a part of the cost of the highway, and the railroad whose tracks are involved in the separation shall pay the other one-half (1/2) of the total expense.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-43

Railroad crossings; separation of grades; multiple railroads; payment of costs

Sec. 43. If two (2) or more railroads, interurban street railroads, or suburban street railroads are located in proximity to each other as to be involved in a single separation of grades, the utility regulatory commission shall pay the half of the cost not paid by the department, apportioned between the railroads, interurban street railroads, or suburban street railroads in proportion as the cost of the separation has been enhanced by the presence of the respective railroads, interurban street railroads, or suburban street railroads.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-44

Railroad crossings; separation of grades; maintenance

Sec. 44. After the construction of a separation, the department shall maintain the highway and the structures supporting it and the railroad shall maintain its roadway and track and the structures

supporting the same.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-45
Railroad crossings; improvement and maintenance

Sec. 45. Where the track or tracks of any steam, electric, interurban, or street railroad company occupies any part of a highway that is ordered improved and maintained by the department under this chapter, the railroad company shall improve and maintain, or pay for the cost of improving that part of the highway occupied by its tracks, including the space between the rails, the space between the tracks, if there is more than one (1) track, and the space eighteen (18) inches in width on the outside of the rails. In all cases where practicable, improvement to the full width shall be constructed outside the area occupied by the tracks, and, where not practicable to do so, the department may require the tracks to be removed to that part of the highway outside the area to be so improved.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-46
Railroad crossings; width of improvements

Sec. 46. Whenever a highway improvement under section 45 of this chapter is made so as to embrace within its limits the tracks of a railroad, interurban, suburban, or street railroad, the improvement shall be made of sufficient width to give as much room for general travel on the side or sides and outside of the tracks as is given in places where there are no tracks within the improvement.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-47
Railroad crossings; election by railroad companies to make or pay for improvements

Sec. 47. A railroad company may elect, by written notice filed with the department, not less than twenty (20) days before the date on which the contract for the improvement of a highway is to be let, to improve the part of the highway occupied by its tracks or to pay for the improvement done by the department. If the railroad company elects to improve the part of the highway occupied by its tracks, the company shall perform the work of improving the part of the highway with material and in a manner and according to plans and specifications that the department prescribes and shall commence, proceed with, and complete the work within a time to be fixed by the department. If the railroad company fails to do so, the company is subject to a fine of not to exceed fifty dollars ($50) per day for each and every day that the improvement is not commenced or completed after the date named by the department. If the railroad company elects to pay for the improvement as done by the department, any sums assessed to cover the cost of the improvement, together with all

the cost in collecting the costs, including attorney's fees, to be fixed by the court and taxed as costs in the action brought to enforce payment, shall, from the date of filing a statement of the assessment, attested by the department, in the office of the county recorder of the county in which the improvement was made, constitute a lien, to which only the lien of the state for state, county, township, and school taxes is paramount.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-48
Tearing up and disturbing highways; permit; unauthorized signs and markers; violations

Sec. 48. (a) A state highway may not be torn up or otherwise disturbed for any purpose without the written permit of the commissioner and then only in accordance with the regulations prescribed by the commissioner. All work shall be done under the department's supervision, and all the cost of replacing the highway in as good condition as before the highway was disturbed, shall be paid by the person to whom or in whose behalf the permit was given. The department shall mark with proper markers, showing the number of the highway, all state highways, including the routes of the highways through cities and towns, together with the caution and direction signs that the department considers advisable.

(b) It is a Class C infraction for a person to put, place, or maintain within twenty (20) feet of the right-of-way limits of a state highway, outside the limits of a city or town a sign or other device containing the words "stop", "caution", "slow", or any other word or device that also might be construed as a warning to persons using the highway.

(c) It is a Class C infraction for a person to construct or maintain a sign or advertising device within one hundred (100) feet of the right-of-way of such a highway that obstructs the view of the highway of a person traveling the highway for a distance of five hundred (500) feet or less from the sign or device as the person approaches the sign or device. The department may remove unlawful signs, markers, and devices.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-49
Approaches and drainage structures; construction; private facilities

Sec. 49. The construction of public road approaches, drainage structures for the reconstruction of definitely existing private entrances, and the drainage necessary for the protection of a state highway shall be included as a part of the improvement of the highway. Upon the completion of the highway, the owners or occupants of adjoining lands shall construct and keep in repair all private approaches or driveways from the highways, but no approaches or driveways shall be constructed in a manner as to

obstruct or interfere with the highways or with a drain or ditch that has been constructed as a part of the highway.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-50
Use of prison labor in preparation and manufacturing of road materials

Sec. 50. The department, with the approval of the governor, may enter into an agreement with the authorities of any of the penal institutions of the state, county, or city for the use of prison labor in the preparation and manufacturing of road materials.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-51
Drains, culverts, and bridges; bridge construction contracts

Sec. 51. All drains, culverts, and bridges on any state highways shall be considered as part of the state highway. All bridges having a span over twenty (20) feet in length may be let as a separate contract, the procedure to be the same as in the letting of contracts for state highways.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-52
Contracts specifying borrow or clearing and grubbing; standards

Sec. 52. (a) A department contract that specifies borrow or clearing and grubbing must require the contractor to conform to the department's manual of standard specifications and must include standards for the following:

(1) Borrow pit back-slopes.
(2) Control of drainage water.
(3) Degree of restoration.

(b) Restoration of borrow areas and disposal areas must meet or exceed the standards for seeding and sodding of roadside areas.

(c) Final cleanup provisions of the contract apply to the removal and disposal of perishable materials and debris from the highway right-of-way to an off-road site.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-53
Trench safety systems; costs

Sec. 53. (a) This section applies to a construction, an improvement, or a maintenance project that requires creation of a trench of at least five (5) feet in depth.

(b) OSHA regulations, 29 C.F.R. 1926, Subpart P, for trench safety systems shall be incorporated into the contract documents for a public works project.

(c) The contract documents for a public works project must provide that the cost for trench safety systems shall be paid for:

(1) as a separate pay item; or
(2) in the pay item of the principal work with which the safety systems are associated.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-54
State highway fund; creation and management

Sec. 54. (a) To provide funds for carrying out the provisions of this chapter, there is created a state highway fund from the following sources:

(1) All money in the general fund to the credit of the state highway account.
(2) All money that is received from the Department of Transportation or other federal agency and known as federal aid.
(3) All money paid into the state treasury to reimburse the state for money paid out of the state highway fund.
(4) All money provided by Indiana law for the construction, maintenance, reconstruction, repair, and control of public highways, as provided under this chapter.
(5) All money that on May 22, 1933, was to be paid into the state highway fund under contemplation of any statute in force as of May 22, 1933.
(6) All money that may at any time be appropriated from the state treasury.
(7) Any part of the state highway fund unexpended at the expiration of any fiscal year, which shall remain in the fund and be available for the succeeding years.
(8) Any money credited to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).
(9) Any money credited to the state highway fund from the highway road and street fund under IC 8-14-2-3.
(10) Any money credited to the state highway fund under IC 6-6-1.1-801.5, IC 6-6-4.1-5, or IC 8-16-1-17.1.
(11) Any money distributed to the state highway fund under IC 8-14-14, IC 8-15.5, or IC 8-15.7.

(b) All expenses incurred in carrying out this chapter shall be paid out of the state highway fund.

As added by P.L.18-1990, SEC.218. Amended by P.L.192-2002(ss), SEC.150; P.L.47-2006, SEC.43.

IC 8-23-9-55
Use of state highway fund

Sec. 55. Money in the state highway fund shall be used for the following:

(1) Operation of the department.
(2) Construction, reconstruction, operation, maintenance, and control of the state highways that are the responsibility of the

department and of tollways that are the responsibility of the department under IC 8-15-3.

As added by P.L.18-1990, SEC.218.

IC 8-23-9-56

Research assistance; report to joint study committee on transportation and infrastructure assessment and solutions

Sec. 56. (a) The department may cooperate with and assist Purdue University in developing the best methods of improving and maintaining the highways of the state and the respective counties. In so cooperating with Purdue University and for the purpose of developing and disseminating helpful information concerning road construction and improvement and the operation of the highways of the state and the counties, the department may expend money annually from the funds appropriated to the department's use for the use and benefit of Purdue University in carrying on programs of highway research and highway extension at or in connection with Purdue University and for the annual road school held at Purdue University. In addition, the money may be increased by federal funds, which may be made available to the department for the engineering and economic investigation of projects for future construction and for highway research necessary in connection therewith.

(b) For the purpose of disseminating knowledge of the highway maintenance methods that are best suited to the various sections of Indiana, the county and state highway officials, in cooperation with Purdue University, may hold joint road meetings in the various sections of Indiana.

(c) The aid authorized by this section shall be paid quarterly by the department to Purdue University upon proper voucher.

(d) Not later than August 1 of each year, a representative of Purdue University shall prepare, in cooperation with the department under IC 8-23-2-5(e)(5), for the interim study committee on roads and transportation a report that includes updates on the following:

(1) Programs or projects conducted under this section.

(2) Any other information requested by the study committee.

The report must be submitted in an electronic format under IC 5-14-6.

As added by P.L.18-1990, SEC.218. Amended by P.L.16-2014, SEC.4; P.L.53-2014, SEC.86.

IC 8-23-9-57

Cooperation with federal and other states' officials

Sec. 57. The department may cooperate with the governing officials of state highway agencies and systems in one (1) or more other states or the Federal Highway Administration in research in conducting tests and experiments designed to develop the best methods of constructing, improving, and maintaining the highways

in Indiana. In so cooperating with the governing officials of state highway agencies and systems in one (1) or more other states or the Federal Highway Administration and for the purpose of paying the proportionate share of this state of the cost of the tests and experiments, the department may expend the funds appropriated to its use.
As added by P.L.18-1990, SEC.218.

IC 8-23-9-58
Utility facilities; costs and delays due to facility relocations; contractor's right to compensation or expenses

Sec. 58. (a) This section applies to a construction contract entered into by the department and a contractor after June 30, 2005.

(b) The department may not include in a contract, or in any specifications or other documents that are a part of or incorporated in a contract, a provision that prohibits a contractor from receiving, or restricts the contractor in receiving, reasonable compensation or reasonable expenses directly related to unforeseen conditions encountered during the construction project as a result of:

(1) a conflict with the facilities of a utility (as defined in IC 8-1-9-2(a)); or

(2) delays due to the relocation of utility facilities;

that differ materially from the affected utilities or utility relocations specified in the contract documents.
As added by P.L.35-2005, SEC.3.

IC 8-23-9-59
Application of IC 5-22-16.5 to award of contracts under article

Sec. 59. (a) IC 5-22-16.5 (Disqualification of Contractors Dealing with the Government of Iran) applies to the awarding of contracts, including contracts for professional services, under this article.

(b) For purposes of applying IC 5-22-16.5 to contracts awarded under this article, the following apply:

(1) A reference to an "offer" in IC 5-22-16.5 refers to:

(A) a bid for a contract; or

(B) a proposal to provide professional services;

under this article.

(2) A person may not be awarded a contract under this article if the person would be disqualified from being awarded a contract under IC 5-22-16.5.

(3) The procedures, rights, and application of penalties described in IC 5-22-16.5 shall be applied in the context of this article so that the public policy of IC 5-22-16.5 and this article are both implemented.

As added by P.L.21-2012, SEC.6.

IC 8-23-10

Chapter 10. Qualifications of Bidders for Contracts

IC 8-23-10-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 4 of this chapter by P.L.92-2004 apply only to subcontracts entered into after June 30, 2004.

As added by P.L.220-2011, SEC.207.

IC 8-23-10-0.5

Applicability of qualification requirement under IC 5-16-13; exemption for local unit projects

Sec. 0.5. (a) The definitions in IC 5-16-13 apply to this section.

(b) For purposes of IC 5-16-13-10(c) and this section, a contractor must be qualified under this chapter before doing any work on a public works project that is the construction, improvement, alteration, repair, or maintenance of a road (as defined by IC 8-23-1-23), highway, street, or alley.

(c) Notwithstanding the applicability date specified in IC 5-16-13-10(c) and subject to subsection (d), the requirement that a contractor must be qualified under this chapter before doing any work on a public works project applies to a public works contract awarded after December 31, 2016.

(d) This subsection applies to a public works project awarded after December 31, 2016, by a local unit. A contractor in any contractor tier is not required to be qualified under this chapter before doing any work on a public works project awarded by a local unit whenever:

(1) the total amount of the contract awarded to the contractor for work on the public works project is less than three hundred thousand dollars ($300,000); and

(2) the local unit complies with IC 36-1-12 in awarding the contract for the public works project.

As added by P.L.144-2016, SEC.3.

IC 8-23-10-1

Qualified bidders required; exception

Sec. 1. It is unlawful to award a contract to any person other than a bidder previously qualified in compliance with this chapter, except for the award of a contract for a public works project by a local unit whenever section 0.5(d) of this chapter applies.

As added by P.L.18-1990, SEC.219. Amended by P.L.144-2016, SEC.4.

IC 8-23-10-2

Qualification applications; investigation; certificates of qualification; revocation of certificates

Sec. 2. (a) A bidder desiring to submit to the department a bid for the performance of a contract the department proposes to let must apply to the department for qualification and must use for that purpose the forms prescribed and furnished by the department. All applications must be verified by the applicant.

(b) The department shall act within thirty (30) days upon an application for qualification. Upon the receipt of an application for qualification, the department shall examine and may investigate the application and shall determine whether the applicant is competent and responsible and possesses the financial resources that satisfy this chapter.

(c) If the applicant is found to possess the qualifications prescribed by this chapter and by the rules adopted by the department, the department shall issue a certificate of qualification, which shall be valid for the period of one (1) year, or a shorter period of time that the department prescribes, unless revoked by the department for cause. The certificate of qualification must contain a statement fixing the aggregate amount of uncompleted work that the applicant will be permitted to have at any time under a contract with the department and may also, in the discretion of the department, contain a statement limiting a bidder to the submission of bids upon a certain class or classes of work. Subject to any restrictions as to amount or class of work, the certificate of qualification authorizes its holder to bid on all work on which bids are taken by the department during the period of time specified.

(d) A certificate of qualification may be revoked by the department only after notice to the qualified bidder and an opportunity to be heard. The notice must be in writing and must state the grounds of the proposed revocation.

As added by P.L.18-1990, SEC.219.

IC 8-23-10-2.5

Public availability of certificates of qualification

Sec. 2.5. The department shall make available for public inspection during regular office hours and on the Internet a list of the contractors holding a valid certificate of qualification issued by the department under this chapter.

As added by P.L.144-2016, SEC.5.

IC 8-23-10-3

Financial statements of applicants

Sec. 3. (a) A bidder may not be given a certificate of qualification unless the bidder's financial statement and the investigation made by the department show that the bidder possesses net current assets sufficient in the judgment of the department to render it probable that the bidder can satisfactorily execute contracts and meet obligations incurred. All applications for qualification must expressly authorize the department to obtain all information considered pertinent with

respect to the financial worth and assets and liabilities of the applicant from banks or other financial institutions, surety companies, dealers in material, equipment, or supplies, or other persons having business transactions with an applicant and must expressly authorize all financial institutions or other persons to furnish information requested by the department.

(b) The financial statement furnished by an applicant for qualification of more than one million dollars ($1,000,000) must be prepared and attested as audited by an independent:

(1) certified public accountant registered and in good standing in any state; or

(2) public accountant registered and in good standing in Indiana.

(c) The financial statement furnished by an applicant for qualification of more than two hundred thousand dollars ($200,000) but not more than one million dollars ($1,000,000) must be prepared and attested as reviewed by an independent:

(1) certified public accountant registered and in good standing in any state; or

(2) public accountant registered and in good standing in Indiana.

(d) A qualification of two hundred thousand dollars ($200,000) or less may be granted by the department if the financial statement furnished by the applicant is certified as correct by an officer of the company. The department may require all qualified bidders to file financial statements from time to time at intervals it prescribes.

(e) This chapter shall be administered without reference to the residence of applicants, and its provisions and the rules of the department adopted under this chapter apply equally to residents and nonresidents of Indiana. This chapter does not apply to the purchase of material, equipment, and supplies or to the construction and maintenance of buildings.

(f) Notwithstanding IC 5-14-3-4(a)(5), a financial statement submitted to the department under this chapter is considered confidential financial information for the purposes of IC 5-14-3.

As added by P.L.18-1990, SEC.219. Amended by P.L.111-1993, SEC.1; P.L.119-1995, SEC.1.

IC 8-23-10-4

Subcontractors; qualification

Sec. 4. It is unlawful for a successful bidder to enter into a subcontract with any other person involving the performance of any part of any work upon which the bidder may be engaged for the department in an amount in excess of three hundred thousand dollars ($300,000) unless the subcontractor has been properly qualified under the terms of this chapter for the work sublet to the subcontractor. However, the department may reduce this amount based on the subcontractor's performance with the department and

others. The prequalification requirements of this section do not apply to the following:

(1) Professional services.

(2) Hauling materials or supplies to or from a job site.

As added by P.L.18-1990, SEC.219. Amended by P.L.92-2004, SEC.1.

IC 8-23-10-5

Notice of action on application; reapplication

Sec. 5. (a) All applicants for qualification shall be promptly notified by the department of its final action on their applications. An applicant aggrieved by the decision of the department may, within ten (10) days after receiving notification of the decision, request in writing a reconsideration of the application by the department, and may submit additional evidence bearing on qualifications. The department shall again consider the matter and may either adhere to or modify its previous decision. The department shall act upon any request for reconsideration within fifteen (15) days after the filing of the request and shall notify the applicant of the action taken.

(b) An applicant who has been refused qualification, or who is dissatisfied with the department's decision as to the aggregate amount of uncompleted work to be permitted under contract at any one time, or with any limitation as to the class or classes of work on which the bidder is authorized to bid, may at any time after the expiration of ninety (90) days from the date of the department's decision on the last application file a new application for qualification. The new application shall be promptly considered and acted upon by the department.

As added by P.L.18-1990, SEC.219.

IC 8-23-10-6

Unqualified bidders; rejection of bids

Sec. 6. The department may not consider a bid filed with it by a person who has not been qualified under this chapter. Bids from unqualified bidders discovered by the department before the reading of the bids shall be returned without being read. If the department finds subsequent to the opening of bids that facts exist that would disqualify the lowest bidder, or that the bidder is not competent and responsible, the department shall reject the bid despite the fact of prior qualification of the bidder. It is unlawful to award a contract to a bidder not qualified to bid at the time fixed for receiving bids.

As added by P.L.18-1990, SEC.219.

IC 8-23-10-7

Revenue department; access to names of bidders, contractors, and subcontractors; bidders on tax warrant list

Sec. 7. (a) The department may allow the department of state revenue access to the name of each person who is either:

(1) bidding on a contract to be awarded under this chapter; or
(2) a contractor or a subcontractor under this chapter.

(b) If the department is notified by the department of state revenue that a bidder is on the most recent tax warrant list, the department may not award a contract to that bidder until:

(1) the bidder provides to the department a statement from the department of state revenue that the bidder's delinquent tax liability has been satisfied; or
(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(c) The department of state revenue may notify:

(1) the department; and
(2) the auditor of state;

that a contractor or subcontractor under this chapter is on the most recent tax warrant list, including the amount that the person owes in delinquent taxes. The auditor of state shall deduct from the contractor's or subcontractor's payment the amount owed in delinquent taxes. The auditor of state shall remit this amount to the department of state revenue and pay the remaining balance to the contractor or subcontractor.

As added by P.L.18-1990, SEC.219.

IC 8-23-10-8

False statements; penalty

Sec. 8. It is a Class C infraction for an applicant for qualification to knowingly make a false statement with respect to the applicant's financial worth in an application for qualification, financial statement, or other written instrument filed by the applicant with the department under this chapter or rules adopted under this chapter. A person who violates this section is disqualified from submitting bids on contracts advertised for letting by the department for a period of two (2) years following the date of conviction.

As added by P.L.18-1990, SEC.219.

IC 8-23-11
Chapter 11. Emergency Repairs Without Bidding

IC 8-23-11-1
Requirements

Sec. 1. Whenever a bridge, culvert, roadway, or any other physical property of the state highway system has been damaged to the extent that it is not usable by the traveling public or is unsafe for use, and by order of the governor it is determined that an emergency exists, the department shall proceed with due diligence to reopen the highway to traffic and make it safe for the traveling public. For this purpose, the department may proceed without advertising for bids if:

(1) three (3) or more bids are invited from persons prequalified to perform the work required to be done; and

(2) the records of the department show the names of those persons invited to bid.

As added by P.L.18-1990, SEC.220.

IC 8-23-11-2
Bids in excess of engineer's estimate; minimum number of bids

Sec. 2. The department may proceed to award the contract to a low bidder on an emergency contract even though the bid is in excess of the engineer's estimate, but only if there are at least three (3) bids received, and the low bid does not exceed the engineer's estimate by more than ten percent (10%). If there is an operative bid below the engineer's estimate, this section does not necessitate a minimum number of bids to be received.

As added by P.L.18-1990, SEC.220.

IC 8-23-11-3
Bids from racial minority businesses

Sec. 3. The department shall make a concentrated effort to invite bids from racial minority businesses.

As added by P.L.18-1990, SEC.220.

IC 8-23-12

Chapter 12. Sufficiency Rating System for Programs and Annual Reports

IC 8-23-12-1

"Sufficiency rating" defined

Sec. 1. As used in this chapter, "sufficiency rating" means any rating that assigns numerical values to each road section reflecting its relative adequacy based on an engineering appraisal of structural condition, safety, and traffic service and upon an economic appraisal of its actual or potential value to the total area served by the road including the effect of loss of traffic to and through the area resulting from deterioration or obsolescence of the road.

As added by P.L.18-1990, SEC.221.

IC 8-23-12-2

Long-range construction program

Sec. 2. The department shall prepare, formally adopt, and publish a long-range program of its future activities with regard to the construction of highways under its jurisdiction. The sufficiency rating principle shall be applied, as far as it is practicable, in determining the projects to be included in the long-range construction program and may be applied by districts. The long-range program must contain an estimate of revenues that will become available during that period and a statement of intention with respect to the construction and other related work to be done.

As added by P.L.18-1990, SEC.221.

IC 8-23-12-3

Reinspection of roads; additional information included in long-range program

Sec. 3. The department shall cause a periodic reinspection of the system of roads under its jurisdiction to be made in order to revise its estimates of future needs to conform to the actual physical and service condition of the highways and economic needs of the areas served by the highways from time to time. The long-range program, in addition to the engineering information required by this chapter, must contain other information that will enable the public to have the most complete understanding of the needs of the state highway system.

As added by P.L.18-1990, SEC.221.

IC 8-23-12-4

Annual adoption of long range program; biennial work program

Sec. 4. The department shall annually adopt from its long range program and publish a biennial work program of construction to be accomplished within the following two (2) fiscal years. This biennial work program must consist of a list of projects listed in order of

urgency. In case of emergencies and disasters resulting in the necessity for completely unforeseen demands for construction, or if unforeseen difficulties arise in the acquisition of rights-of-way, materials, labor, or equipment necessary for proposed construction or the availability of funds, a deviation from the adopted biennial work program is permitted. The relative urgency of proposed construction shall be determined by a consideration of the physical condition, the safety and service characteristics of the highways under consideration, and the economic needs of the area served by the highways. In arriving at and making a determination, the department shall utilize all studies, data, and information made available to it from any appropriate source including economic data, relative to affected areas, from the Indiana economic development corporation.
As added by P.L.18-1990, SEC.221. Amended by P.L.4-2005, SEC.118.

IC 8-23-12-5
Reports; publication; contents

Sec. 5. The department shall prepare and publish and make public a report at the end of each fiscal year. The report must contain appropriate financial data concerning receipts and disbursements, the past year's accomplishments, the current highway improvement program, a proposed program of construction to be accomplished within the following two (2) fiscal years, and an appraisal of the state's highway needs and the relative urgency of these needs.
As added by P.L.18-1990, SEC.221.

IC 8-23-12-6
Supplements to reports

Sec. 6. Notwithstanding any other provisions of this chapter, the department shall annually prepare and publish a supplement to the report containing appropriate financial data and status of projects financed from the state's primary highway system fund.
As added by P.L.18-1990, SEC.221.

IC 8-23-13
Chapter 13. Annual Inventory of Equipment

IC 8-23-13-1
Establishment and maintenance of records

Sec. 1. The department shall establish and maintain complete inventory records of all durable office equipment, highway construction and maintenance equipment, motor vehicles, and all other items of personal property except office supplies under its control other than property excluded by section 2 of this chapter. The inventory shall be kept on a basis that will show the disposition of all obsolete, discarded, or traded equipment and will show at all times the status of all personal property owned by the department.

As added by P.L.18-1990, SEC.222.

IC 8-23-13-2
Expended supplies

Sec. 2. Supplies that are expended at the same time they are used are excluded from the inventory requirements of this chapter. A record of the supplies that are expended at the same time they are purchased or used shall be maintained and a copy showing all purchases made during the previous three (3) months shall be furnished quarterly to the budget committee. Copies shall be kept and made available at all times to the general public at the office of the department.

As added by P.L.18-1990, SEC.222.

IC 8-23-14

Chapter 14. Rental of Highway Equipment

IC 8-23-14-1

Rates

Sec. 1. The department is prohibited from renting equipment for its use when the total cost of the proposed rental over the anticipated period of use of the equipment exceeds the original cost of the equipment to be rented. The rent to be paid by the department shall not exceed the figures listed in the most recent issue of "Compilation of Rental Rates for Construction Equipment" as prepared and distributed by the Associated Equipment Distributors. This section does not preclude the department from renting equipment fully operated or from agreeing to pay the operators of the equipment rented and agreeing to pay for the gasoline, fuel oil, or repairs during the rental period, in addition to the rent for the use of any equipment.
As added by P.L.18-1990, SEC.223.

IC 8-23-14-2

Emergency procedure

Sec. 2. In case of an emergency, if it is impossible for the department to procure the necessary equipment by rental under section 1 of this chapter, the department may rent equipment subject to the approval of the budget committee.
As added by P.L.18-1990, SEC.223.

IC 8-23-15

Chapter 15. Local Road and Street Inventory

IC 8-23-15-1

Mileage and use inventories

Sec. 1. The department shall periodically inventory the mileage and use of the local road systems under the jurisdiction of the counties and the street systems under the jurisdiction of municipalities.

As added by P.L.18-1990, SEC.224.

IC 8-23-15-2

Notice; confirmation of accuracy; appeals

Sec. 2. In undertaking the inventory under this chapter, the department shall give written notice to the county road supervisor and the county executive thirty (30) days before the inventory actually begins that an inventory is underway. The department shall confer with the local officials to confirm the accuracy of the inventory. If the county executive believes an error has been made, the executive may appeal to the commissioner for a review of the inventory results.

As added by P.L.18-1990, SEC.224.

IC 8-23-15-3

Roads included in inventories

Sec. 3. For the purpose of the inventory under this chapter, the department shall include in each county's total mileage those roads making up that county's southern and eastern boundaries. If a county is responsible for roads on a state line as the result of an interagency agreement, those roads shall be included in the inventory.

As added by P.L.18-1990, SEC.224.

IC 8-23-15-4

Use in annual certification of county road mileage

Sec. 4. The department shall use the inventory developed under this chapter in its annual certification of county road mileage.

As added by P.L.18-1990, SEC.224.

IC 8-23-16

Chapter 16. Legal Defense for Employees

IC 8-23-16-1

"Member" defined

Sec. 1. As used in this chapter, "member" means all employees and appointees of the department.

As added by P.L.18-1990, SEC.225.

IC 8-23-16-2

Application of chapter

Sec. 2. Subject to IC 34-13-2, IC 34-13-3, and IC 34-13-4, this chapter applies when a member of the department is sued for civil damages and:

(1) the department administratively determines that the civil action arose out of an act performed within the scope of the duties of the member; and

(2) a lack of defense of the action by the state would prejudice the construction, maintenance, or administration of state highways.

As added by P.L.18-1990, SEC.225. Amended by P.L.1-1998, SEC.92.

IC 8-23-16-3

Duties of attorney general

Sec. 3. The attorney general shall:

(1) when the department submits the finding in writing to the attorney general; and

(2) if the attorney general finds the determination to be supported by substantial evidence;

defend the member in the action or authorize the department to hire private counsel to provide a defense.

As added by P.L.18-1990, SEC.225.

IC 8-23-16-4

Admission of administrative determinations as evidence

Sec. 4. The administrative determination by the department or the determination by the attorney general may not be admitted as evidence in the trial of a civil action for damages.

As added by P.L.18-1990, SEC.225.

IC 8-23-16-5

Right to select defense counsel; relieve from civil damages

Sec. 5. This chapter may not be construed to:

(1) deprive a member of the right to select defense counsel at the member's own expense; or

(2) relieve a member from responsibility in civil damages.

As added by P.L.18-1990, SEC.225.

IC 8-23-17
Chapter 17. Relocation Assistance

IC 8-23-17-1
"Agency" defined
Sec. 1. As used in this chapter, "agency" means a department, board, commission, office, or instrumentality of the state, including a state supported college or university, or of a political subdivision of the state.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-2
"Agency head" defined
Sec. 2. As used in this chapter, "agency head" means the governing body or principal executive officer of an agency, or a duly designated delegate of the governing body or principal executive officer.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-3
"Displaced person", "displaced", and "displacement" defined
Sec. 3. As used in this chapter, "displaced person" or "displaced" or "displacement" with reference to a person, means a person who moves from real property, or moves personal property from real property, because of the acquisition of the real property and the improvements located on the real property, or the partial acquisition of real property to the extent that continued use by the owner or occupant is rendered impossible or impracticable, or as the result of the written order of the acquiring agency to vacate the real property intended to be acquired by the agency, or as the result of an order issued by an agency engaged in code enforcement activities to vacate the real property. Solely for purposes of sections 13, 14, 18, 19, 20, 21, 22, 23, and 24 of this chapter, the terms also include a person who moves from real property as a result of the acquisition of, or written order of the acquiring agency to vacate, other real property on which the person conducts a business or farm operation. When two (2) or more individuals living together in a single family dwelling are displaced from the dwelling, they are regarded as one (1) displaced person for purposes of this chapter, except that each individual may receive a payment for actual moving expenses and losses under section 13 of this chapter.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-4
"Business" defined
Sec. 4. As used in this chapter, "business" means any lawful activity, excepting a farm operation, conducted primarily:
(1) for the purchase, sale, lease, and rental of personal and real

property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
(2) for the sale of services to the public;
(3) by a nonprofit organization; or
(4) solely for the purposes of section 13 of this chapter, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not the display or displays are located on the premises on which any of the above activities are conducted.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-5
"Farm operation" defined

Sec. 5. As used in this chapter, "farm operation" means any activity conducted solely or primarily for the production of one (1) or more agricultural products or commodities, including timber, for sale or home use, and customarily producing products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-6
"Dwelling" defined

Sec. 6. As used in this chapter, "dwelling" means any room, suite of rooms, apartment, trailer, or house occupied or intended to be occupied as a personal residence by one (1) family or by one (1) or more individuals utilizing the same kitchen facilities. The term does not include a single sleeping room without kitchen facilities.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-7
"Adequate replacement dwelling" defined

Sec. 7. As used in this chapter, "adequate replacement dwelling" means a dwelling that is:
(1) at least comparable in essential accommodations and value to the dwelling acquired by the agency;
(2) a decent, safe, and sanitary dwelling meeting all minimum requirements of applicable building, housing, and fire prevention codes;
(3) located in an area not generally less desirable than the area in which the dwelling acquired by the agency is located, in regard to public utilities and public and commercial facilities;
(4) reasonably accessible to the principal place of employment of the head of the household;
(5) available for purchase or rental on the private market; and
(6) available for purchase or rental at a price or rent within the

financial means of the displaced person. A dwelling available for purchase is considered to be within the financial means of a person only if, after taking into account that part of the acquisition cost paid to the displaced person plus any payment made under section 16 or 17 of this chapter, a loan commitment may be obtained from a lending institution, with or without the aid of any federal or other program of loan insurance, in the principal amount equal to the balance of the purchase price of the replacement dwelling.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-8

"Gross monthly income" defined

Sec. 8. As used in this chapter, "gross monthly income" means the average of such income during the twelve (12) month period immediately preceding displacement and includes income from all sources whether or not such income is taxable under any state or federal law, and also includes any public assistance received under the following:

TANF assistance.
TANF burials.
TANF IMPACT/J.O.B.S.
Temporary Assistance to Other Needy Families (TAONF) assistance.
ARCH.
Blind relief.
Child care.
Child welfare adoption assistance.
Child welfare adoption opportunities.
Child welfare assistance.
Child welfare child care improvement.
Child welfare child abuse.
Child welfare child abuse and neglect prevention.
Child welfare children's victim advocacy program.
Child welfare foster care assistance.
Child welfare independent living.
Child welfare medical assistance to wards.
Child welfare program review action group (PRAG).
Child welfare special needs adoption.
Food Stamp administration.
Health care for indigent (HIC).
ICES.
IMPACT (food stamps).
Title IV-D (ICETS).
Title IV-D child support administration.
Title IV-D child support enforcement (parent locator).
Medicaid assistance.
Medical services for inmates and patients (590).

Room and board assistance (RBA).
Refugee social service.
Refugee resettlement.
Repatriated citizens.
SSI burials and disabled examinations.
Title XIX certification.
Any other law of this state administered by the division of family resources or the department of child services.

As added by P.L.18-1990, SEC.226. Amended by P.L.2-1992, SEC.82; P.L.145-2006, SEC.21; P.L.161-2007, SEC.2.

IC 8-23-17-9
"Person" and "owner" defined

Sec. 9. As used in this chapter, "person" and "owner" include any individual, partnership, corporation, limited liability company, or association.

As added by P.L.18-1990, SEC.226. Amended by P.L.8-1993, SEC.163.

IC 8-23-17-10
"Owner" defined

Sec. 10. As used in this chapter, "owner" as applied to real property means the person or persons holding legal title to the property as shown by the records of the county recorder of the county in which the real property is situated, or the person or persons entitled as vendee under a land contract to receive conveyance of the legal title upon payment of a specified purchase price.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-11
"Code enforcement" defined

Sec. 11. As used in this chapter, "code enforcement" means any project or program for the elimination or prevention of the development or spread of deteriorated or deteriorating areas through a systematic inspection of buildings and structures in an area and the enforcement of codes or ordinances establishing standards for the condition and maintenance of dwellings, buildings, or premises as safe, sanitary, and fit for human habitation.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-12
Payments; applicable provisions

Sec. 12. The following provisions apply to payments by the department of transportation under this chapter:

(1) A payment by the department under section 13(3) or 14 of this chapter may not exceed the maximum allowances provided by federal law for persons displaced by federal programs or projects.

(2) A payment by the department under section 15 of this chapter must be in the amount of the allowance provided by federal law for persons displaced by federal programs or projects.

(3) In addition to payments otherwise authorized by this chapter, the department shall make a payment to or for a person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred eighty (180) days before the initiation of negotiations for the acquisition of the property. This payment may not exceed the maximum allowances provided by federal law for persons displaced by federal programs or projects and must include the following elements:

(A) The amount, if any, that when added to the compensation for the dwelling acquired by the department equals the reasonable cost of a comparable replacement dwelling that is a decent, safe, and sanitary dwelling adequate to accommodate the displaced person, reasonably accessible to public services and places of employment, and available on the private market.

(B) The amount, if any, that will compensate the displaced person for any increased interest costs that the person is required to pay for financing the acquisition of any comparable replacement dwelling. The amount shall be paid only if the dwelling acquired was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than one hundred eighty (180) days before the initiation of negotiations for the acquisition of the dwelling. The amount must be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling that is equal to the unpaid balance of the mortgage on the acquired dwelling over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value.

(C) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the one (1) year period beginning on the date on which the displaced person receives final payment of all costs of the acquired dwelling or moves from the acquired dwelling, whichever is later.

(4) In addition to payments otherwise authorized by this chapter, the department shall make a payment to or for any person displaced from any dwelling not eligible to receive a

payment under subdivision (3) if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety (90) days before the initiation of negotiations for acquisition of the dwelling. The payment must be either:

(A) the amount necessary to enable the displaced person to lease or rent for a period not to exceed four (4) years a decent, safe, and sanitary dwelling of standards adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to the person's place of employment, but not to exceed the maximum amount provided by federal law for persons displaced by federal programs or projects; or

(B) the amount necessary to enable the person to make a down payment (including incidental expenses described in subdivision (3)(C)) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate the person in areas not generally less desirable in regard to public utilities and public and commercial facilities, in the amount and on the conditions provided by federal law for persons displaced by federal programs or projects.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-13

Compensation for expenses and losses

Sec. 13. Whenever the acquisition of real property for a project undertaken by an agency, or a program of code enforcement by an agency in the state, will result in the displacement of any person, the agency shall make a payment to a displaced person, upon proper application as approved by the agency head, for:

(1) actual reasonable expenses in moving the person, the person's family, business, farm operation, or personal property;

(2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the head of the agency; and

(3) except as provided in section 12(1) of this chapter, actual reasonable expenses in searching for a replacement business or farm, not to exceed a maximum of five hundred dollars ($500).

As added by P.L.18-1990, SEC.226.

IC 8-23-17-14

Moving expense and dislocation allowances

Sec. 14. A displaced person eligible for payments under section 13 of this chapter who is displaced from a dwelling and who elects to accept the payments authorized by this section in lieu of the payments authorized by section 13 may receive a moving expense

allowance and a dislocation allowance determined according to a schedule established by the agency head. The schedule may establish a graduated scale of payments based upon size or kind of business or farm operation, size of dwelling, number of persons in family, or other appropriate factors. Except as provided in section 12(1) of this chapter, the payment shall not exceed a moving expense allowance of three hundred dollars ($300) and a dislocation allowance of two hundred dollars ($200).
As added by P.L.18-1990, SEC.226.

IC 8-23-17-15
Payment based on average annual net earnings

Sec. 15. (a) A displaced person eligible for payment under section 13 of this chapter who is displaced from a place of business or farm operation and elects to accept the payment authorized by this section in lieu of the payment authorized by section 13 of this chapter may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation. However, except as provided in section 12(2) of this chapter, the payment shall not be more than five thousand dollars ($5,000). In the case of a business, no payment shall be made under this section unless the agency head is satisfied that the business:

(1) cannot be relocated without a substantial loss of its existing patronage; and

(2) is not a part of a commercial enterprise having at least one (1) other establishment not being acquired by the agency and which is engaged in the same or similar business.

(b) For purposes of this section, "average annual net earnings" means one-half (1/2) of any net earnings of the business or farm operation, before federal, state, and local income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired by the agency. The term includes any compensation paid by the business or farm operation to the owner, the owner's spouse, or dependents during the period.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-16
Allowance for lease or rental of adequate replacement dwelling

Sec. 16. Except as provided in section 12(3) and 12(4) of this chapter, and in addition to payments otherwise authorized by this chapter, the agency shall make a payment to or for the benefit of a displaced person from a dwelling actually and lawfully occupied by the displaced person for not less than ninety (90) days prior to commencement of code enforcement activities for, or the initiation of negotiations for acquisition of, the dwelling. The payment shall be an amount, not to exceed two thousand five hundred dollars ($2,500), necessary to enable the displaced person to lease or rent an adequate

replacement dwelling for a period not to exceed two (2) years, less an amount equal to twenty percent (20%) of the gross monthly income of the displaced person averaged over the previous twelve (12) month period multiplied by twenty-four (24), determined at the time of displacement.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-17
Allowance for down payment and closing costs for purchase of adequate replacement dwelling

Sec. 17. (a) In lieu of the amount determined under section 16 of this chapter, the agency may make a payment to the displaced person in an amount necessary to enable the person to make a down payment on the purchase of an adequate replacement dwelling, not in excess of two thousand five hundred dollars ($2,500).

(b) In addition to any payment payable under subsection (a), the agency shall pay reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incidental to the purchase of the replacement dwelling, but not including prepaid expenses.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-18
Relocation advisory assistance program

Sec. 18. Whenever acquisition of, or code enforcement upon, real property by an agency will result in the displacement of a person, the agency shall provide a relocation assistance advisory program for displaced persons which shall offer the services described in section 20 of this chapter. If the agency determines that a person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer that person relocation advisory services under the program.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-19
Cooperation with other agencies

Sec. 19. An agency causing displacement of a person shall cooperate to the maximum feasible extent with federal, state, or local agencies administering programs that may be of assistance to displaced persons, in order to assure that displaced persons receive the maximum assistance available to them.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-20
Relocation assistance advisory programs; measures, facilities, and services

Sec. 20. Each relocation assistance advisory program required by section 18 of this chapter shall include measures, facilities, or

services as may be necessary or appropriate in order to:

(1) determine the need, if any, of displaced persons for relocation assistance;

(2) provide current and continuing information on the availability, prices, and rentals, of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(3) assure that, within a reasonable period of time prior to displacement, there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by the agency head, equal in number to the number of and available to the displaced persons who require dwellings and reasonably accessible to their places of employment, except that the governor may establish by executive order situations when the assurances may be waived;

(4) assist a displaced person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(5) supply information concerning federal or state housing programs, disaster loan programs, and other federal or state programs offering assistance to displaced persons; and

(6) provide other advisory services to displaced persons in order to minimize hardships to the persons in adjusting to relocation.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-21

Coordination with government community actions

Sec. 21. Agencies shall coordinate relocation activities with project work and with other planned or proposed governmental actions in the community or nearby areas that may affect the carrying out of relocation assistance programs.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-22

Service contracts; use of other agencies

Sec. 22. (a) To prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, an agency required by this chapter to make relocation payments to displaced persons or to establish relocation assistance advisory programs may enter into contract with an individual, firm, limited liability company, or corporation for services in connection with the programs, or may carry out its functions under this chapter through any federal, state, or local governmental agency or instrumentality having an established organization for conducting relocation assistance programs. The contract may delegate authority

to make a determination required to be made by the agency head with respect to eligibility for an amount of relocation assistance payments, availability of adequate replacement dwellings, or other matters required to be determined under this chapter, subject to review of determinations by the agency head and as provided in section 33 of this chapter.

(b) An agency acquiring property or displacing persons within a city or county that has established a governmental agency to provide relocation assistance to persons displaced from dwellings or businesses, whether or not the acquiring or enforcing agency is engaged in a program using federal financial assistance, may use the services and facilities of the county or city relocation agency in performing its obligations and in making the determinations required under this chapter to the maximum feasible extent permitted by applicable federal law or regulations.

As added by P.L.18-1990, SEC.226. Amended by P.L.8-1993, SEC.164.

IC 8-23-17-23

Rules and procedures; establishment

Sec. 23. Each agency head is authorized to establish rules and procedures as necessary to assure the following:

(1) The payments and assistance authorized by this chapter shall be administered in a manner that is fair and reasonable, as uniformly as practicable.

(2) A displaced person who makes application for a payment authorized for such person under this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance.

(3) A person aggrieved by a determination as to eligibility for a payment authorized by this chapter or the amount of a payment, may have the application reviewed by the agency head.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-24

Rules and provisions; adoption by agency heads and governor

Sec. 24. Each agency head may adopt rules and procedures, consistent with this chapter, as necessary or appropriate to carry out its purposes. The governor may, with the approval of the attorney general, adopt uniform rules and procedures, including uniform schedules of payments under section 14 of this chapter and standards for the determination of payments under sections 16 and 17 of this chapter. The rules must be uniform and applicable to all agencies subject to this chapter. In adopting rules the governor, or the agency head if the governor has not adopted rules, shall consult with federal agencies administering relocation assistance programs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655) to promote uniform and

effective administration of relocation assistance and land acquisition by all governmental agencies acquiring property in Indiana.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-25
Policy guidelines

Sec. 25. All agencies shall, to the greatest extent practicable, be guided by the following policies:

(1) The agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or a designated representative shall be given an opportunity to accompany the appraiser during the inspection of the property.

(3) Before the initiation of negotiations for real property, the agency concerned shall establish an amount that it believes to be just compensation and shall make a prompt offer to acquire the property for the full amount established. The amount may not be less than the agency's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property before the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The agency concerned shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where appropriate the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) An owner is not required to surrender possession of real property before the agency concerned pays the agreed purchase price, or deposits with the court in eminent domain proceedings for the benefit of the owner, the amount of the award of the appraisers in the eminent domain proceeding for the property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, a person lawfully occupying real property is not required to move from a dwelling (assuming an adequate replacement dwelling will be available) or to move a business or farm operation without at least ninety (90) days written notice from the agency concerned of the date by which the move is required.

(6) If the agency permits an owner or tenant to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the agency on short notice, the amount of rent required may not exceed the fair rental value of

the property to a short-term occupier.

(7) The agency may not advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, to compel an agreement on the price to be paid for the property.

(8) If any interest in real property is to be acquired by exercise of the power of eminent domain, the agency concerned shall institute formal condemnation proceedings. An agency may not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

(9) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the agency concerned shall offer to acquire the entire property.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-26

Reimbursement of conveyance expenses, penalties, and real property taxes

Sec. 26. The acquiring agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in eminent domain proceedings to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the agency head deems fair and reasonable, for expenses the owner necessarily incurred for:

(1) recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the agency;

(2) penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) the pro rata portion of real property taxes paid that are allocable to a period subsequent to the date of vesting title in the agency or the effective date of possession of the real property by the agency, whichever is the earlier.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-27

Awards for condemnation proceeding expenses

Sec. 27. (a) The court having jurisdiction of a proceeding instituted by an agency to acquire real property by eminent domain shall award the owner of a right, or title to, or interest in, the real property the sum that will in the opinion of the court reimburse the owner for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if:

(1) the final judgment is that the agency cannot acquire the real property by eminent domain; or

(2) the proceeding is abandoned by the agency.

(b) An award made under subsection (a) shall be paid by the agency for whose benefit the eminent domain proceedings were instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under IC 32-24-1-16 or any other Indiana law providing for the institution of proceedings by the owner seeking just compensation for property taken for public use in awarding compensation for the taking of property by an agency, or the agency effecting a settlement of a proceeding, shall determine and award or allow to the plaintiff, as a part of the judgment or settlement a sum that will in the opinion of the court or the agency reimburse the plaintiff for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the proceeding.

As added by P.L.18-1990, SEC.226. Amended by P.L.2-2002, SEC.49.

IC 8-23-17-28

Adequate replacement dwelling requirement

Sec. 28. A person is not required to move from the person's dwelling by an agency acquiring the dwelling or engaged in a code enforcement program unless the agency head has determined that an adequate replacement dwelling is available to the person.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-29

Effect of chapter

Sec. 29. (a) Section 25 of this chapter does not create a legal right or liability and does not affect the validity of property acquisitions by purchase or condemnation.

(b) This chapter does not create an element of value or damages not in existence before April 16, 1971, in any proceedings brought under the power of eminent domain.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-30

Federal assistance; compliance with federal law

Sec. 30. An agency acquiring real property or engaging in code enforcement activities under a program under which federal financial assistance is or will be available to pay the cost of the program is authorized to enter into an agreement with the appropriate federal agency under which the agency agrees to provide relocation assistance services and payments as required or authorized under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655) and to use available federal funds. The agency using federal financial assistance may make contracts and expenditures, and act, make rules, orders, and findings as

necessary to comply with the federal law and the related rules, regulations, and interpretations promulgated by the appropriate federal agencies.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-31
Federal assistance; noncompliance with chapter

Sec. 31. An agency acquiring real property or engaging in code enforcement activities with federal financial assistance or acquiring real property reasonably anticipating that federal funds might be used to reimburse the cost of construction or other activity for which the real property is acquired and that is subject to the requirements of the Federal Uniform Relocations Assistance and Real Property Acquisitions Policies Act of 1970 (42 U.S.C. 4601-4655) is not required to make relocation payments or provide relocation assistance programs under this chapter, or to comply with any procedures or rules under this chapter that are inconsistent with applicable federal law or regulations if the agency complies with all applicable federal law and regulations relating to relocation payments and assistance for persons displaced by the project.
As added by P.L.18-1990, SEC.226.

IC 8-23-17-32
Tax exemptions; effect of payments on public assistance eligibility

Sec. 32. (a) All amounts paid to displaced persons under this chapter are exempt from taxation under IC 6-3.

(b) A payment received under this chapter is not considered as income for the purpose of determining the eligibility or extent of eligibility of any person for public assistance under the following:

TANF assistance.
TANF burials.
TANF IMPACT/J.O.B.S.
Temporary Assistance to Other Needy Families (TAONF) assistance.
ARCH.
Blind relief.
Child care.
Child welfare adoption assistance.
Child welfare adoption opportunities.
Child welfare assistance.
Child welfare child care improvement.
Child welfare child abuse.
Child welfare child abuse and neglect prevention.
Child welfare children's victim advocacy program.
Child welfare foster care assistance.
Child welfare independent living.
Child welfare medical assistance to wards.
Child welfare program review action group (PRAG).

Child welfare special needs adoption.
Food Stamp administration.
Health care for indigent (HIC).
ICES.
IMPACT (food stamps).
Title IV-D (ICETS).
Title IV-D child support administration.
Title IV-D child support enforcement (parent locator).
Medicaid assistance.
Medical services for inmates and patients (590).
Room and board assistance (RBA).
Refugee social service.
Refugee resettlement.
Repatriated citizens.
SSI burials and disabled examinations.
Title XIX certification.
Any other Indiana law administered by the division of family resources or the department of child services.

As added by P.L.18-1990, SEC.226. Amended by P.L.2-1992, SEC.83; P.L.192-2002(ss), SEC.151; P.L.145-2006, SEC.22; P.L.161-2007, SEC.3.

IC 8-23-17-33
Review of determination

Sec. 33. A person aggrieved by a determination made by an agency head under this chapter may have the determination reviewed by the governing body or principal executive officer of the agency. A final determination of the agency is subject to judicial review under IC 4-21.5-5.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-34
Waiver of eminent domain power; notice to property owner

Sec. 34. This chapter is not applicable to the purchase of a parcel of real property by an agency if the agency head gives notice in writing to the owner of the property not later than the date of its first offer to purchase the property that the agency will not exercise a right it may have to acquire the property through exercise of the power of eminent domain. Proceedings in eminent domain may not thereafter be instituted by the agency with respect to the real property unless the notice is expressly revoked in writing. If the notice is revoked, the provisions of this chapter are applicable as if the agency had not given notice under this section.

As added by P.L.18-1990, SEC.226.

IC 8-23-17-35
Financing of payments

Sec. 35. Funds appropriated or otherwise available to an agency

for the acquisition of real property or an interest in real property or for the conduct of code enforcement programs shall also be available to carry out this chapter.
As added by P.L.18-1990, SEC.226.

IC 8-23-18

Chapter 18. Acquisition of Public Property for Highways

IC 8-23-18-1

Authority for acquisition

Sec. 1. The authority given to the department to acquire the fee simple title to public or private real property, rights, or easements needed or reasonably necessary for a state highway includes the right to acquire real property or a right in, to, or over real property owned, held, or claimed by a city, town, township, county, school corporation or other municipal corporation, or political subdivision of the state, public corporation, instrumentality, or agency supported in whole or in part by taxation.

As added by P.L.18-1990, SEC.227.

IC 8-23-18-2

Use of eminent domain

Sec. 2. Whenever the department is unable to agree with an owner of real property or a right described in section 1 of this chapter upon the damages sustained by the owner or upon the purchase price of the real property in fee or the right, interest, or easement sought to be acquired, the department may proceed in the name of the state in the exercise of the right of eminent domain to condemn and acquire the real property or right.

As added by P.L.18-1990, SEC.227.

IC 8-23-18-3

Voluntary conveyances and grants by political entities

Sec. 3. Each city, town, township, county, school corporation and other political subdivision of the state, public corporation, instrumentality, or agency supported in whole or part by taxation may convey and grant to the state for the use and benefit of the department, by voluntary conveyance or grant, with or without consideration, any real property or rights in or to real property needed or reasonably necessary for a state highway.

As added by P.L.18-1990, SEC.227.

IC 8-23-18-4

Tax delinquent lands; acquisition

Sec. 4. Whenever the real property or right in real property sought to be acquired by the department is real property, or a right or interest in real property that was acquired by the county, municipality, or political subdivision after the real property or right had been unsuccessfully offered for sale for delinquent taxes, and had been acquired by or for the county for the delinquent taxes under the law the purchase price or condemnation award paid by the department to the county, municipality, or political subdivision may not exceed the amount of the delinquent and general taxes due at the

time it was acquired by the county, municipality, or political subdivision, excluding penalties and not including any current taxes becoming due and payable in the year in which acquired by the state for highway use. A county shall convey and transfer real property, a right or interest in real property to the state for the use of the department for consideration whenever requested to do so by the department. The consideration paid by the department shall be distributed among the several subdivisions of government in the manner provided by IC 6-1.1, as other collections of delinquent taxes are distributed.
As added by P.L.18-1990, SEC.227.

IC 8-23-18-5
Tax delinquent lands; acquisition after assertion of right of redemption

Sec. 5. If a right of redemption exists in the owner of a interest in real property described in section 4 of this chapter that is asserted in the time and manner allowed and permitted by law, it shall be treated as any other private interest in real property acquired for public use by the department. However, if the county or municipality has placed any improvements upon the real property after acquiring the real property, the department shall pay the reasonable value of the improvements. If the reasonable value of the improvements cannot be determined by agreement, the department may proceed in the name of the state in the exercise of the right of eminent domain to condemn and acquire the real property.
As added by P.L.18-1990, SEC.227.

IC 8-23-18-6
Validation grants and conveyances by political entities

Sec. 6. All grants and conveyances made before March 11, 1959, by a municipality or subdivision of government, public corporation, instrumentality, or agency supported in whole or in part by taxation are hereby declared to be valid and of full force and effect.
As added by P.L.18-1990, SEC.227.

IC 8-23-19

Chapter 19. Advance Land Acquisition Revolving Fund

IC 8-23-19-1

Creation of fund

Sec. 1. There is created a revolving fund to be known as the highway rights-of-way and construction revolving fund. This revolving fund is created to comply with 23 U.S.C. 124.

As added by P.L.18-1990, SEC.228.

IC 8-23-19-2

Deposit of federal advances

Sec. 2. Advances made by the federal highway administration to this state to enable the department to make payments for acquisitions of rights-of-way and for construction as it progresses shall be deposited in the revolving fund by the state official authorized by Indiana law to receive federal-aid highway funds.

As added by P.L.18-1990, SEC.228.

IC 8-23-19-3

Disbursements

Sec. 3. Disbursements shall be made from this fund solely upon vouchers approved by the department for rights-of-way that have been or are being acquired and for construction that has been actually performed and approved by the Federal Highway Administration.

As added by P.L.18-1990, SEC.228.

IC 8-23-20

Chapter 20. Regulation of Billboards and Junkyards

IC 8-23-20-1

Agreements with United States Secretary of Commerce

Sec. 1. (a) The department and the United States Secretary of Commerce shall enter into agreements under 23 U.S.C. concerning the regulation of billboards, signs, junkyards, and scrap metal processing areas in areas adjacent to the interstate and primary highway systems. The agreements must conform to the provisions of 23 U.S.C. to ensure that federal funds to Indiana are continued.

(b) An agreement between the state and the United States Secretary of Commerce entered into under 23 U.S.C. 131 must contain the definition of "unzoned commercial or industrial area" found in IC 8-23-1-43. If the state has received from the Secretary a formal notice of a proposed determination to withhold funds from the state because of an asserted unacceptability of the definition, the governor shall modify the definition. The modification may be made during a hearing on the notice held by the Secretary under 23 U.S.C. 131, or, if as a matter of law the Secretary decides to withhold funds prior to a hearing, the governor:

(1) may modify the definition before a hearing; and

(2) shall request a hearing under 23 U.S.C. 131.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-2

Form of agreements; negotiation

Sec. 2. The regulatory standards set forth in an agreement described in section 1(a) of this chapter must be consistent with customary use in Indiana. The agreement must be in a form that is in the best interests of the state and may be of a duration and subject to terms and provisions for modification that the governor considers advisable. In negotiating the agreement, the governor shall consider the following factors:

(1) The actual availability of federal funds.

(2) The imminence of a sanction against the state for a violation of 23 U.S.C. 131.

(3) The enactment of an amendment to 23 U.S.C. 131 or the regulations promulgated under 23 U.S.C. 131, or the possibility of an amendment.

(4) The scope of an agreement entered into by another state with the Secretary under 23 U.S.C. 131.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-3

Determination of legality of Secretary's actions

Sec. 3. The attorney general shall institute proceedings under 23 U.S.C. 131 to obtain a judicial determination of the legality of the

determination of the United States Secretary of Commerce if the Secretary makes a final determination to:

(1) withhold funds from Indiana;

(2) fail to agree with Indiana as to the size, lighting, and spacing of signs; or

(3) fail to agree with Indiana as to unzoned commercial or industrial areas in which signs may be erected and maintained.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-4

Signs in adjacent areas; standards

Sec. 4. Signs located in an adjacent area must conform to the standards of size, lighting, and spacing set forth in rules adopted by the department under the provisions of an agreement under section 1 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-5

Signs in unzoned and zoned commercial and industrial areas

Sec. 5. Signs located in unzoned commercial or industrial areas and zoned commercial or industrial areas must conform to the standards of size, lighting, and spacing set forth in rules adopted by the department under the provisions of an agreement under section 1 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-6

Prohibited signs

Sec. 6. The following signs may not be erected or maintained in an adjacent area:

(1) Signs that are illegal under state statutes or rules.

(2) Signs not securely affixed to a substantial structure.

(3) Signs that attempt or appear to attempt to regulate, warn, or direct the movement of traffic or that interfere with, imitate, or resemble an official traffic sign, signal, or device.

(4) Signs erected or maintained upon trees, or painted or drawn upon rocks or other natural features.

(5) Signs that are not consistent with this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-7

Authorized signs

Sec. 7. The following signs may be erected outside of urban areas beyond six hundred and sixty (660) feet of the right-of-way visible from the traveled way of a highway on the interstate or primary system with the intent of a message being read from the traveled way:

(1) Directional or official signs and notices.

(2) Signs advertising the sale or lease of the property upon which the signs are located.

(3) Signs indicating the name of the business, activities, or profession conducted on the property, or identifying the goods produced or sold, or services rendered on the property.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-8

Directional signs within 200 feet of right-of-way

Sec. 8. A person may not erect or maintain in the right-of-way of a highway in the state highway system, or within two hundred (200) feet of the right-of-way, a sign or device directing or indicating on what highway or route a person should travel to reach a designated place or highway without the written consent of the department. The department may remove a sign or device erected or maintained in violation of this section.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-9

Removal of previously existing nonconforming signs

Sec. 9. (a) A sign lawfully erected in an adjacent area that does not conform to this chapter after June 30, 1968, is not required to be removed until the end of the fifth year after the sign becomes nonconforming.

(b) A sign located beyond six hundred sixty (660) feet of the right-of-way, visible from the traveled way of a highway on the interstate or primary system, that was lawfully erected before July 1, 1976, and does not conform to this chapter is not required to be removed until the end of the fifth year after the sign becomes nonconforming.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-10

Acquisition of nonconforming signs

Sec. 10. The department may acquire and shall pay just compensation for the removal of signs that do not conform to this chapter. A removal by the department or sign owner under this chapter constitutes a taking, and the owner shall be compensated under IC 32-24-1. Compensation shall be paid for the following:

(1) The taking from the owner of a sign of all rights, titles, and interests in the sign, and of the owner's leasehold or other interest in the land.

(2) The taking from the owner of the real property on which the sign is located and of the right to erect and maintain signs on the real property.

As added by P.L.18-1990, SEC.229. Amended by P.L.2-2002, SEC.50.

IC 8-23-20-11
Payment of compensation

Sec. 11. Compensation under section 10 of this chapter shall be paid to a person entitled to compensation upon the presentation to the department of information that the department requires. The claim for compensation must be filed within one hundred eighty (180) days after the removal is completed. The state's share of the compensation shall be paid from funds appropriated under this section.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-12
Compensation determination; civil actions

Sec. 12. If a claimant under section 11 of this chapter and the department do not reach agreement on the amount of compensation to be paid within one hundred twenty (120) days after the claim is filed, the claimant may file a civil action to have the compensation determined. An action under this section shall be filed in a court of general jurisdiction in either the county where the sign and real property are located or in the county in which the claimant resides. The county of residence of a corporation shall be determined under the applicable statutes. An action under this section shall be filed not later than one (1) year after the filing with the department of a claim for compensation under section 10 of this chapter.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-13
Enforcement of chapter

Sec. 13. (a) The department shall enforce this chapter.

(b) When the department is notified by a governmental agency of a possible violation of this chapter, the department shall determine whether a violation exists. Whenever the department determines a violation exists, the department shall enter a resolution setting out the nature, extent, and location of the violation and refer the resolution to the attorney general.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-14
Injunctions; criminal proceedings

Sec. 14. Whenever the attorney general receives a resolution under section 13 of this chapter, the attorney general shall commence an action in a court having jurisdiction to enjoin the violation of this chapter. The attorney general may also request the prosecuting attorney of the judicial circuit in which the violation has occurred to institute criminal proceedings against the persons responsible for violation of this chapter. The prosecuting attorney shall institute criminal proceedings if requested to do so by the attorney general.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-15
Zoning powers; limitations

Sec. 15. (a) Subsection (c) does not apply to signs erected before March 15, 1986.

(b) A board, commission, council, governmental body, or political subdivision that has the legal authority to zone land has authority to zone areas for commercial or industrial purposes. Except as provided in subsection (c), a zoning action taken by a body described in this subsection may be taken under this chapter.

(c) A zoning action taken by a body described in subsection (a) will not be accepted under this chapter if the action is:

(1) not part of a comprehensive plan; and

(2) taken primarily to permit the erection of signs in an adjacent area that is outside an urban area and visible from the traveled way of a highway in the interstate or primary highway system.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-16
Removal, taking, and appropriation of signs; limitations

Sec. 16. (a) Subsection (b) does not apply to:

(1) actions taken by the department under this chapter; or

(2) the removal, taking, or appropriation of a sign, display, or device prohibited under section 6 of this chapter.

(b) Before an outdoor advertising sign, display, or device is removed, taken, or appropriated through the use of zoning or another power or authority of the state, a state agency, or political subdivision:

(1) the value of the sign, display, or device shall be determined by the taking authority without the use of an amortization schedule; and

(2) the owners of the sign, display, or device and of the real property upon which the sign, display, or device is situated must be paid full and just compensation for the taking.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-17
Location of junkyards and scrap metal processing facilities

Sec. 17. A person may not establish, operate, or maintain a junkyard or scrap metal processing facility that is within one thousand (1,000) feet of the nearest edge of a right-of-way of an interstate or primary highway, unless the junkyard or facility conforms to one (1) of the following conditions:

(1) It is screened by natural objects, plantings, fences, or other appropriate means so it is not visible from the main-traveled way of the system.

(2) It is located within an area that is zoned for industrial use.

(3) It is located within an unzoned industrial area.

(4) It is not visible from the main-traveled way.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-18
Screening of junkyards and scrap metal facilities

Sec. 18. The department shall, if feasible, place a screen on the highway right-of-way or an area acquired for the purpose between a highway and a junkyard or a scrap metal processing facility that is lawfully located within one thousand (1,000) feet of a highway in the interstate or primary system so that the junkyard or facility is not visible from the main-traveled way, unless the junkyard or facility is located in an industrial area.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-19
Rules and regulations for screening and fencing

Sec. 19. The department shall adopt rules to govern the location, planting, construction, and maintenance of screens and fences required under this chapter.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-20
Acquisition of junkyard or scrap metal processing facility property; relocation and removal costs

Sec. 20. If the department determines that the topography of the land adjoining a highway in the interstate or primary system will not permit adequate screening of a junkyard or scrap metal processing facility, or that the screening of a junkyard or facility would not be economically feasible, the department may acquire the property on which the junkyard or facility stands by gift, purchase, exchange, or condemnation. The department may pay the costs of relocation, removal, or disposal of a junkyard or facility.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-21
Powers of political subdivisions

Sec. 21. A political subdivision may enact and enforce requirements for junkyards and scrap metal processing facilities that are in addition to the requirements of this chapter.
As added by P.L.18-1990, SEC.229.

IC 8-23-20-22
Violations; notice

Sec. 22. (a) A person who violates section 4, 5, or 6 of this chapter commits a Class C infraction. Whenever the department discovers or is given written notice of a violation by a responsible government agency, the department shall give thirty (30) days notice, by certified mail, to the owner of the property upon which the violation exists. If the owner fails to act within thirty (30) days, then

each day of maintenance of the violation beginning on the thirty-first day constitutes a separate offense.

(b) A person who violates section 7 of this chapter commits a Class C infraction.

(c) A person who violates section 8 of this chapter commits a Class B misdemeanor. Whenever the department discovers or is given written notice of a violation by a responsible government agency, the department shall give thirty (30) days notice, by certified mail, to the owner of the property upon which the violation exists. If the owner fails to act within thirty (30) days, then each day of maintenance of the violation beginning on the thirty-first day constitutes a separate offense.

As added by P.L.18-1990, SEC.229. Amended by P.L.1-1991, SEC.84.

IC 8-23-20-23

Federal aid; acceptance

Sec. 23. The department may accept an allotment of funds by the United States, or an agency of the United States, appropriated to carry out 23 U.S.C. 131. The department shall take any necessary action to obtain funds allotted under 23 U.S.C. 131 to receive reimbursement for the federal share of the just compensation paid to owners under sections 10 and 20 of this chapter.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-24

Federal aid; appropriation

Sec. 24. The department may not acquire a sign, the real property upon which the sign is situated, a junkyard, or a scrap metal processing facility unless:

(1) the acquisition costs are eligible for not less than seventy-five percent (75%) federal participation;

(2) there are sufficient funds appropriated and immediately available to Indiana; and

(3) the funds have been apportioned by the federal government and notice of the apportionment has been received by the state.

As added by P.L.18-1990, SEC.229.

IC 8-23-20-25

Advertising signs along federally regulated and interstate highways; permits; rules; registration of signs

Sec. 25. (a) The department shall institute a permit system to regulate the erection and maintenance of outdoor advertising signs along:

(1) the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991; and

(2) any other highways where control of outdoor advertising signs is required under 23 U.S.C. 131.

(b) Except as provided in subsections (c) and (g) and section 25.5(c) of this chapter, a sign may not be erected, operated, used, or maintained in areas described in subsection (a) unless the owner of the sign has obtained a permit under this section.

(c) A permit is not required to erect, operate, use, or maintain the following signs:

(1) Directional or official signs and notices.

(2) Signs advertising the sale or lease of the property on which the sign is located.

(3) Signs that primarily indicate:

(A) the name of the business, activity, or profession conducted;

(B) the types of goods produced or sold; or

(C) the services rendered;

on the property on which the sign is located.

(d) Signs in existence on July 1, 1993, and subject to this section:

(1) must comply with the registration system described in subsection (h); and

(2) are subject to the permit requirement after the department has made the determination described in subsection (g).

(e) The department shall adopt rules under IC 4-22-2 to carry out this section. Rules adopted under this section may be no broader than necessary to implement 23 U.S.C. 131 and 23 CFR 750.

(f) In addition to the requirements of subsection (e), rules adopted under this section must provide the following:

(1) A list of all roadways subject to the permit requirement.

(2) A procedure to appeal adverse determinations of the department under IC 4-21.5, including provisions for judicial review under IC 4-21.5.

(3) A one-time fee of one hundred dollars ($100) per structure must accompany the permit application. A permit fee may not be charged to a sign that is subject to and complies with the registration system described in subsection (h).

(4) That a permit may not be issued for a sign erected in an adjacent area after January 1, 1968, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(5) That a permit may not be issued for a sign erected after June 30, 1976, outside of urban areas, beyond six hundred sixty (660) feet of the right-of-way, visible from the traveled way, and erected with the purpose of a message being read from the traveled way, unless:

(A) the sign is erected in an area described in section 5 of this chapter; or

(B) the permit is a conditional permit issued under subdivision (6).

(6) For the issuance of a conditional permit for a nonconforming sign that has not been acquired under section 10 of this chapter. A conditional permit issued under this subdivision may be revoked if the department subsequently acquires the sign.

(7) That the department is granted the right to enter the real property on which a sign for which a permit under this section has been applied for or issued to perform reasonable examinations and surveys necessary to administer the permit system.

(8) The department may revoke any permit when it is found that the permittee has provided false or misleading information and that such a finding may be cause to subsequently refuse to issue a permit.

(9) Any other provisions necessary to:

(A) administer this section; or

(B) avoid sanctions under 23 U.S.C. 131.

(g) A sign that is subject to and complies with the registration system described in subsection (h) may not be declared unlawful until the later of the following:

(1) The department has made a determination of permit eligibility under this section.

(2) December 31, 1993.

(h) A separate application for registration must be submitted to the department for each structure defined in subsection (d) and must:

(1) be on a form furnished by the department;

(2) signed by the applicant or an individual authorized in writing to sign for the applicant;

(3) provide information concerning the size, shape, and nature of the advertising sign, display, or device;

(4) provide the sign's actual location with sufficient accuracy to enable the department to locate the sign; and

(5) include a one-time registration fee of twenty-five dollars ($25).

(i) A sign that is not registered before January 1, 1994, is a public nuisance subject to section 26 of this chapter.

(j) Each registrant shall fasten to each advertising sign or device a label or marker provided by the department that must be plainly visible from the traveled way.

As added by P.L.112-1993, SEC.1. Amended by P.L.66-2007, SEC.4.

IC 8-23-20-25.5

Changeable message signs; rules; permits; erection; compliance

Sec. 25.5. (a) The department may adopt rules under IC 4-22-2 that provide for the issuance of a permit for a changeable message sign erected, operated, used, or maintained in areas described in section 25(a) of this chapter.

(b) A permit authorized by this section may not otherwise violate

state or federal law or local ordinances or regulations.

(c) Until the department adopts rules under this section, a person may erect, operate, or use a changeable message sign in an area described in section 25(a) of this chapter, subject to any other requirements of state or federal law or local ordinances or regulations.

(d) This subsection applies to a changeable message sign erected after the owner or operator receives a permit from the department. Notwithstanding any rules adopted by the department after the issuance of the permit, a changeable message sign that is in compliance with the rules in effect at the time a permit is granted for the changeable message sign is considered to be in compliance with the department's rules.

As added by P.L.66-2007, SEC.5.

IC 8-23-20-26

Signs in violation of chapter; public nuisance; notice; remedies

Sec. 26. (a) A sign that is in violation of this chapter or rules adopted under this chapter is a public nuisance.

(b) If the department determines that a public nuisance exists, the department shall give notice under subsection (c) to:

(1) the owner of the property on which the public nuisance is located; and

(2) the owner of the public nuisance, if the owner of the public nuisance can be determined by reasonable inquiry.

(c) The department shall give notice of the determination under IC 4-21.5-3-6. The notice must include the following information:

(1) The name and address of the owner of the property or the owner of the sign.

(2) A description of the sign, including its location, that has been determined to be a public nuisance under this section.

(3) That the sign has been determined to be a public nuisance and the reasons for the determination.

(4) That the person receiving the notice has thirty (30) days after the date on which the notice was sent to:

(A) remove the sign from the property on which the sign is located; or

(B) file a petition for review under IC 4-21.5.

(5) That if after thirty (30) days the sign has not been removed or a petition for review has not been filed, the department will remove the sign or cause the sign to be removed.

(6) That if the department removes the sign or causes the sign to be removed, the person receiving notice will be charged the cost of the removal of the sign, including all administrative costs, and a lien will be imposed on the property under subsection (e).

(7) Any other information the department determines to be necessary.

(d) To qualify for judicial review under IC 4-21.5-5 of a final agency action taken under this section, the person filing the petition for review must post a bond of five thousand dollars ($5,000) with the clerk of the court in which the petition for review is filed. If the court determines that the request for review was:

(1) frivolous;

(2) in bad faith; or

(3) taken for the primary purpose of delaying the removal of a sign that is in violation of this chapter;

the bond shall be forfeited to the state highway fund.

(e) If after:

(1) thirty (30) days following the date on which the notice was sent under subsection (c):

(A) a petition for review of the determination has not been filed; and

(B) the sign that is determined to be a public nuisance has not been removed; or

(2) a petition for review has been filed, a final determination that the sign is a public nuisance has been made, and the sign that is determined to be a public nuisance has not been removed;

the department shall enter the property and remove the public nuisance or cause the public nuisance to be removed. The department shall bill the owner of the property on which a sign that is determined to be a public nuisance is located for the cost of the removal. If the bill remains unpaid for at least thirty (30) days following the date on which the bill was issued, the department shall file the bill with the clerk of the circuit court of the county in which the property is located. The clerk shall immediately enter the bill on the judgment docket against the owner of the property as a lien against the property. The lien may be foreclosed in the same manner as other judgment liens, without relief from valuation or appraisement laws or right of redemption. Each owner of the property on which a sign that is determined to be a public nuisance is located is jointly and severally liable for the costs of the removal of the sign under this subsection.

(f) A lease or other contract for the display of a sign that is determined to be a public nuisance under this section is against public policy and may not be enforced. An owner from whom the costs of removing a sign that is determined to be a public nuisance are collected under subsection (e) is entitled to contribution from any other owners of the property.

As added by P.L.112-1993, SEC.2.

IC 8-23-21

Chapter 21. Maintenance of County Roads Used as State Highway Detours

IC 8-23-21-0.3

"Official detour route" defined

Sec. 0.3. As used in this chapter, "official detour route" means the path the department designates a motorist to use to reach a destination while a state highway, part of a state highway, or state highway bridge is closed to the public as a thoroughfare while under construction, while being repaired, or when closed for any other reason.

As added by P.L.120-1995, SEC.1.

IC 8-23-21-0.5

"Unofficial detour route" defined

Sec. 0.5. As used in this chapter, "unofficial detour route" means the path that the department in conjunction with local officials determines many motorists have taken or are likely to take in place of the official detour route because the path is or was:

(1) a shorter distance;

(2) a quicker trip;

(3) a simpler route to follow; or

(4) perceived as better by a motorist for any other reason the department recognizes in the department's rules;

than the official detour route or other means the department has prescribed for a motorist to reach a destination while a state highway, part of a state highway, or state highway bridge is closed to the public as a thoroughfare while under construction or while being repaired by the department.

As added by P.L.120-1995, SEC.2.

IC 8-23-21-1

Maintenance requirement

Sec. 1. Whenever it is necessary for the department to designate and use a county highway as an official detour route, the department shall keep the highway used as an official detour route in a reasonable state of repair at all times while the highway is being used as an official detour route.

As added by P.L.18-1990, SEC.230. Amended by P.L.120-1995, SEC.3.

IC 8-23-21-2

Maintenance of unofficial detour route

Sec. 2. (a) When a state highway that was temporarily closed is reopened to traffic as a public thoroughfare, the department shall place the official detour route in the condition agreed to in writing by the department and the county before the official detour route was

designated by the department.

(b) When a state highway that was temporarily closed is reopened to traffic as a public thoroughfare, the department shall restore the route that has been determined as an unofficial detour route to a condition that:

(1) is at least as good as the condition the unofficial detour route was in before it was determined by the department to be an unofficial detour route; or

(2) satisfies specifications of a written agreement between the department and the county in which the unofficial detour route is located.

(c) The department is required to restore only one (1) unofficial detour route for each official detour route under this section.

(d) Except as provided in section 4 of this chapter and if the establishment of run arounds is determined to be the most cost effective alternative of all available alternatives, the department shall establish run arounds instead of detours and may install temporary structures or other facilities to render the run arounds usable by persons traveling over the highway.

As added by P.L.18-1990, SEC.230. Amended by P.L.78-1990, SEC.1; P.L.120-1995, SEC.4.

IC 8-23-21-4

Designation of official detour route

Sec. 4. The department shall designate a county highway as the official detour route if:

(1) the executive of the county through which the county highway passes adopts a resolution consenting to the official detour route; and

(2) under rules adopted by the department, the department determines that it is not more expensive to designate a county highway as an official detour route than it is to provide other means for a motorist to reach a destination.

As added by P.L.120-1995, SEC.5.

IC 8-23-22

Chapter 22. Lighting of State Highways

IC 8-23-22-1

Dangerous curves, intersections, and heavily traveled highway and bridge sections

Sec. 1. The department may illuminate dangerous curves and intersections and heavily traveled sections of the highways, including bridges, in the state highway system. The illumination shall be accomplished according to nationally recognized engineering standards.

As added by P.L.18-1990, SEC.231.

IC 8-23-22-2

Utility and installation costs

Sec. 2. The department shall enter into an agreement for the sharing of the utility costs of illumination with cities, towns, and counties when a highway is located in part within a city, town, or county before the installation of lights, except when the state elects to totally fund the illumination. The cost of the installation of lights may be paid by the state and cities, towns, and counties in accordance with the agreement entered into before installation.

As added by P.L.18-1990, SEC.231.

IC 8-23-22-3

Interstate and defense highway illumination costs after June 30, 1985

Sec. 3. Except as provided in an agreement entered into under section 2 of this chapter after June 30, 1985, the department shall pay all costs in connection with illumination of a state highway designated as a part of the national system of interstate and defense highways. The cost of illumination includes installation, repair, energy, and maintenance.

As added by P.L.18-1990, SEC.231.

IC 8-23-22-4

Interstate and defense highway illumination costs under agreements in effect on June 30, 1985

Sec. 4. The department shall assume the liability of the city, town, or county under an agreement in effect on June 30, 1985, between a city, town, or county and a utility to provide energy used after June 30, 1985, for illumination of a state highway designated as a part of the national system of interstate and defense highways.

As added by P.L.18-1990, SEC.231.

IC 8-23-23

Chapter 23. Miscellaneous Provisions

IC 8-23-23-1

Rights-of-way and easements; description; recording

Sec. 1. Whenever a right-of-way or easement for a state, county, or municipal highway is acquired, an accurate description of all rights-of-way and easements shall be filed in the office of the recorder of the county in which the real property is located. The description shall be recorded in the deed records of the county. The county recorder may not charge a fee for filing and recording the description.

As added by P.L.18-1990, SEC.232.

IC 8-23-23-2

Crosswalk curb ramps

Sec. 2. (a) This section applies only to curbs that are constructed or reconstructed after June 30, 1978.

(b) All new construction or reconstruction of public roads or streets funded wholly or in part by funds of the state, a county, a city, or a town must include the installation of permanent curb ramps at crosswalks at all intersections where curbs and permanent sidewalks are constructed.

As added by P.L.18-1990, SEC.232.

IC 8-23-23-3

Inferior construction; permission by inspectors; offense

Sec. 3. An inspector who knowingly permits:

(1) construction of a highway contrary to the specifications;

(2) the use of inferior materials not provided for in the specifications; or

(3) the use of a lesser amount of materials than provided for in the specifications;

commits a Level 6 felony.

As added by P.L.18-1990, SEC.232. Amended by P.L.158-2013, SEC.136.

IC 8-23-23-4

Hoosier High Point

Sec. 4. (a) The point of highest elevation in Indiana is designated as "Hoosier High Point."

(b) The department shall erect and maintain signs to inform persons using the state highway system of the:

(1) location of; and

(2) way to;

the point of highest elevation in Indiana. The commissioner shall determine the design, the number, and the location of the signs required by this subsection.

(c) The location of the point of highest elevation in Indiana shall be indicated on each state highway map prepared by the department.
As added by P.L.113-1993, SEC.1.

IC 8-23-24

Chapter 24. Tree Planting

IC 8-23-24-1

Responsibility for planting trees

Sec. 1. When consistent with public safety and subject to IC 8-23-24.5, the department shall plant trees along the rights-of-way of highways, streets, and roads for which responsibility is assigned to the department.

As added by P.L.90-1991, SEC.1. Amended by P.L.182-2009(ss), SEC.280.

IC 8-23-24-2

Conformance with federal law

Sec. 2. Tree planting must be in conformance with federal law.

As added by P.L.90-1991, SEC.1.

IC 8-23-24-3

Supply, supervision, and management of trees

Sec. 3. The division of forestry of the department of natural resources shall supply the trees for use under this chapter, supervise the planting, and manage the trees with the same responsibility and authority as trees in a state forest.

As added by P.L.90-1991, SEC.1.

IC 8-23-24.5

Chapter 24.5. Planting Grasses and Other Plants for Energy Production

IC 8-23-24.5-1

Purpose

Sec. 1. The intent of this chapter is to encourage the use of highway rights-of-way owned by the state to promote the growth and harvesting of vegetation to be used as fuels and other energy products.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-2

"Highway rights-of-way"

Sec. 2. As used in this chapter, "highway rights-of-way" refer to highway rights-of-way for which responsibility is assigned to the department.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-3

"Vegetation"

Sec. 3. As used in this chapter, "vegetation" refers to grasses or other plants that are suitable for processing into fuels or other energy products. The term does not include grasses or other plants that may be used to feed livestock.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-4

Authorization for vegetation leases

Sec. 4. To the extent permitted by federal law and when consistent with public safety, the department may enter into leases with appropriate persons for the persons to plant, maintain, and harvest vegetation on the highway rights-of-way for use in production of energy.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-5

Required lease provisions

Sec. 5. A lease under this chapter must provide for the following:

(1) The lessee is responsible for planting, maintaining, and harvesting the vegetation at the lessee's cost.

(2) The lessee becomes the owner of the vegetation when harvested.

(3) The harvested vegetation must be used for the production of fuels or other energy products.

(4) The lease must include limitations on the height of any vegetation that is grown.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-6
Allowable lease provisions

Sec. 6. A lease under this chapter may provide for the following:

(1) Any term of the lease that the department considers best to implement the intent of this chapter, but not for more than four (4) years.

(2) For the lease of parcels of sizes that the department considers the best to implement the intent of this chapter.

(3) Any other provisions that the department considers useful to implement the intent of this chapter.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-7
Awarding of leases

Sec. 7. The department shall award a lease under this chapter to the responsive and responsible bidder who submits the highest bid for the particular lease.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-24.5-8
Priority use

Sec. 8. To the extent permitted by federal law, the department shall make the use of highway rights-of-way as provided in this chapter a priority over all other uses.

As added by P.L.182-2009(ss), SEC.281.

IC 8-23-25

Chapter 25. High Speed Rail Development Fund

IC 8-23-25-1

Purpose

Sec. 1. The high speed rail development fund is established for the purpose of promoting and developing high speed rail travel in Indiana.

As added by P.L.83-1991, SEC.3.

IC 8-23-25-2

Administration

Sec. 2. The department shall administer the fund.

As added by P.L.83-1991, SEC.3.

IC 8-23-25-3

Investment of funds

Sec. 3. The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

As added by P.L.83-1991, SEC.3.

IC 8-23-25-4

Disbursements

Sec. 4. Money from the high speed rail development fund may be disbursed to the Interstate Rail Passenger Advisory Council under IC 8-3-19-2.

As added by P.L.83-1991, SEC.3.

IC 8-23-25-5

Reversion of funds

Sec. 5. Money in the fund at the end of a fiscal year does not revert to the state general fund or to the industrial rail service fund.

As added by P.L.83-1991, SEC.3.

IC 8-23-26

Chapter 26. Utility Relocations

IC 8-23-26-1

Application of chapter

Sec. 1. (a) This chapter does not apply to a project let under IC 8-23-11.

(b) This chapter applies only to projects on the state highway system (as defined in IC 8-23-1-40).

As added by P.L.63-1992, SEC.4.

IC 8-23-26-2

Order for relocation

Sec. 2. If the department determines that the location of a utility's facilities will interfere with a planned highway or bridge construction or improvement project, the commissioner may order the utility to relocate the utility's facilities. An order issued under this section may not take effect less than six (6) months after the date the department requests, in writing, that the utility provide a facilities relocation plan.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-3

Notice of order to relocate

Sec. 3. The department shall give notice under IC 4-21.5-3-6 to the utility of the commissioner's order to relocate the utility's facilities.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-4

Appeal of order

Sec. 4. A utility that receives notice of an order under section 3 of this chapter may appeal the order under IC 4-21.5-3 for the following reasons:

(1) The utility disputes the necessity of the relocation.

(2) The utility determines that the utility cannot relocate the utility's facilities for any reason.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-5

Reimbursement of extraordinary costs of relocation

Sec. 5. The department may negotiate an agreement with a utility to reimburse the utility for extraordinary costs of facilities relocation caused by a highway or bridge construction or improvement project or a combination of highway or bridge construction or improvement projects.

As added by P.L.63-1992, SEC.4. Amended by P.L.80-2001, SEC.1.

IC 8-23-26-6
Reimbursements; approval of agreements

Sec. 6. The commissioner must approve an agreement negotiated under section 5 of this chapter.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-7
Reimbursement of costs of unnecessary relocation; conditions

Sec. 7. The department shall reimburse a utility for the costs of an unnecessary relocation of facilities if, after the completion of the relocation of the facilities:

(1) within two (2) years after the completion the department has not let a contract for the highway or bridge construction or improvement; or

(2) the department alters the department's plan of construction for the highway or bridge construction or improvement in a manner that would cause the utility to relocate the utility's facilities for the same highway or bridge construction or improvement project.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-8
Reimbursements for unnecessary relocation; limits; further conditions

Sec. 8. (a) The reimbursement paid under section 7 of this chapter is limited to the cost of relocation (as defined in IC 8-1-9-2) to the utility.

(b) The department may reimburse a utility for an unnecessary relocation under section 7 only if the relocation of the utility's facilities was specifically requested by the department.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-9
Reimbursement for unnecessary relocation; approval

Sec. 9. The commissioner must approve a reimbursement paid under section 7 of this chapter.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-10
Utility customer service facilities; responsibilities for relocation

Sec. 10. If a highway or bridge construction or improvement project requires the relocation of customer service facilities, the utility providing service to the customer is responsible for arranging the relocation of the utility's customer service facilities required to be relocated in accordance with this chapter.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-11

Acquisition of additional right-of-way and relocation of customer service facilities; responsibility for costs

Sec. 11. If a highway or bridge construction or improvement project requires the acquisition of additional right-of-way and the relocation of customer service facilities that existed within the newly acquired right-of-way, the department is responsible for the cost of relocating those customer service facilities.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-12

Highway or bridge construction or improvement projects; relocation of customer service facilities

Sec. 12. The following apply to a highway or bridge construction or improvement project that requires the relocation of customer service facilities located in a highway, street, or road:

(1) If the utility does not own the customer service facilities, the department is responsible for the cost of the relocation of those facilities.

(2) If the utility owns the customer service facilities, the cost of relocation is the responsibility of the utility or the customer, as determined by the operating rules of the utility or by a contract between the utility and the customer.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-13

Facilities relocation plan; failure to relocate customer service facilities

Sec. 13. If a utility does not carry out the utility's responsibilities under section 10 of this chapter within six (6) months after the department has requested, in writing, a facilities relocation plan, the department may cause the relocation of the customer service facilities to occur.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-14

Relocation of customer service facilities; recovery of costs; reimbursements

Sec. 14. (a) If the department causes the relocation of customer service facilities under section 13 of this chapter, the department may recover the costs of the relocation from the utility.

(b) A utility shall reimburse the department for costs that are allowable under section 12(2) of this chapter and that the department determines are not extraordinary costs incurred under section 13 of this chapter upon the presentation of an invoice of the costs from the department.

As added by P.L.63-1992, SEC.4.

IC 8-23-26-15

National system of interstate highways; application; costs of future relocations and adjustments

Sec. 15. (a) This section does not apply to a relocation included in the national system of interstate highways if the placement of the facilities was made solely to cross the highway.

(b) Whenever a utility locates new facilities on a highway included in the national system of interstate highways after June 30, 1991, the utility shall bear the cost of all future relocations and adjustments of the facilities caused by highway or bridge construction or improvements.

As added by P.L.63-1992, SEC.4.

IC 8-23-27
Repealed
(Repealed by P.L.205-2013, SEC.167.)

IC 8-23-28

Chapter 28. River Ridge Commerce Corridor

IC 8-23-28-1

Findings

Sec. 1. The general assembly finds the following:

(1) That the River Ridge Commerce Corridor is vitally important to the well-being and advancement of Indiana.

(2) That the following are adjacent to or located within the corridor:

(A) Charlestown State Park.

(B) The River Ridge Commerce Center, which is one of the largest commercial developments located east of the Mississippi River.

(C) The site of the East End Ohio River Bridge, which will link Charlestown to the eastern suburbs of Louisville, Kentucky, when completed.

(3) That the area within the River Ridge Commerce Corridor will continue to experience significant growth.

(4) That the development of the River Ridge Commerce Corridor should balance public safety, economic development, the environment, quality of life concerns, the enhancement of rail transportation within the corridor, and interstate travel needs.

(5) That the development of the corridor will enhance the operations of the Port of Indiana at Jeffersonville.

As added by P.L.88-2011, SEC.1.

IC 8-23-28-2

"Corporation"

Sec. 2. As used in this chapter, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

As added by P.L.88-2011, SEC.1.

IC 8-23-28-3

River Ridge Commerce Corridor established

Sec. 3. (a) The River Ridge Commerce Corridor is established for the area adjacent to either of the following:

(1) The segment of State Road 62 between:

(A) the point where State Road 62 meets Interstate Highway 265; and

(B) the point where State Road 62 meets State Road 3.

(2) The rail line that is parallel to the segment of State Road 62 described in subdivision (1).

(b) The department may place signs designating State Road 62 as the River Ridge Commerce Corridor at appropriate locations within the corridor, as determined by the department.

As added by P.L.88-2011, SEC.1.

IC 8-23-28-4
Local planning and zoning

Sec. 4. This chapter does not affect local planning and zoning actions taken within the River Ridge Commerce Corridor under IC 36-7.

As added by P.L.88-2011, SEC.1.

IC 8-23-28-5
Assistance from the Indiana department of transportation

Sec. 5. The department may annually provide the local officials having jurisdiction over the territory within the River Ridge Commerce Corridor with traffic studies and any other information relevant to:

(1) developing and promoting the economic development of the corridor; and

(2) maintaining an efficient system of local highways leading to the corridor.

As added by P.L.88-2011, SEC.1.

IC 8-23-28-6
Economic development initiatives

Sec. 6. The corporation shall coordinate state and local economic development initiatives within the River Ridge Commerce Corridor.

As added by P.L.88-2011, SEC.1.

IC 8-23-28-7
Assistance from the office of community and rural affairs

Sec. 7. The office of community and rural affairs established by IC 4-4-9.7-4, with the assistance of the corporation and the department, shall assist the local governments having jurisdiction over the territory within the River Ridge Commerce Corridor in developing local zoning and planning standards for the corridor that balance public safety, economic development, the environment, quality of life concerns, the enhancement of rail transportation within the corridor, and interstate travel needs.

As added by P.L.88-2011, SEC.1.

IC 8-23-29

Chapter 29. Transportation Infrastructure Funding Mechanisms

IC 8-23-29-1

"Study"

Sec. 1. As used in this chapter, "study" refers to the study of transportation infrastructure funding mechanisms that is the subject of the contract described in section 2 of this chapter.

As added by P.L.208-2014, SEC.1.

IC 8-23-29-2

Contract for study

Sec. 2. The department shall contract with a third party to study transportation infrastructure funding mechanisms. The contract must include the following terms:

(1) A description of the funding mechanisms that will be studied. The funding mechanisms must include the following:

(A) An option that is based on variables, including vehicle gross weight and miles traveled.

(B) An option that accounts for variations in usage and degree of damage caused to transportation infrastructure by vehicles of different sizes and configurations.

(C) A flat per vehicle fee.

(D) Adjustments to one (1) or more of the following:

(i) The state gross retail tax on motor fuel imposed under IC 6-2.5-7.

(ii) The gasoline tax imposed under IC 6-6-1.1.

(iii) The special fuel tax imposed under IC 6-6-2.5.

(iv) The motor carrier fuel tax imposed under IC 6-6-4.1, including the surcharge tax imposed under IC 6-6-4.1-4.5.

(E) Tolls.

(F) Any other mechanism the department determines is appropriate.

(2) The duration of the study, which must be an adequate length of time to ensure that a quality and comprehensive analysis of all topics will be thoroughly reviewed, but is not to exceed two (2) years.

(3) An inventory of the transportation infrastructure that will be maintained through revenue generated by the funding mechanisms included in the study. The inventory must include state and local highways, roads, and streets.

(4) The rating system by which the maintenance of the transportation infrastructure will be evaluated.

As added by P.L.208-2014, SEC.1.

IC 8-23-29-3

Requirements of study

Sec. 3. The study must do the following:

(1) Review the literature of similar studies conducted in other jurisdictions.

(2) Determine the costs of maintaining the transportation infrastructure designated in the contract under the rating system designated in the contract.

(3) For each mechanism studied, calculate the per unit amount required to generate revenue sufficient to cover the costs described in subdivision (2).

(4) Identify and discuss the following concerns for each mechanism studied:

(A) Privacy.

(B) Ease of use.

(C) Compliance.

(D) Revenue collection costs.

(5) Evaluate the effects of each funding mechanism on alternative fuel and advanced technology vehicles.

(6) Identify and analyze the technologies supporting each mechanism studied.

As added by P.L.208-2014, SEC.1.

IC 8-23-29-4

Report of results of study

Sec. 4. Not later than July 1 of each year of the study, the department shall provide the results of the study to date to the following:

(1) The legislative council, in an electronic format under IC 5-14-6.

(2) The governor.

As added by P.L.208-2014, SEC.1. Amended by P.L.53-2014, SEC.87.

IC 8-23-29-5

Payment for study

Sec. 5. The department shall pay the amount necessary for the study out of any funds available for the purpose.

As added by P.L.208-2014, SEC.1.

IC 8-23-29-6

Implementation of voluntary pilot program

Sec. 6. Upon conclusion of the study, the department shall consider the appropriateness of implementing a voluntary pilot program based on one (1) or more of the mechanisms included in the study.

As added by P.L.208-2014, SEC.1.

IC 8-23-30

Chapter 30. Local Road and Bridge Matching Grant Fund

IC 8-23-30-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Eligible project" means a project:

(A) that is undertaken by a local unit;

(B) that repairs or increases the capacity of local roads and bridges; and

(C) that is part of the local unit's transportation asset management plan.

(2) "Fund" refers to the local road and bridge matching grant fund established by section 2 of this chapter.

(3) "Local unit" means a county or municipality.

(4) "Transportation asset management plan" includes planning for drainage systems and rights-of-way that affect transportation assets.

As added by P.L.146-2016, SEC.16.

IC 8-23-30-2

Establishment of fund

Sec. 2. (a) The local road and bridge matching grant fund is established to provide matching grants to local units for eligible projects.

(b) The department shall administer the fund.

(c) The fund consists of the following:

(1) Appropriations by the general assembly.

(2) Interest deposited in the fund under subsection (d).

(3) Money deposited in or transferred to the fund from any other source.

(d) The treasurer of state shall invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the fund is continuously appropriated for the purpose of the fund.

As added by P.L.146-2016, SEC.16.

IC 8-23-30-3

Application; eligibility

Sec. 3. A local unit may apply to the department for a grant from the fund for an eligible project if the local unit:

(1) uses a transportation asset management plan approved by the department; and

(2) commits to a local match by using one (1) or more of the

following:

(A) Revenue attributable to an increase, after June 30, 2016, in the local unit's motor vehicle excise surtax or wheel tax rate under IC 6-3.5.

(B) Money received by the local unit as a special distribution of local income taxes under IC 6-3.6-9-17.

(C) Money in the local unit's rainy day fund under IC 36-1-8-5.1.

The application must be in the form and manner prescribed by the department.

As added by P.L.146-2016, SEC.16.

IC 8-23-30-4

Application; local unit contribution

Sec. 4. A local unit's application for a grant from the fund must specify the amount of money that the local unit is committing to contribute to the eligible project.

As added by P.L.146-2016, SEC.16.

IC 8-23-30-5

Priority of projects

Sec. 5. In the evaluation of an application for a grant from the fund, the department shall give preference to projects that are anticipated by the department to have the greatest regional economic significance for the region in which the local unit is located.

As added by P.L.146-2016, SEC.16.

IC 8-23-30-6

Amount of grant

Sec. 6. If the department approves a grant to a local unit under this chapter, the amount of the grant from the fund is equal to the amount that the local unit commits to contribute to the proposed eligible project.

As added by P.L.146-2016, SEC.16.

IC 8-23-30-7

Allocation of grants

Sec. 7. The department shall allocate at least fifty percent (50%) of the grants to be made in a state fiscal year to local units located in counties having a population of less than fifty thousand (50,000).

As added by P.L.146-2016, SEC.16.

IC 8-23-30-8

Authorization to set maximum grant

Sec. 8. The department may adopt guidelines to implement this chapter, including guidelines that establish a maximum amount that any one (1) local unit may receive as a grant.

As added by P.L.146-2016, SEC.16.

IC 8-24

ARTICLE 24. REPEALED

(Repealed by P.L.121-2016, SEC.18.)

IC 8-25

ARTICLE 25. CENTRAL INDIANA PUBLIC TRANSPORTATION PROJECTS

IC 8-25-1

Chapter 1. General Provisions

IC 8-25-1-1

Purpose

Sec. 1. The purpose of this article is to provide a flexible means of planning, designing, acquiring, constructing, enlarging, improving, renovating, maintaining, equipping, financing, operating, and supporting public transportation systems that can be adapted to the unique circumstances existing in central Indiana.

As added by P.L.153-2014, SEC.17.

IC 8-25-1-2

Applicability of definitions

Sec. 2. The definitions in this chapter apply throughout this article.

As added by P.L.153-2014, SEC.17.

IC 8-25-1-3

"Bonds"

Sec. 3. "Bonds" means, except as otherwise provided, bonds, notes, or other evidences of indebtedness. The term includes obligations (as defined in IC 8-9.5-9-3) and swap agreements (as defined in IC 8-9.5-9-4).

As added by P.L.153-2014, SEC.17.

IC 8-25-1-4

"Eligible county"

Sec. 4. "Eligible county" means one (1) or more of the following counties:

(1) Delaware County.
(2) Hamilton County.
(3) Hancock County.
(4) Johnson County.
(5) Madison County.
(6) Marion County.

As added by P.L.153-2014, SEC.17.

IC 8-25-1-5

"Light rail"

Sec. 5. "Light rail" means a streetcar type vehicle railway operated on city streets, semi-private rights-of-way, or exclusive private rights-of-way using step-entry vehicles or level boarding.

As added by P.L.153-2014, SEC.17.

IC 8-25-1-6
"Public transportation project"

Sec. 6. "Public transportation project" refers to an action taken to:

(1) plan;
(2) design;
(3) acquire;
(4) construct;
(5) enlarge;
(6) improve;
(7) renovate;
(8) maintain;
(9) equip; or
(10) operate;

a public transportation system in an eligible county.

As added by P.L.153-2014, SEC.17.

IC 8-25-1-7
"Public transportation agency"

Sec. 7. "Public transportation agency" has the meaning set forth in IC 36-9-1-5.5.

As added by P.L.153-2014, SEC.17.

IC 8-25-1-8
"Public transportation system"

Sec. 8. "Public transportation system" means any common carrier of passengers for hire.

As added by P.L.153-2014, SEC.17.

IC 8-25-2

Chapter 2. Local Public Questions on Central Indiana Public Transportation Projects

IC 8-25-2-1

Ordinance to place a local public question on the ballot

Sec. 1. Except as provided in IC 8-25-4-6, the fiscal body of an eligible county may adopt an ordinance to place on the ballot a local public question granting the fiscal body of the eligible county the authority to fund and carry out a public transportation project. The fiscal body shall include in the ordinance:

(1) a description of the public transportation services that will be provided through the proposed public transportation project; and

(2) an estimate of each tax necessary to annually fund the public transportation project.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-2 Version a

Ordinance certification; ballot language approval

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 2. If the fiscal body of an eligible county adopts an ordinance under section 1 of this chapter, the county auditor shall certify a copy of the ordinance to the department of local government finance, including the language for the question required by section 3, 4, or 5 of this chapter, whichever is applicable to the eligible county. The department shall review the language for compliance with section 3, 4, or 5 of this chapter, whichever is applicable to the eligible county. The department of local government finance may approve or reject the language. The department shall send its decision to the county auditor and the fiscal body of the eligible county not more than ten (10) days after the ordinance is submitted to the department. If the language is approved, the county auditor shall certify a copy of the ordinance, including the language for the question and the department's approval, to the county election board of the eligible county.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-2 Version b

Ordinance certification; ballot language approval

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 2. If the fiscal body of an eligible county adopts an ordinance under section 1 of this chapter, the county auditor shall certify a copy of the ordinance to the department of local government finance, including the language for the question required by section 3 of this chapter, whichever is applicable to the eligible county. The

department shall review the language for compliance with section 3 of this chapter, whichever is applicable to the eligible county. The department of local government finance may approve or reject the language. The department shall send its decision to the county auditor and the fiscal body of the eligible county not more than ten (10) days after the ordinance is submitted to the department. If the language is approved, the county auditor shall certify a copy of the ordinance, including the language for the question and the department's approval, to the county election board of the eligible county.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.85.

IC 8-25-2-3 Version a

Model local public question for Hamilton County and Marion County

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 3. (a) This section applies to Hamilton County and Marion County.

(b) If a fiscal body of an eligible county adopts an ordinance under section 1 of this chapter, the county auditor shall certify the ordinance to the county election board, and the county election board shall place the following question on the election ballot in accordance with IC 3-10-9:

> "Shall _____ County have the ability to impose a county economic development income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?".

As added by P.L.153-2014, SEC.17.

IC 8-25-2-3 Version b

Model local public question

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 3. (a) This section applies to Delaware County, Hamilton County, Hancock County, Johnson County, Madison County, and Marion County.

(b) If a fiscal body of an eligible county adopts an ordinance under section 1 of this chapter, the county auditor shall certify the ordinance to the county election board, and the county election board shall place the following question on the election ballot in accordance with IC 3-10-9:

> "Shall _____ County have the ability to impose a local

income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?".

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.86.

IC 8-25-2-4 Version a

Model public question for Delaware County and Madison County

Note: This version of section effective until 1-1-2017. See also following repeal of this section, effective 1-1-2017.

Sec. 4. (a) This section applies to Delaware County and Madison County.

(b) If a fiscal body of an eligible county adopts an ordinance under section 1 of this chapter, the county auditor shall certify the ordinance to the county election board, and the county election board shall place the following question on the election ballot in accordance with IC 3-10-9:

"Shall _____ County have the ability to impose a county option income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?".

As added by P.L.153-2014, SEC.17.

IC 8-25-2-4 Version b

Repealed

Note: This repeal of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

(As added by P.L.153-2014, SEC.17. Repealed by P.L.197-2016, SEC.87.)

IC 8-25-2-5 Version a

Model public question for Hancock County and Johnson County

Note: This version of section effective until 1-1-2017. See also following repeal of this section, effective 1-1-2017.

Sec. 5. (a) This section applies to Hancock County and Johnson County.

(b) If a fiscal body of an eligible county adopts an ordinance under section 1 of this chapter, the county auditor shall certify the ordinance to the county election board, and the county election board shall place the following question on the election ballot in

accordance with IC 3-10-9:

"Shall _____ County have the ability to impose a county adjusted gross income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), to pay for improving or establishing public transportation service in the county through a public transportation project that _____ (insert the description of the public transportation project set forth in the ordinance authorizing the local public question)?".

As added by P.L.153-2014, SEC.17.

IC 8-25-2-5 Version b
Repealed

Note: This repeal of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

(As added by P.L.153-2014, SEC.17. Repealed by P.L.197-2016, SEC.88.)

IC 8-25-2-6 Version a
Local public question held at the next general election

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 6. Except as provided in section 9 of this chapter, if a county auditor certifies an ordinance under section 3, 4, or 5 of this chapter, the county election board shall place the local public question on the ballot at the next general election for which the question may be certified under IC 3-10-9-3 and for which all voters of the county are entitled to vote.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-6 Version b
Local public question held at the next general election

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 6. Except as provided in section 9 of this chapter, if a county auditor certifies an ordinance under section 3 of this chapter, the county election board shall place the local public question on the ballot at the next general election for which the question may be certified under IC 3-10-9-3 and for which all voters of the county are entitled to vote.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.89.

IC 8-25-2-7
Certification of election results on public question

Sec. 7. After an election on the local public question, the circuit court clerk of the county shall:

(1) make a certified copy of the election returns; and

(2) not later than five (5) days after the election, file the copy with:

(A) the department of state revenue; and

(B) the fiscal body of the county.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-8

Approval or defeat of public question

Sec. 8. The local public question is approved by a county if a majority of the county voters voting on the local public question vote "yes". The local public question is defeated by a county if a majority of the county voters voting on the local public question vote "no".

As added by P.L.153-2014, SEC.17.

IC 8-25-2-9

Effect of a defeated public question

Sec. 9. If the local public question is defeated in a county, the fiscal body may adopt an ordinance under section 1 of this chapter to place another local public question on the ballot as provided in this chapter at a subsequent general election in the county. However, a local public question may not be placed on the ballot under this chapter more than two (2) times in any seven (7) year period.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-10

No moral obligation of the state created

Sec. 10. Nothing in this article creates a moral obligation of the state:

(1) to pay for any transportation project or service or other amounts under this article; or

(2) to pay any bonds issued under this article.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-11

Use of general state tax revenues prohibited; distributions from the public mass transportation fund exempted from the prohibition

Sec. 11. No general tax revenues of the state may be used to pay for a transportation project or service under this article. However, this section does not apply to distributions from the public mass transportation fund.

As added by P.L.153-2014, SEC.17.

IC 8-25-2-12

Conduct of political subdivisions, public officials, and public employees during an election on a public question

Sec. 12. (a) Except as otherwise provided in this section, during the period beginning with the date on which an ordinance is adopted under this chapter to place a local public question on the ballot and

continuing through the day on which the public question is submitted to the voters under this chapter, a political subdivision may not promote a position on the local public question by doing any of the following:

(1) Using facilities or equipment, including mail and messaging systems, owned by the political subdivision to promote a position on the local public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the local public question.

(3) Using an employee to promote a position on the local public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the local public question at any time. However, if a person described in subsection (b) is advocating for or against a position on the local public question or discussing the local public question as authorized under subsection (b), an employee of the political subdivision may assist the person in presenting information on the public question if requested to do so by the person described in subsection (b).

However, this section does not prohibit an official or employee of the political subdivision from carrying out duties with respect to a local public question that are part of the normal and regular conduct of the official's or employee's office or agency, including the furnishing of factual information regarding the local public question in response to inquiries from any person.

(b) Notwithstanding any other law, an elected or appointed official of a political subdivision may:

(1) personally advocate for or against a position on a local public question; or

(2) discuss the public question with any individual, group, or organization or personally advocate for or against a position on a local public question before any individual, group, or organization;

so long as it is not done by using public funds. Advocacy or discussion allowed under this subsection is not considered a use of public funds.

As added by P.L.153-2014, SEC.17.

IC 8-25-3

Chapter 3. Funding for Central Indiana Public Transportation Projects

IC 8-25-3-1 Version a

Funding in Hamilton County and Marion County

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 1. (a) This section applies to Hamilton County and Marion County.

(b) If the voters of an eligible county approve a local public question under IC 8-25-2, the fiscal body of the eligible county may, subject to section 4 of this chapter, adopt an ordinance under IC 6-3.5-7-26(m) to impose an additional county economic development income tax rate as allowed by IC 6-3.5-7-5(o) for the public transportation project.

As added by P.L.153-2014, SEC.17.

IC 8-25-3-1 Version b

County funding

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 1. (a) This section applies to Delaware County, Hamilton County, Hancock County, Johnson County, Madison County, and Marion County.

(b) If the voters of an eligible county approve a local public question under IC 8-25-2, the fiscal body of the eligible county may, subject to section 4 of this chapter, adopt an ordinance under IC 6-3.6-6 to impose an additional local income tax rate as allowed by IC 6-3.6-7-27 for the public transportation project.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.90.

IC 8-25-3-2 Version a

Funding in Delaware County and Madison County

Note: This version of section effective until 1-1-2017. See also following repeal of this section, effective 1-1-2017.

Sec. 2. (a) This section applies to Delaware County and Madison County.

(b) If the voters of an eligible county approve a local public question under IC 8-25-2, the fiscal body of the eligible county may, subject to section 4 of this chapter, adopt an ordinance under IC 6-3.5-6-30(t) to impose an additional county option income tax rate for the public transportation project.

As added by P.L.153-2014, SEC.17.

IC 8-25-3-2 Version b

Repealed

Note: This repeal of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

(As added by P.L.153-2014, SEC.17. Repealed by P.L.197-2016, SEC.91.)

IC 8-25-3-3 Version a
Funding in Hancock County and Johnson County

Note: This version of section effective until 1-1-2017. See also following repeal of this section, effective 1-1-2017.

Sec. 3. (a) This section applies to Hancock County and Johnson County.

(b) If the voters of an eligible county approve a local public question under IC 8-25-2, the fiscal body of the eligible county may, subject to section 4 of this chapter, adopt an ordinance under IC 6-3.5-1.1-24(s) to impose an additional county adjusted gross income tax rate for the public transportation project.

As added by P.L.153-2014, SEC.17.

IC 8-25-3-3 Version b
Repealed

Note: This repeal of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

(As added by P.L.153-2014, SEC.17. Repealed by P.L.197-2016, SEC.92.)

IC 8-25-3-4
Ordinance to impose taxes prohibited unless taxes were described in the enabling ordinance and the public question

Sec. 4. The fiscal body of an eligible county may not adopt an ordinance imposing a tax rate or a tax for a public transportation project unless the tax rate or tax was described in an ordinance adopted under IC 8-25-2-1 and in the local public question on the approval of the public transportation project.

As added by P.L.153-2014, SEC.17.

IC 8-25-3-5 Version a
Minimum and maximum tax rates

Note: This version of section effective until 1-1-2017. See also following repeal of this section, effective 1-1-2017.

Sec. 5. (a) The minimum tax rate for a county adjusted gross income tax, county option income tax, or county economic development income tax that may be imposed to fund a public transportation project is one-tenth percent (0.1%).

(b) The maximum tax rate for a county adjusted gross income tax, county option income tax, or county economic development income tax that may be imposed to fund a public transportation project is twenty-five hundredths percent (0.25%).

As added by P.L.153-2014, SEC.17.

IC 8-25-3-5 Version b
Repealed

Note: This repeal of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

(As added by P.L.153-2014, SEC.17. Repealed by P.L.197-2016, SEC.93.)

IC 8-25-3-6 Version a
Mandatory alternative funding sources

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 6. (a) The following apply to the funding of a public transportation project:

(1) For the first year of operations, an amount must be raised from sources other than taxes and fares that is equal to at least ten percent (10%) of the revenue that the budget agency certifies that the county will receive in that year from a county adjusted gross income tax, county option income tax, or county economic development income tax imposed to fund the public transportation project.

(2) For the second year of operations and each year thereafter, at least ten percent (10%) of the annual operating expenses of the public transportation project must be paid from sources other than taxes and fares. For purposes of this subdivision, operating expenses include only those expenses incurred in the operation of fixed route services that are established or expanded as a result of a public transportation project authorized and funded under this article.

The budget agency shall assist the fiscal body of an eligible county in determining the amount of money that must be raised under subdivision (1).

(b) A county fiscal body or another entity authorized to carry out a public transportation project under IC 8-25-4 shall raise the revenue required by subsection (a) for a particular calendar year before the end of the third quarter of the preceding calendar year. Money raised under this section must be deposited in the county public transportation fund established under section 7 of this chapter.

(c) If a county fiscal body or other entity fails to raise the revenue required by subsection (a) before the deadline specified in subsection (b), the county in which the public transportation project is located is responsible for paying the difference between:

(1) the amount that subsection (a) requires to be raised from sources other than taxes and fares; minus

(2) the amount actually raised from sources other than taxes and fares.

As added by P.L.153-2014, SEC.17.

IC 8-25-3-6 Version b

Mandatory alternative funding sources

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 6. (a) The following apply to the funding of a public transportation project:

(1) For the first year of operations, an amount must be raised from sources other than taxes and fares that is equal to at least ten percent (10%) of the revenue that the budget agency certifies that the county will receive in that year from a local income tax imposed to fund the public transportation project.

(2) For the second year of operations and each year thereafter, at least ten percent (10%) of the annual operating expenses of the public transportation project must be paid from sources other than taxes and fares. For purposes of this subdivision, operating expenses include only those expenses incurred in the operation of fixed route services that are established or expanded as a result of a public transportation project authorized and funded under this article.

The budget agency shall assist the fiscal body of an eligible county in determining the amount of money that must be raised under subdivision (1).

(b) A county fiscal body or another entity authorized to carry out a public transportation project under IC 8-25-4 shall raise the revenue required by subsection (a) for a particular calendar year before the end of the third quarter of the preceding calendar year. Money raised under this section must be deposited in the county public transportation fund established under section 7 of this chapter.

(c) If a county fiscal body or other entity fails to raise the revenue required by subsection (a) before the deadline specified in subsection (b), the county in which the public transportation project is located is responsible for paying the difference between:

(1) the amount that subsection (a) requires to be raised from sources other than taxes and fares; minus

(2) the amount actually raised from sources other than taxes and fares.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.94.

IC 8-25-3-7

County public transportation project fund

Sec. 7. (a) If the fiscal body of an eligible county imposes taxes to fund a public transportation project, the county treasurer of the eligible county shall establish a county public transportation project fund to receive tax revenues collected for the public transportation project. Money received from a foundation established under IC 8-25-7 or IC 8-25-8 may be deposited into the fund.

(b) Money in a fund established under subsection (a) at the end of the eligible county's fiscal year remains in the fund. Interest earned

by the fund must be deposited in the fund.

(c) Money deposited in an eligible county's public transportation project fund may be used only to purchase, establish, operate, repair, or maintain a public transportation project authorized under this article. Money in the fund may be pledged by the fiscal body of the eligible county to the repayment of bonds issued for purposes of a public transportation project authorized under this article.

(d) The fiscal body of an eligible county may, in the manner provided by law, appropriate money from the fund to a public transportation corporation that is authorized to purchase, establish, operate, repair, or maintain the public transportation project if the public transportation project is located, either entirely or partially, within the eligible county.

As added by P.L.153-2014, SEC.17.

IC 8-25-3-8

Purchase of equipment as an operating expense

Sec. 8. For purposes of this chapter, IC 36-9-2-2(b), and IC 36-9-4-58(b), the purchase of equipment or other personal property is considered an operating expense if the equipment or other personal property has a useful life of less than three (3) years.

As added by P.L.153-2014, SEC.17.

IC 8-25-4

Chapter 4. Carrying Out Central Indiana Public Transportation Projects

IC 8-25-4-1

Authorization to carry out a public transportation project

Sec. 1. An eligible county may carry out a public transportation project in accordance with the powers granted to the county by IC 36-9-2 and this article.

As added by P.L.153-2014, SEC.17.

IC 8-25-4-2

Fiscal body authorization of a public transportation corporation to carry out a public transportation project

Sec. 2. The fiscal body of an eligible county may adopt an ordinance authorizing a public transportation corporation to carry out a public transportation project in accordance with the powers granted to the public transportation corporation under IC 36-9-4 and subject to the appropriating power of the fiscal body and any other powers reserved for the fiscal body by this article.

As added by P.L.153-2014, SEC.17.

IC 8-25-4-3

Fiscal body authorization to carry out a public transportation project through an interlocal agreement

Sec. 3. The fiscal body of an eligible county may adopt an ordinance authorizing the executive of the county to enter into an interlocal agreement with the executive of another eligible county to carry out jointly a public transportation project approved by the voters of both counties in local public questions held under this article.

As added by P.L.153-2014, SEC.17.

IC 8-25-4-4

Fiscal body authorization to carry out a public transportation project through a public-private partnership

Sec. 4. The fiscal body of an eligible county may adopt an ordinance authorizing the executive of the county to enter into one (1) or more public-private partnership contracts under which a public transportation project is carried out, in whole or in part, by one (1) or more nongovernmental entities.

As added by P.L.153-2014, SEC.17.

IC 8-25-4-5

Process for entering into a public-private partnership

Sec. 5. If an ordinance authorizing public-private partnership contracts is adopted under section 4 of this chapter, the executive of the eligible county shall issue a request for proposals with respect to

each proposed public-private partnership contract and award each contract under IC 5-22-9.
As added by P.L.153-2014, SEC.17.

IC 8-25-4-6
Eligible counties limited to one public transportation project

Sec. 6. An eligible county may carry out only one (1) public transportation project under this article. The fiscal body of an eligible county may not adopt a subsequent ordinance under IC 8-25-2-1 after a public transportation project is approved by the voters of the county under IC 8-25-2.
As added by P.L.153-2014, SEC.17.

IC 8-25-4-7
Goals for the participation of minority business enterprises, veteran business enterprises, and women's business enterprises

Sec. 7. (a) As used in this section, "minority business enterprise" has the meaning set forth in IC 4-13-16.5-1.

(b) As used in this section, "veteran business enterprise" means a business enterprise that has a current verification as a veteran owned small business concern under 38 CFR 74 et seq. by the Center of Veterans Enterprise of the United States Department of Veterans Affairs.

(c) As used in this section, "women's business enterprise" has the meaning set forth in IC 4-13-16.5-1.3.

(d) Except where 49 CFR 26 applies, the fiscal body of an eligible county or another person authorized to carry out a public transportation project under this chapter shall set a goal for participation by minority business enterprises, veteran business enterprises, and women's business enterprises in conformity with the goals established by the department of minority and women's business development of a consolidated city and the goals of the department of administration established under IC 5-22-14-11 for veteran business enterprises. The goals must be 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.
As added by P.L.153-2014, SEC.17.

IC 8-25-4-8
Services must be provided throughout an eligible county

Sec. 8. If a transportation project is approved in an eligible county, transportation services must be provided through the transportation project throughout the eligible county and must be made available under this article to all citizens of the county.
As added by P.L.153-2014, SEC.17.

IC 8-25-4-9

Prohibition on light rail

Sec. 9. An eligible county may not:

(1) purchase, lease, or otherwise acquire;

(2) construct;

(3) operate;

(4) cause any person to purchase, lease, acquire, construct, or operate; or

(5) expend revenues deposited in the county public transportation project fund established under IC 8-25-3-7 on;

a light rail project.

As added by P.L.153-2014, SEC.17.

IC 8-25-4-10

Carrying out a public transportation project in a township that opts-in

Sec. 10. If a public transportation project is authorized by a local public question held in a township under IC 8-25-6, the fiscal body of the eligible county in which the township is located shall carry out the public transportation project. An eligible county may exercise any power authorized by this chapter in carrying out the public transportation project in the township. Any duty imposed upon an eligible county by this chapter applies with respect to a public transportation project carried out in the township.

As added by P.L.153-2014, SEC.17.

IC 8-25-5

Chapter 5. Bonding for Central Indiana Public Transportation Projects

IC 8-25-5-1

Applicability

Sec. 1. This chapter applies to the issuance of bonds by an eligible county for purposes of a public transportation project authorized under this article.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-2

"Bonds"

Sec. 2. As used in this chapter, "bonds" has the meaning set forth in IC 36-1-2-2.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-3

Bond issues; purposes; notice and hearing

Sec. 3. (a) Upon request of the county executive, the county fiscal body may borrow money and issue bonds in the name of the county in principal amounts and maturities as the fiscal body determines necessary to provide sufficient funds for the purposes specified in this article, including:

(1) the payment of costs of the public transportation project for which bonds are authorized, costs of issuance, or related costs of financing;

(2) the payment of interest on the bonds;

(3) the establishment of reserves to secure the bonds; and

(4) all other expenditures of the county incident to, necessary, and convenient to carry out this chapter.

(b) Before bonds may be issued under this chapter, the county fiscal body shall give notice of a public hearing to disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and other pertinent data. The county fiscal body shall publish in accordance with IC 5-3-1 a notice of the time, place, and general purpose of the hearing.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-4

Ordinance authorizing bonds; method of sale; price

Sec. 4. (a) The bonds must be authorized by ordinance of the fiscal body. The ordinance must provide the following with respect to the bonds:

(1) The original date of the bonds.

(2) The time or times that the bonds mature. However, a bond may not mature more than twenty (20) years after the date it is issued.

(3) The maximum interest rate or rates, including variations of the rates.
(4) The denominations.
(5) The form, either coupon or registered.
(6) The registration privileges.
(7) The medium of payment and the place or places of payment.
(8) The terms of redemption, including redemption before maturity.

(b) Bonds issued under this chapter must be sold under IC 5-1-11, and at a price or prices determined by the county fiscal body in the ordinance.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-5

Optional provisions of ordinance

Sec. 5. An ordinance authorizing the issuance of bonds under this chapter or trust indenture under which the bonds are issued may contain the following provisions:

(1) Pledging revenues of the county to secure the payment of the bonds, subject to section 6 of this chapter and existing agreements with bondholders.
(2) Setting aside reserves or sinking funds and the regulation and disposition of these funds.
(3) Limitations on the purposes to which the proceeds from the sale of bonds may be applied.
(4) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds.
(5) The procedure, if any, by which the terms of a contract with bondholders may be amended or abrogated and the manner in which the consent to the amendment or abrogation may be given.
(6) Vesting in a trustee property, rights, powers, and trust as the county fiscal body determines, and limiting or abrogating the right of the bondholders to appoint a trustee or to limit the rights, powers, and duties of the trustee.
(7) Defining acts or omissions that will constitute a default and the obligations or duties of the county fiscal body to the bondholders and providing for the rights and remedies of the bondholders in the event of default. However, the rights and remedies must not be inconsistent with this chapter or other laws of this state.
(8) A covenant that the fiscal body will not repeal or adversely modify the taxes or sources of revenue that are pledged to secure the payment of the bonds.
(9) Any other matter that affects the security or protection of the bondholders.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-6 Version a
Pledges of revenues, covenants

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4, including revenues from the following sources:

(1) The county adjusted gross income tax in Hancock County or Johnson County.

(2) The county option income tax in Delaware County or Madison County.

(3) The county economic development income tax in Hamilton County or Marion County.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes.

(c) If the county fiscal body has pledged revenues from the county economic development income tax as set forth in subsection (a), the county fiscal body may covenant that the county fiscal body will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county fiscal body may make the covenant by adopting an ordinance.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-6 Version b
Pledges of revenues, covenants

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 6. (a) Except as provided in subsection (b), the county fiscal body may pledge revenues for the payment of principal and interest on the bonds and for other purposes under the ordinance as provided by IC 5-1-14-4, including revenues from the local income tax in Delaware County, Hamilton County, Hancock County, Johnson County, Madison County, or Marion County.

(b) The county fiscal body may not pledge to levy ad valorem property taxes for these purposes.

(c) If the county fiscal body has pledged revenues from the local income tax as set forth in subsection (a), the county fiscal body may covenant that the county fiscal body will not repeal or modify the tax in a manner that would adversely affect owners of outstanding bonds issued under this chapter. The county fiscal body may make the covenant by adopting an ordinance.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.95.

IC 8-25-5-7
Trust indentures

Sec. 7. (a) The bonds may be secured by a trust indenture between

the county and a bank having the power of a trust company or any trust company.

(b) The trust indenture may provide for:

(1) protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law;

(2) covenants setting forth the duties of the county fiscal body in relation to the exercise of its powers and the custody, safekeeping, and application of money related to the bond financing for which the trust indenture exists;

(3) the payment of the proceeds of the bonds and the revenue of the trustee under the trust indenture; and

(4) the method of disbursement of the proceeds of the bonds and the revenue to the trustee, with safeguards and restrictions as the county fiscal body may determine.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-8
Execution and attestation of bonds

Sec. 8. Bonds issued by the county under this chapter must be executed by the manual or facsimile signatures of the executive and attested to by the county auditor.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-9
Use of bond proceeds

Sec. 9. Money received from the bonds issued under this chapter shall be applied solely to the purposes for which the bonds were issued, except as provided in IC 5-1-13 and IC 5-1-14.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-10
Bonds as negotiable instruments; registration

Sec. 10. The bonds are negotiable instruments, subject only to the provisions of the bonds relating to registration.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-11
Tax exemption

Sec. 11. Bonds issued under this chapter are exempt from taxation in Indiana under IC 6-8-5.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-12
Exemption from securities registration laws

Sec. 12. Bonds issued by the county under this chapter are exempt from registration and other requirements of IC 23 and any other securities registration laws.

As added by P.L.153-2014, SEC.17.

IC 8-25-5-13
State covenant not to impair bondholder rights and remedies

Sec. 13. The general assembly pledges to and covenants with the owner of any bonds issued under this chapter that the general assembly will not limit or alter the ability of the county to fulfill the terms of the agreements or pledges made with bondholders or in any way impair the rights or remedies of the bondholders until the bonds and related obligations are fully met and discharged.
As added by P.L.153-2014, SEC.17.

IC 8-25-5-14
Certain procedures for issuance of bonds inapplicable

Sec. 14. IC 6-1.1-20 does not apply to the issuance of bonds under this chapter.
As added by P.L.153-2014, SEC.17.

IC 8-25-5-15
State moral obligation not created

Sec. 15. Bonds issued under this chapter do not create a moral obligation of the state to pay all or part of the debt.
As added by P.L.153-2014, SEC.17.

IC 8-25-6
Chapter 6. Township Opt in

IC 8-25-6-1
Applicability
Sec. 1. This chapter applies to a township located in an eligible county.
As added by P.L.153-2014, SEC.17.

IC 8-25-6-2
Prerequisites for township opt-in
Sec. 2. (a) If:
(1) the fiscal body of the county in which a township is located does not adopt an ordinance under IC 8-25-2-1; and
(2) the township is adjacent to:
(A) an eligible county in which:
(i) a public transportation project has been approved under IC 8-25-2; or
(ii) an ordinance described in IC 8-25-2 has been adopted; or
(B) another township in which:
(i) a public transportation project has been approved under this chapter; or
(ii) a resolution described in this section has already been passed;
the fiscal body of the township may pass a resolution to place on the ballot a local public question on whether the fiscal body of the eligible county should be required to fund and carry out a public transportation project in the township.
(b) The fiscal body of the township shall include in the resolution passed under subsection (a):
(1) a description of the public transportation services that will be provided in the township through the proposed public transportation project; and
(2) an estimate of each tax necessary to annually fund the public transportation project in the township.
As added by P.L.153-2014, SEC.17. Amended by P.L.203-2016, SEC.21.

IC 8-25-6-3 Version a
Township fiscal body resolution requirements
Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.
Sec. 3. If the fiscal body of a township adopts a resolution under section 2 of this chapter, the township trustee shall certify a copy of the resolution to the department of local government finance, including the language for the question required by IC 8-25-2-3, IC 8-25-2-4, or IC 8-25-2-5, whichever is applicable to the eligible

county in which the township is located. The township trustee may modify the proposed local question as necessary to indicate that the local question concerns a public transportation project for the township. The department shall review the language for compliance with section 3, 4, or 5 of this chapter, whichever is applicable to the eligible county, while taking into account any necessary modifications for the township. The department of local government finance may approve or reject the language. The department shall send its decision to the township trustee and the fiscal body of the township not more than ten (10) days after the resolution is submitted to the department. If the language is approved, the township trustee shall certify a copy of the resolution, including the language for the question and the department's approval, to the county election board of the eligible county.
As added by P.L.153-2014, SEC.17.

IC 8-25-6-3 Version b
Township fiscal body resolution requirements

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 3. If the fiscal body of a township adopts a resolution under section 2 of this chapter, the township trustee shall certify a copy of the resolution to the department of local government finance, including the language for the question required by IC 8-25-2-3. The township trustee may modify the proposed local question as necessary to indicate that the local question concerns a public transportation project for the township. The department shall review the language for compliance with section 4 of this chapter, whichever is applicable to the eligible county, while taking into account any necessary modifications for the township. The department of local government finance may approve or reject the language. The department shall send its decision to the township trustee and the fiscal body of the township not more than ten (10) days after the resolution is submitted to the department. If the language is approved, the township trustee shall certify a copy of the resolution, including the language for the question and the department's approval, to the county election board of the eligible county.
As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.96.

IC 8-25-6-4 Version a
Model local public question

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 4. If the county election board of an eligible county receives from a township trustee a certified copy of the resolution adopted under section 2 of this chapter and the approved language for the local public question, the county election board shall place the

following question on the election ballot in accordance with IC 3-10-9:

"Shall _____ County impose a _____ (insert the name of the applicable income tax under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7) tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), on the county taxpayers residing in _____ Township to pay for improving or establishing public transportation service in _____ Township through a public transportation project that _____ (insert the description of the public transportation project set forth in the township resolution authorizing the local public question)?".

As added by P.L.153-2014, SEC.17.

IC 8-25-6-4 Version b
Model local public question

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 4. If the county election board of an eligible county receives from a township trustee a certified copy of the resolution adopted under section 2 of this chapter and the approved language for the local public question, the county election board shall place the following question on the election ballot in accordance with IC 3-10-9:

"Shall _____ County impose a local income tax rate, not to exceed a rate of _____ (insert recommended rate included in the ordinance authorizing the local public question), on the local taxpayers residing in _____ Township to pay for improving or establishing public transportation service in _____ Township through a public transportation project that _____ (insert the description of the public transportation project set forth in the township resolution authorizing the local public question)?".

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.97.

IC 8-25-6-5
Local public question at general election

Sec. 5. If a township trustee certifies a resolution under section 3 of this chapter, the county election board shall place the local public question on the ballot at the next general election for which the question may be certified under IC 3-10-9-3 and for which all voters of the township are entitled to vote.

As added by P.L.153-2014, SEC.17.

IC 8-25-6-6
Certification of election returns

Sec. 6. After an election on the local public question, the circuit court clerk of the eligible county in which the township is located shall:

(1) make a certified copy of the election returns; and

(2) not later than five (5) days after the election, file the copy with:

(A) the department of state revenue;

(B) the fiscal body of the county; and

(C) the fiscal body of the township.

As added by P.L.153-2014, SEC.17.

IC 8-25-6-7

Approval or defeat of local public question

Sec. 7. The local public question is approved by a township if a majority of the township voters voting on the local public question vote "yes". The local public question is defeated by a township if a majority of the township voters voting on the local public question vote "no".

As added by P.L.153-2014, SEC.17.

IC 8-25-6-8

Effect of defeated local public question

Sec. 8. If the local public question is defeated in a township, the fiscal body of the township may adopt a resolution under section 2 of this chapter to place another local public question on the ballot as provided in this chapter at a subsequent general election in the township. However, a local public question may not be placed on the ballot in the township under this chapter more than two (2) times in any seven (7) year period.

As added by P.L.153-2014, SEC.17. Amended by P.L.203-2016, SEC.22.

IC 8-25-6-9

Conduct of political subdivisions, public officials, and public employees during an election on a local public question

Sec. 9. IC 8-25-2-12 applies to a local public question held under this chapter.

As added by P.L.153-2014, SEC.17.

IC 8-25-6-10 Version a

County fiscal body required to impose taxes on county taxpayers residing in a township that opts in to a public transportation project

Note: This version of section amended by P.L.203-2016, SEC.23, effective 3-24-2016. See also following version of this section amended by P.L.197-2016, SEC.98, effective 1-1-2017.

Sec. 10. (a) If the voters of a township described in section 2(a)(2)(A)(i) or 2(a)(2)(B)(i) of this chapter approve a local public

question under this chapter, the fiscal body of the eligible county in which the township is located shall adopt an ordinance under IC 6-3.5-1.1-24(s), IC 6-3.5-6-30(t), or IC 6-3.5-7-26(m), whichever is applicable to the eligible county, to impose an additional county adjusted gross income tax rate, county option income tax rate, or county economic development income tax rate upon the county taxpayers residing in the township for the public transportation project in the township.

(b) This subsection applies if the voters of a township described in section 2(a)(2)(A)(ii) or 2(a)(2)(B)(ii) of this chapter approve a local public question under this chapter and the voters in:

(1) the eligible county described in section 2(a)(2)(A) of this chapter approve a local public question under IC 8-25-2; or

(2) the township described in section 2(a)(2)(B) of this chapter approve a local public question under this chapter.

The fiscal body of the eligible county in which the township is located shall adopt an ordinance under IC 6-3.5-1.1-24(s) (before its repeal on January 1, 2017), IC 6-3.5-6-30(t) (before its repeal on January 1, 2017), IC 6-3.5-7-26(m) (before its repeal on January 1, 2017), or IC 6-3.6-4 (after December 31, 2016), whichever is applicable to the eligible county, to impose an additional county adjusted gross income tax rate, county option income tax rate, county economic development income tax rate, or local income tax rate upon the county taxpayers residing in the township for the public transportation project in the township.

As added by P.L.153-2014, SEC.17. Amended by P.L.203-2016, SEC.23.

IC 8-25-6-10 Version b

County fiscal body required to impose taxes on local taxpayers residing in a township that opts in to a public transportation project

Note: This version of section amended by P.L.197-2016, SEC.98, effective 1-1-2017. See also preceding version of this section amended by P.L.203-2016, SEC.23, effective 3-24-2016.

Sec. 10. If the voters of a township located in an eligible county approve a local public question under this chapter, the fiscal body of the eligible county shall adopt an ordinance under IC 6-3.6-6 to impose an additional local income tax rate, as permitted by IC 6-3.6-7-27, upon the county taxpayers (as defined in IC 8-24-1-10) residing in the township for the public transportation project in the township.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.98.

IC 8-25-6-11 Version a

Minimum and maximum tax rates on county taxpayers residing in the township that opts in

Note: This version of section effective until 1-1-2017. See also following repeal of this section, effective 1-1-2017.

Sec. 11. (a) The minimum tax rate for a county adjusted gross income tax, county option income tax, or county economic development income tax that may be imposed upon the county taxpayers who reside in a township to fund a public transportation project in the township is one-tenth percent (0.1%).

(b) The maximum tax rate for a county adjusted gross income tax, county option income tax, or county economic development income tax that may be imposed upon the county taxpayers who reside in a township to fund a public transportation project in the township is twenty-five hundredths percent (0.25%).

As added by P.L.153-2014, SEC.17.

IC 8-25-6-11 Version b

Repealed

Note: This repeal of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

(As added by P.L.153-2014, SEC.17. Repealed by P.L.197-2016, SEC.99.)

IC 8-25-6-12 Version a

Additional tax rate applies only on the county taxpayers who reside in the township that opts in

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 12. A tax rate imposed under this chapter applies only to the county taxpayers who reside in a township in which the voters approve a local public question held under this chapter.

As added by P.L.153-2014, SEC.17.

IC 8-25-6-12 Version b

Additional tax rate applies only on the county local taxpayers who reside in the township that opts in

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 12. A tax rate imposed under this chapter applies only to the local taxpayers who reside in a township in which the voters approve a local public question held under this chapter.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.100.

IC 8-25-6-13

Alternative funding requirements apply

Sec. 13. IC 8-25-3-6 applies to a public transportation project authorized under this chapter in a township.

As added by P.L.153-2014, SEC.17.

IC 8-25-6-14 Version a

Bonds payable from tax revenue collected from county taxpayers who reside in the township that opts in

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 14. Bonds issued with respect to a public transportation project in the township must be paid from tax revenue collected from county taxpayers who reside in the township.

As added by P.L.153-2014, SEC.17.

IC 8-25-6-14 Version b

Bonds payable from tax revenue collected from county local taxpayers who reside in the township that opts in

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 14. Bonds issued with respect to a public transportation project in the township must be paid from tax revenue collected from local taxpayers who reside in the township.

As added by P.L.153-2014, SEC.17. Amended by P.L.197-2016, SEC.101.

IC 8-25-6-15

Minimum fare box requirements apply

Sec. 15. IC 36-9-2-2(b) and IC 36-9-2-2(c) apply to a public transportation project authorized under this chapter in a township.

As added by P.L.153-2014, SEC.17.

IC 8-25-7

Chapter 7. Public Transportation Foundation in Marion County

IC 8-25-7-1

Applicability

Sec. 1. This chapter applies to Marion County.

As added by P.L.153-2014, SEC.17.

IC 8-25-7-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the board of a public transportation corporation providing public transportation services in Marion County.

As added by P.L.153-2014, SEC.17.

IC 8-25-7-3

Establishment of foundation; purposes

Sec. 3. The board shall establish a foundation that is organized as a nonprofit corporation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code to solicit and accept private funding, gifts, donations, bequests, devises, and contributions to meet the requirements of IC 8-25-3-6(a).

As added by P.L.153-2014, SEC.17.

IC 8-25-7-4

Use of money collected by foundation

Sec. 4. A foundation established under section 3 of this chapter:

(1) shall use money received under section 3 of this chapter to:

(A) fund in part a public transportation project authorized under this article as required by IC 8-25-3-6(a); and

(B) carry out the purposes and programs of the foundation under this chapter; and

(2) may deposit money received under section 3 of this chapter in an account or fund that is:

(A) administered by the foundation; and

(B) not part of the state or county treasury.

As added by P.L.153-2014, SEC.17.

IC 8-25-7-5

Governance of foundation

Sec. 5. The foundation established under section 3 of this chapter is governed by a board of directors consisting of at least seven (7) voting members appointed by the board.

As added by P.L.153-2014, SEC.17.

IC 8-25-7-6

Terms of foundation board members

Sec. 6. The members appointed under section 5 of this chapter shall be appointed for a term of three (3) years but may be removed by the board for cause.
As added by P.L.153-2014, SEC.17.

IC 8-25-7-7
Official action of foundation board by majority vote
Sec. 7. The affirmative votes of a majority of the members of the board of directors are required for the foundation to take any official action.
As added by P.L.153-2014, SEC.17.

IC 8-25-7-8
Necessary agreements authorized
Sec. 8. The fiscal body of Marion County or the board, if authorized to carry out a public transportation project under IC 8-25-4, may enter into any agreement necessary with the foundation to meet the requirements of IC 8-25-3-6(a) and carry out the purposes of this chapter.
As added by P.L.153-2014, SEC.17.

IC 8-25-8

Chapter 8. Public Transportation Foundations in Eligible Counties other than Marion County

IC 8-25-8-1

Applicability

Sec. 1. This chapter applies to an eligible county other than Marion County.

As added by P.L.153-2014, SEC.17.

IC 8-25-8-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the board of commissioners of an eligible county.

As added by P.L.153-2014, SEC.17.

IC 8-25-8-3

Foundation established; purpose

Sec. 3. The board shall establish a foundation that is organized as a nonprofit corporation that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code to solicit and accept private funding, gifts, donations, bequests, devises, and contributions to meet the requirements of IC 8-25-3-6(a).

As added by P.L.153-2014, SEC.17.

IC 8-25-8-4

Use of money collected by foundation

Sec. 4. A foundation established under section 3 of this chapter:

(1) shall use money received under section 3 of this chapter to:

(A) fund in part a public transportation project authorized under this article as required by IC 8-25-3-6(a); and

(B) carry out the purposes and programs of the foundation under this chapter; and

(2) may deposit money received under section 3 of this chapter in an account or fund that is:

(A) administered by the foundation; and

(B) not part of the state or county treasury.

As added by P.L.153-2014, SEC.17.

IC 8-25-8-5

Governance of foundation

Sec. 5. The foundation established under section 3 of this chapter is governed by a board of directors consisting of at least seven (7) voting members appointed by the board.

As added by P.L.153-2014, SEC.17.

IC 8-25-8-6

Terms of foundation board members

Sec. 6. The members appointed under section 5 of this chapter shall be appointed for a term of three (3) years but may be removed by the board for cause.
As added by P.L.153-2014, SEC.17.

IC 8-25-8-7
Official action of foundation by majority vote
Sec. 7. The affirmative votes of a majority of the members of the board of directors are required for the foundation to take any official action.
As added by P.L.153-2014, SEC.17.

IC 8-25-8-8
Necessary agreements authorized
Sec. 8. The fiscal body of an eligible county, the board, or any other entity authorized to carry out a public transportation project under IC 8-25-4 in the eligible county may enter into any agreement necessary with the foundation to meet the requirements of IC 8-25-3-6(a) and carry out the purposes of this chapter.
As added by P.L.153-2014, SEC.17.