IC 5

TITLE 5. STATE AND LOCAL ADMINISTRATION

IC 5-1

ARTICLE 1. BONDS AND OTHER OBLIGATIONS

IC 5-1-1

Chapter 1. Bonds and Other Obligations Legalized

IC 5-1-1-1

Validation

Sec. 1. (a) The following definitions apply throughout this section:

(1) "Agreement" means any agreement that includes terms, representations, or provisions relating to:

(A) credit enhancement of, or rate covenants supporting, any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);

(B) any indenture or provision regarding any indenture relating to any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b);

(C) payment of any bonds, notes, evidences of indebtedness, leases, swap agreements, or other written obligations described in subsection (b) in the event of a termination of the agreement; or

(D) public works, capital improvements, or economic development projects.

(2) "Leasing body" means a not-for-profit corporation, limited purpose corporation, or authority that has leased land and a building or buildings to an entity named in subsection (b) other than another leasing body.

(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4.

(b) All bonds, notes, evidences of indebtedness, swap agreements, agreements, leases, or other written obligations issued or executed by or in the name of any:

(1) state agency, county, township, city, incorporated town, school corporation, state educational institution, political subdivision, joint agency created under IC 8-1-2.2, leasing body, separate body corporate and politic, or any other political, municipal, public or quasi-public corporation;

(2) special assessment or taxing district; or

(3) board, commission, authority, or authorized body of any such entity; and

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness,

leases, swap agreements, agreements, or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of indebtedness, leases, swap agreements, agreements, or other written obligations have been executed before March 15, 2006. All governance, organizational, or other proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, swap agreements, agreements, or other written obligations were issued or executed or the pledge, dedication or designation of revenues, conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

(1) entered into by a joint agency created under IC 8-1-2.2; and

(2) used by the members of the joint agency for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, 2006. All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby legalized and declared valid if entered into before March 15, 2006. All proceedings held and actions taken under which interlocal cooperation agreements were executed or entered into are hereby fully legalized and validated.

(Formerly: Acts 1967, c.90, s.1.) As amended by P.L.44-1983, SEC.1; P.L.17-1987, SEC.4; P.L.2-1989, SEC.2; P.L.19-1994, SEC.1; P.L.34-1997, SEC.1; P.L.47-1998, SEC.1; P.L.89-2000, SEC.1; P.L.184-2006, SEC.1; P.L.2-2007, SEC.64; P.L.3-2008, SEC.16.

IC 5-1-1-2
Repealed

(Repealed by P.L.1-1989, SEC.75.)

IC 5-1-2

Chapter 2. Nonreverting Appropriations

IC 5-1-2-1

Specific projects; lapse

Sec. 1. Appropriations of money from the capital projects fund and proceeds of bonds, notes, and other written obligations issued by or in the name of any:

(1) county, township, city, incorporated town;

(2) school corporation or state educational institution; or

(3) other political, municipal, public or quasi-public corporation, special assessment or taxing district, or any authorized body of that corporation or district;

for a specific project shall not lapse at the end of the year in which the appropriation was made, but shall remain in full force and effect without reappropriation until the purpose for which the appropriation was made has been accomplished or abandoned.

(Formerly: Acts 1967, c.150, s.1.) As amended by P.L.47-1989, SEC.1; P.L.41-1993, SEC.2; P.L.2-2007, SEC.65.

IC 5-1-3

Chapter 3. Facsimile Signatures on Obligations

IC 5-1-3-1

Definitions

Sec. 1. For the purposes of this chapter:

(a) "Public entity" shall include any political subdivision as defined by IC 36-1-2, state commission, state authority, and all other public bodies corporate and politic.

(b) "Obligations" shall include any bond, note, warrant, or other obligation.

(Formerly: Acts 1971, P.L.40, SEC.1.) As amended by Acts 1981, P.L.11, SEC.13.

IC 5-1-3-2

Facsimile signature

Sec. 2. (a) Whenever any existing statute requires the manual execution, attesting or authentication of any obligation issued by any public entity named in IC 5-1-1-1 by one (1) or more officials or persons, facsimile signatures of such officials or persons may be used instead of and with the same force and effect as manually executing such obligations. One (1) signature on the obligation shall be manual and may be either the signature of one (1) of the officials or persons or of any trustee, paying agent, registrar, co-registrar, transfer agent, or other fiduciary charged with authenticating the obligations.

(b) Any obligation executed by the facsimile signature of officials or persons is valid and binding, if the officials or persons satisfied the provisions of the statute under which the obligation is issued on the date that the signature was printed on the obligation, even if the obligation is delivered after the official or person whose facsimile signature appears thereon no longer satisfies the provisions of the statute.

(Formerly: Acts 1971, P.L.40, SEC.1.) As amended by P.L.44-1983, SEC.2.

IC 5-1-3-3

Interest coupons; signatures

Sec. 3. These provisions shall not be construed to require manual signing of any interest coupons and signatures on interest coupons may all be facsimile signatures.

(Formerly: Acts 1971, P.L.40, SEC.1.)

IC 5-1-4

Chapter 4. Hospital Bonding Authorities

IC 5-1-4-1

Declaration of policy

Sec. 1. Declaration of Policy. It is declared that for the benefit of the people of the state, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that hospitals within the state be provided with appropriate additional means to expand, enlarge and establish health care, hospital and other related facilities; and that it is the purpose of this chapter to provide a measure of assistance and alternative methods to enable hospitals within this state to refund or refinance outstanding indebtedness incurred for the facilities and to provide additional facilities and structures which are required to accomplish the purposes of this chapter, all to the public benefit and good, to the extent and manner provided herein.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1; Acts 1975, P.L.35, SEC.1.)

IC 5-1-4-2

Short title

Sec. 2. Short title. This chapter may be referred to and cited as the "Indiana Hospital Authority Act."

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-3

Definitions

Sec. 3. As used in this chapter, the following words and terms shall have the following meanings unless the context indicates another or different meaning or intent:

(a) "Authority" means a hospital authority created by IC 5-1-4-4 or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon such authority by this chapter shall be given by law.

(b) "Project" means a structure or addition to an existing structure which is suitable for use as a hospital, clinic, laboratory, laundry, nurses' or interns' residence, administration building, research facility, or maintenance, storage, or utility facility, and other structures or facilities related thereto or required or useful for the operation of the project, including the site thereof; parking and other facilities or structures essential or convenient for the orderly operation of such project, or equipment, machinery, and other similar items necessary or convenient for the operation of the project in the manner for which its use is intended, but not such items as fuel, supplies, or other items which customarily result in a current operating charge. "Project" also means:

(1) the construction of a part or portion of a building;

(2) the acquisition and remodeling of an existing building; or

(3) the acquisition of existing facilities of a participating hospital in connection with the refunding or refinancing of outstanding obligations, mortgages, or advances issued, made, or given by such participating hospital whenever the authority finds that such refunding or refinancing is in the public interest and either:

(A) alleviates a financial hardship upon the participating hospital;

(B) results in a lesser cost of patient care and a saving to third parties and others who must pay for such care; or

(C) enables the participating hospital to offer greater security for the financing of a new project or projects or to effect savings in interest costs or more favorable amortization terms.

(c) "Cost" as applied to a project or any portion thereof financed under this chapter means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; 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; the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period after completion of such construction; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues; administrative expenses; expenses necessary or incident to determining the feasibility or practicability of constructing the project; and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition, and the placing of the project in operation.

(d) "Bonds" means bonds of the authority issued under this chapter, including refunding bonds, notwithstanding that the same may be secured by the full faith and credit of a participating hospital or any other lawfully pledged security of a participating hospital.

(e) "Participating hospital" means a:

(1) nonprofit corporation which is organized under the laws of this state or which is admitted to transact business in this state as a foreign corporation; or

(2) hospital organized and existing under IC 16-24-1;

which either operates or proposes to operate a project or undertakes the refunding of all or part of its outstanding indebtedness as authorized by this chapter, or both.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1; Acts 1975, P.L.35, SEC.2.) As amended by Acts 1980, P.L.23, SEC.1;

P.L.26-1986, SEC.1; P.L.2-1993, SEC.39.

IC 5-1-4-4
Creation of authority

Sec. 4. (a) The legislative body of any county, second or third class city, or town in which is located one (1) or more participating hospitals, upon request in writing by the board of trustees or other governing board of any such participating hospital, may adopt a resolution for the creation of an authority under this chapter.

(b) Upon the adoption of the resolution, there is created an authority which shall be a body corporate and politic for the purpose of financing, acquiring, constructing, equipping, and leasing a project or projects to participating hospitals located in the county, city, or town or refunding outstanding indebtedness of participating hospitals located in the county, city, or town as authorized by this chapter, or both.

(c) If the authority is created by a resolution of the legislative body of a county, it shall be known as the "Hospital Authority of _____ County" (include the name of the county).

(d) If the authority is created by resolution of the legislative body of a second or third class city or town, it shall be known as the "Hospital Authority of _____" (include the name of the city or town).

(e) The county auditor, the city clerk, or the town clerk-treasurer, as the case may be, shall file a certified copy of the resolution with the executive of the county, city, or town, as the case may be, in which the authority is created.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1; Acts 1975, P.L.35, SEC.3.) As amended by Acts 1980, P.L.23, SEC.2; Acts 1981, P.L.44, SEC.1; Acts 1982, P.L.30, SEC.1; P.L.40-1985, SEC.1; P.L.8-1989, SEC.14.

IC 5-1-4-5
Organization of authority; directors

Sec. 5. (a) Within sixty (60) days from the filing of the certified copy of the resolution in accordance with section 4 of this chapter, the board of commissioners of the county or the executive of the city or town shall appoint five (5) residents of the county, city, or town, as the case may be, as directors of the authority.

(b) Each appointment shall be evidenced by a written certificate of appointment signed by the appointing authority who shall cause a written notice to be sent to each appointee. One (1) director shall be appointed for a term of one (1) year, one (1) director for a term of two (2) years, one (1) director for a term of three (3) years, and two (2) directors for a term of four (4) years. At the expiration of the respective terms of the directors, the appointing authority shall appoint successors for four (4) year terms.

(c) Each director shall serve as such until the director's successor

is appointed and qualified. In the event that any director shall die, resign, cease to be a resident of the county, city, or town, as the case may be, or be removed, the appointing authority shall appoint another person as director for the remainder of such term. If any person appointed as a director shall fail to qualify within ten (10) days after the mailing to the appointee of notice of the appointment, the appointing authority shall appoint another person as director for the term.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by Acts 1982, P.L.30, SEC.2; P.L.7-1983, SEC.6; P.L.40-1985, SEC.2; P.L.8-1989, SEC.15; P.L.4-1991, SEC.134.

IC 5-1-4-6
Oath of office

Sec. 6. Oath of Office. Each director, before entering upon his duties shall take and subscribe an oath of office in usual form to be endorsed upon his certificate of appointment, which shall be filed with the clerk of the circuit court.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-7
Removal from office

Sec. 7. Any director may be removed from office for neglect of duty, incompetency, disability to perform the director's duties, or any other good cause, by an order of the circuit court, superior court, or probate court in the county in which such authority is located, subject to the following procedure: a complaint may be filed by any person against such director, setting forth the charges preferred; 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. A change of venue from the judge shall be granted upon motion but no change of venue from the county may be taken.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.84-2016, SEC.18.

IC 5-1-4-8
Meetings; selection of officers; bylaws

Sec. 8. The directors originally appointed shall meet within thirty (30) days after their appointment, at a time and place designated by the board of county commissioners, for the purpose of organization. The directors shall elect the following officers from among their members: president, vice president, secretary, and treasurer, who shall perform the duties usually pertaining to those offices. Such officers shall serve until the expiration of the first term to expire and the directors shall meet annually to reorganize within thirty (30) days after the appointment of each successor director for a full term. The directors are authorized to adopt such bylaws, rules and regulations

as they may deem necessary to the proper conduct of their proceedings, the carrying out of their duties, and the safeguarding of the funds and property of the authority. In addition to such meetings as above provided, other regular and special meetings shall be held at such times as they may determine and upon such notice as they may fix, either by resolution or in accordance with the provisions of the bylaws, rules and regulations adopted. A majority of the directors shall constitute a quorum and the concurrence of a majority shall be necessary to authorize any action. Directors shall serve without pay but shall be entitled to reimbursement for any expenses necessarily incurred in the performance of their duties.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.7-1983, SEC.7.

IC 5-1-4-9
Pecuniary interest of directors; transaction void

Sec. 9. Pecuniary Interest of Director - Transaction Void. No director shall have any pecuniary interest in any contract, employment, purchase or sale made under the provisions of this chapter, and any transaction made in which any director has a pecuniary interest shall be void.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-10
Powers of authority

Sec. 10. Powers of Authority. The purpose of each authority shall be to assist participating hospitals in the constructing, financing and refinancing of projects, and for this purpose each authority is authorized and empowered:

(a) to have perpetual succession as a body politic and corporate and to adopt by-laws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at its pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, and plead and be impleaded;

(e) to determine the location and character of any project to be financed under the provisions of this chapter, and to construct, reconstruct, renovate, replace, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating hospital as its agent to determine the location and character of a project undertaken by such participating hospital under the provisions of this chapter and as the agent of the authority, to construct, reconstruct, renovate, replace, maintain, repair, operate, lease, as lessee or lessor, and regulate the same, and as the agent of the authority, to enter into

contracts for any or all of such purposes, including contracts for the management and operation of such project;

(f) to issue bonds and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this chapter;

(g) generally, to fix and revise from time to time and charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and to contract with any person, partnership, association, limited liability company, or corporation or other body public or private in respect thereof, including a contract with or the granting of an option to the lessee to purchase the project for such price and on such conditions as the authority in its sole discretion determines to be appropriate, after retirement or redemption, or provision therefor, of all the bonds issued to provide funds for the project;

(h) to establish rules and regulations for the use of a project or any portion thereof and to designate a participating hospital as its agent to establish rules and regulations for the use of a project undertaken by such participating hospital;

(i) to employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(j) to receive and accept from any public agency loans or grants for or in aid of the construction of a project or any portion thereof, and to receive and accept loans, grants, 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 loans, grants, aid and contributions are made;

(k) to mortgage all or any portion of any project and any other facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness of a participating hospital as permitted by this chapter;

(l) to make loans to any participating hospital for the cost of any project in accordance with an agreement between the authority and such participating hospital provided that no such loan shall exceed the total cost of such project as determined by such participating hospital and approved by the authority;

(m) to make loans to a participating hospital to refund outstanding obligations, mortgages, or advances issued, made, or given by such participating hospital for the cost of its facility or facilities, including the power to issue bonds and make loans to a participating hospital to refinance indebtedness incurred for facilities undertaken and prior thereto whenever the authority finds that such financing is in the public interest, and either: (1) alleviates a financial hardship upon the

participating hospital; (2) results in a lesser cost of patient care and a saving to third parties, including state or federal governments, and to others who must pay for such care; or (3) enables the participating hospital to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms;

(n) to charge to and equitably apportion among participating hospitals its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter; and

(o) to do all things necessary or convenient to carry out the purposes of this chapter.

In carrying out the purposes of this chapter, the authority may undertake a project for two or more participating hospitals jointly, or for any combination thereof, and thereupon, all other provisions of this chapter shall apply to and for the benefit of the authority and such joint participants.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1; Acts 1975, P.L.35, SEC.4.) As amended by P.L.8-1993, SEC.44.

IC 5-1-4-11
Payment of expenses

Sec. 11. Payment of Expenses. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the provisions of this chapter and no liability or obligation shall be incurred by an Authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this chapter, or otherwise appropriated by law to such Authority.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-12
Acquisition of property

Sec. 12. Acquisition of Property by Authority. Any authority is authorized and empowered, directly or by and through a participating hospital, as its agent, to acquire by purchase or by gift or devise such lands, structures, property, real or personal, rights, rights-of-way, franchises, easements and other interests in lands, including lands lying under water and riparian rights, and including existing facilities of a participating hospital as it may deem necessary or convenient for the construction, acquisition or operation of a project, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of such Authority or in the name of a participating hospital as its agent.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1; Acts 1975, P.L.35, SEC.5.)

IC 5-1-4-13

Bonds

Sec. 13. (a) Each authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds for the purpose of paying all or any part of the cost of a project.

(b) The principal of and the interest on such bond shall be payable solely out of the revenues of such authority derived from the project to which they relate.

(c) The bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding fifty (50) years from the date thereof, all as may be determined by the authority, and may 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 in the authorizing resolution.

(d) The authority 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.

(e) The bonds shall be signed in the name of the authority, by the president or vice president, or by the facsimile signature of such president or vice president, and the official seal of the authority, or facsimile thereof, shall be affixed thereto and attested by the secretary of the authority; and any coupons attached thereto shall bear the facsimile signature of the treasurer of the authority.

(f) 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.

(g) All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the law of the state of Indiana.

(h) The bonds may be issued in coupon or in registered form, or both, as the authority 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.

(i) The bonds may be sold in such manner, either at public or private sale as the authority may determine; and neither the provisions of IC 5-1-11 nor IC 21-32-3 shall be applicable to such sale.

(j) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same.

(k) 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.

(l) If the proceeds of the bonds of any issue shall exceed the cost of the project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

(m) Prior to the preparation of definitive bonds, an 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.

(n) An authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(o) Bonds may be issued under the provisions of this chapter 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.

(p) An authority shall have power out of any funds available therefor to purchase its bonds.

(q) An authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements, if any, with bondholders.

(r) Neither the members of an authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by Acts 1981, P.L.11, SEC.14; P.L.2-2007, SEC.66.

IC 5-1-4-14

Bond resolutions

Sec. 14. Bonds Resolution. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to: (1) pledging or assigning the revenues of the project with respect to which such bonds are to be issued; (2) the rentals, fees and other amounts to be charged, and the amounts to be raised in each year thereby, and the use and disposition of such amounts; (3) the setting aside of reserves or sinking funds, and the regulation, investment and disposition thereof; (4) limitations on the use of the project; (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds

to secure the payment of the bonds or any issue of the bonds; (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds; (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; (8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of an Authority; (9) defining the acts or omissions to act which shall constitute a default in the duties of an Authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; (10) the mortgaging of a project and the site thereof for the purpose of securing the bondholders; and (11) any other matters relating to the bonds which an Authority deems desirable.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-15
Trust agreement to secure bonds

Sec. 15. Trust Agreement to Secure Bonds. In the discretion of any Authority any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between such Authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Any pledge or assignment made by an Authority 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 such Authority 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 Authority 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 in any public records in order to perfect lien thereof as against third parties except that a copy thereof shall be filed in the records of the Authority. Such trust agreement or 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 particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of an Authority authorizing bonds thereof. Any bank or trust company incorporated under the laws of this state which may act as depository of the proceeds of

bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by an Authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-15.5
Loans to participating hospitals

Sec. 15.5. Loans to Participating Hospitals. Notwithstanding any other provision of this chapter to the contrary, the authority may finance the cost of a project or refund outstanding indebtedness of a participating hospital as authorized by section 10(m) of this chapter by issuing its bonds for the purpose of purchasing the securities of a participating hospital. Any such securities shall have the same principal amounts, maturities and interest rates as the bonds so being issued, may be secured by a first mortgage lien, subject to such exceptions as the authority may approve and created by a mortgage instrument satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be secured by a pledge of such securities under the trust agreement or indenture creating such bonds, shall be payable solely out of the payments to be made on such securities and shall not exceed in principal amount the cost of such project or the refunding of such indebtedness as determined by the participating hospital and approved by the authority. In other respects any such bonds shall be subject to the provisions of this chapter including sections 13 and 14 and the trust agreement or indenture creating such bonds may contain such of the provisions set forth in section 15 hereof as the authority may consider appropriate.

In the event that a project is financed pursuant to this section, the title to such project shall remain in the participating hospital owning the same, subject to the lien of the mortgage securing the securities then being purchased, and there shall be no lease of such facility between the authority and such participating hospital.
(Formerly: Acts 1975, P.L.35, SEC.6.)

IC 5-1-4-16
Refunding bonds

Sec. 16. An Authority is hereby authorized to provide by resolution for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued by it 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, if deemed advisable by such Authority, for the additional purpose of constructing improvements, extensions or enlargements of the project in connection with which the bonds to be refunded shall have been issued. Such refunding bonds shall be payable solely out of the revenues of the project (including any such improvements, extensions or enlargements thereto) to which the bonds being refunded relate. 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 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-17
Payment of bonds

Sec. 17. Payment of Bonds. 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 herein, 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 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 the provisions of 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 any Authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-18
Rents and charges

Sec. 18. Rents and Charges. Each Authority shall fix, revise, charge and collect rents for the use of each project and contract with any participating hospital, in respect thereof. Each lease entered into by an Authority with a participating hospital shall provide that the rents payable by the participating hospital shall be sufficient at all times (a) to pay its share of the administrative costs and expenses of such Authority, (b) to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, (c) to pay the principal of, the premium, if any, and the interest on outstanding bonds of the Authority issued in respect of such project as the same

shall become due and payable, and (d) to create and maintain reserves which may but need not be required or provided for in the bond resolution or trust agreement relating to such bonds of the Authority.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-19
Bond proceeds and revenues

Sec. 19. (a) All money received by an authority or held by a trustee under section 15 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 determined by the authority. Such funds shall be deposited, held, and secured in accordance with the general laws of the state relating to the handling of public funds.

(b) 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, such money shall be entrusted shall act as trustee 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.

(c) The handling and expenditure of funds coming into the possession of an authority shall be subject to audit and supervision by the state board of accounts. The cost of such audit may be treated as an expense of operation.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.43-1987, SEC.1.

IC 5-1-4-20
Enforcement of rights and duties

Sec. 20. Enforcement of Rights and Duties. 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 given 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 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 an Authority or by any officer, employee or agent thereof, including the fixing, charging and collecting of rates, rents, fees and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established and collected.

Such rights include the right to compel the performance of all duties of an Authority required by this chapter or the bond resolution

or trust agreement; to enjoin unlawful activities; and in the event of default with respect to the payment of any principal of, premium, if any, and interest on any bond or in the performance of any convenant or agreement on the part of an Authority in the bond resolution, to apply to a court having jurisdiction of the cause to appoint a receiver to administer and operate the project, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on such bonds, (with full power to pay and to provide for payment of, principal of, premium, if any, and interest on such bonds), and with such powers, subject to the direction of the court, as are permitted by law and are accorded receivers in general equity cases, excluding any power to pledge additional revenues of an Authority to the payment of such principal, premium and interest; and to foreclose the mortgage on the project in the same manner as for real estate of private corporations.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-21
Repealed
(Repealed by P.L.4-1988, SEC.5.)

IC 5-1-4-22
Interest in contracts
Sec. 22. A member, agent, or employee of an Authority who knowingly is interested in any contract with the Authority or in the sale of any property to the Authority commits a Class A misdemeanor. Such contracts are void. This section does not apply to contracts for purchases of property between an Authority and other departments, municipalities, or subdivisions of state government.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by Acts 1978, P.L.2, SEC.501.

IC 5-1-4-23
Liberal construction
Sec. 23. Liberal Construction. This chapter being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-4-24
Legal investments
Sec. 24. Legal Investments. Revenue bonds issued by an Authority 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, guaranty 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.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.42-1993, SEC.1.

IC 5-1-4-25
Repealed
(Repealed by P.L.4-1988, SEC.5.)

IC 5-1-4-26
Tax exemption
Sec. 26. 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 a project by an authority or its agent will constitute the performance of essential governmental functions, such authority shall not be required to pay any taxes or assessments upon or in respect of a project or any property acquired or used by such authority 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.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.21-1990, SEC.3; P.L.254-1997(ss), SEC.4.

IC 5-1-4-27
Pledge by state to bondholders and contractors
Sec. 27. Pledge by State to Bondholders and Contractors. The State of Indiana does hereby pledge to and agree with the holders of any obligations issued under this chapter, and with those parties who may enter into contracts with an Authority pursuant to the provisions of this chapter, that the state will not limit or alter the rights hereby vested in such Authority until such obligations, together with the

interest thereon, are fully met and discharged and such contracts are fully performed on the part of such Authority, provided nothing herein contained shall preclude such limitation or alteration if and when adequate provisions shall be made by law for the protection of the holders of such obligations of such Authority or those entering into such contracts with such Authority. An Authority as agent for the state is authorized to include this pledge and undertaking for the state in such obligations or contracts.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.2-1995, SEC.12.

IC 5-1-4-28
Supplemental effect

Sec. 28. (a) This chapter provides a complete, additional, and alternative method for the doing of the things authorized in this chapter and is supplemental and additional to powers conferred by other laws.

(b) The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. In the construction and acquisition of a project under this chapter, an authority need not comply with:

(1) IC 5-17-1; or

(2) any competitive bidding law or other restrictions imposed on the procedure for award of contracts for the construction and equipment of a project or the lease, sale, or disposition of property of an authority.

(c) If the prospective lessee requests in writing, an authority shall call for construction bids in the manner as determined by the authority with the approval of the lessee.

(d) Except as otherwise expressly provided in this chapter, none of the powers granted to an authority under this chapter shall be subject to the supervision or regulation or require the approval or consent of any political subdivision, commission, board, body, bureau, official, or agency of a political subdivision or the state.

(e) This subsection applies if the authority disposes of real property or awards a contract for the procurement of property by acceptance of bids, proposals, or quotations. 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.

(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.) As amended by P.L.3-1989, SEC.26; P.L.336-1989(ss), SEC.13.

IC 5-1-4-29
Conflicting laws

Sec. 29. Act Controlling Over Inconsistent Law. To the extent that the provisions of this chapter are inconsistent with the provisions of

any general statute or special act or parts thereof, the provisions of this chapter shall be deemed controlling.
(Formerly: Acts 1971, P.L.41, SEC.1; Acts 1972, P.L.10, SEC.1.)

IC 5-1-5

Chapter 5. Refunding Bonds Generally

IC 5-1-5-1

Definitions

Sec. 1. The following terms as used in this chapter have the following meanings:

(a) "Governing body" means the council, commission, board of commissioners, board of directors, board of trustees, or other legislative body in which the legislative powers of the issuing body are vested.

(b) "Issuing body" means the state of Indiana, its agencies, commissions, universities, colleges, institutions, political subdivisions, counties, school corporations, hospital associations, municipal and quasi-municipal corporations, special taxing districts, and any corporation which has issued bonds payable directly or indirectly from lease rentals payable by any of the foregoing issuing bodies, now or hereafter existing under the laws of the state.

(c) "Bond" means any revenue bond, general obligation bond, or advance refunding bond.

(d) "Revenue bond" means any bond note, warrant, certificate of indebtedness, or other obligation, including a certificate or other evidence of participation in the lessor's interest in and rights under a lease, for the payment of money issued by an issuing body or any predecessor of any issuing body which is payable from designated revenues, rental payments, special benefits, taxes, or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional debt limitation and any obligation payable solely from special assessments or special assessments and a guaranty fund.

(e) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of an issuing body which constitutes an indebtedness within the meaning of the constitutional debt limitation.

(f) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first subject to redemption or maturing after the date of the advance refunding bonds.

(g) "Ordinance" means an ordinance of a city or town or resolution or other instrument by which the governing body of the issuing body exercising any power hereunder takes formal action and adopts legislative provisions and matters of some permanency.

(h) "Corporation which has issued bonds" means a corporation organized under IC 20-47-2 or IC 20-47-3, the laws of any state of the United States of America or of the United States of America, including any bank, trust company, or national association serving as a trustee under an indenture providing for issuance of bonds.

(i) "Local issuing body" means an issuing body that is:

(1) a political subdivision (as defined in IC 36-1-2-13);

(2) a district (as defined in IC 6-1.1-21.2-5); or
(3) a corporation or other entity that:
(A) is not a body corporate and politic established as an instrumentality of the state; and
(B) has issued bonds that are payable directly or indirectly from lease rentals payable by a political subdivision or district described in subdivision (1) or (2).

(j) "Special benefit taxes" means a special tax levied and collected on an ad valorem basis on property for the purpose of financing local public improvements that:
(1) are not political or governmental in nature; and
(2) are of special benefit to the residents and property of the area.

(k) "Tax increment revenues" means an allocation of:
(1) ad valorem property taxes;
(2) state or local adjusted gross income taxes; or
(3) state or local gross retail and use taxes;
to a redevelopment district that is based on an increase in the assessed value, wages, sales, or other economic activity occurring in a designated area. The term includes allocations described in IC 5-28-26-9, IC 6-1.1-21.2-10, IC 36-7-26-10, IC 36-7-27-8, IC 36-7-31-6, and IC 36-7-31.3-4.

(l) "Redevelopment district" refers to the following:
(1) An airport development zone under IC 8-22-3.5.
(2) A redevelopment district established under:
(A) IC 36-7-14; or
(B) IC 36-7-15.1.
(3) A special taxing district described in:
(A) IC 36-7-14.5-12.5(d); or
(B) IC 36-7-30-3(b).
(4) Another public entity to which tax increment revenues are allocated.

(m) Words used in this chapter importing singular or plural number may be construed so that one (1) number includes both.
(Formerly: Acts 1973, P.L.28, SEC.1; Acts 1975, P.L.36, SEC.1.) As amended by P.L.2-2006, SEC.8; P.L.146-2008, SEC.23.

IC 5-1-5-2
Issuance of bonds to refund outstanding bonds

Sec. 2. (a) The governing body of any issuing body may by ordinance provide for the issuance of bonds to refund outstanding bonds issued at any time by such issuing body or its predecessor, and to pay redemption premiums and costs of refunding to effect a saving to the issuing body. Issuance of bonds to refund outstanding bonds may also be made in order to pay or discharge all or any part of such outstanding series or issue of bond, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available or to modify restrictive covenants in outstanding bonds

impeding additional financing. To determine whether or not a savings will be effected, consideration shall be given to the estimated or known interest payable to the fixed maturities of the refunding bonds, the interest payable on the bonds to be refunded, the costs of issuance of the refunding bonds, including any sale discount, the redemption premiums, if any, to be paid, and the probable earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded.

(b) The provisions of subsection (a) requiring a savings to be effected do not apply to:

(1) the issuance of bonds to refund previously issued refunding bonds, if the statute under which the refunding bonds are issued expressly exempts such an issue from this savings requirement; or

(2) the issuance of refunding bonds by a school corporation that is an eligible school corporation under section 2.5 of this chapter.

(Formerly: Acts 1973, P.L.28, SEC.1.) As amended by Acts 1982, P.L.28, SEC.2; P.L.23-1984, SEC.1; P.L.229-2011, SEC.62.

IC 5-1-5-2.5

Refunding bonds; eligible school corporations; procedures

Sec. 2.5. (a) As used in this section, "eligible school corporation" means a school corporation (as defined in IC 36-1-2-17) that satisfies all the conditions required by this section.

(b) As used in this section, "increment" means the annual difference between:

(1) the annual debt service payment for the bonds proposed to be retired or refunded; and

(2) the annual debt service payment for the proposed refunding bonds;

for each year that the bonds that are being retired or refunded would have been outstanding.

(c) In order for a school corporation to be an eligible school corporation under this section, the school corporation must determine that the percentage computed under this subsection for the school corporation is at least twenty percent (20%), regarding the year for which the latest certified levies have been determined. A school corporation shall compute its percentage as follows:

(1) Compute the amount of credits granted under IC 6-1.1-20.6 against the school corporation's combined levy for the school corporation's:

(A) debt service fund, as described in IC 20-46-7-15;

(B) capital projects fund;

(C) transportation fund;

(D) school bus replacement fund; and

(E) racial balance fund.

(2) Compute the school corporation's combined levy for the

school corporation's:

(A) capital projects fund;

(B) transportation fund;

(C) school bus replacement fund; and

(D) racial balance fund.

(3) Divide the amount computed under subdivision (1) by the amount computed under subdivision (2) and express it as a percentage.

A school corporation that desires to be an eligible school corporation under this section must submit a written request for a certification by the department of local government finance that the computation of the school corporation's percentage computed under this subsection is correct. The department of local government finance shall, not later than ten (10) working days after the date the department receives the school corporation's request, certify the percentage computed under this subsection for the school corporation.

(d) A school corporation that desires to be an eligible school corporation under this section shall conduct a public hearing and provide notice of the purpose of the hearing and the time, date, and place of the hearing, published as required by IC 5-3-1, before the school corporation may adopt a resolution under this section. At the public hearing, the governing body must provide the following information:

(1) The annual debt service payments, applicable debt service tax rate, and total debt service payments for the bonds proposed to be retired or refunded.

(2) The annual debt service payments, applicable debt service fund tax rate, and total debt service payments for the proposed refunding bonds.

(3) The annual increment for each year that the bonds that are being retired or refunded would have been outstanding and any other benefits to be derived from issuing the refunding bonds.

(e) If at least one (1) taxpayer appearing at the public hearing under subsection (d) objects to the proposed resolution and files a written objection with the governing body of the school corporation and the county auditor not more than ten (10) days after the public hearing, a petition requesting the application of a petition and remonstrance process may be filed not more than thirty (30) days after the public hearing by one hundred (100) persons who are either owners of property within the school corporation or registered voters residing within the school corporation. Except as provided in this subsection, the provisions of IC 6-1.1-20-3.1(b) governing the initiation of a petition and remonstrance process for a controlled project (including the provisions governing verification of petitions) apply to a petition under this subsection requesting the application of a petition and remonstrance process. The following apply if a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in this subsection:

(1) The petition and remonstrance process prescribed by IC 6-1.1-20-3.2(b) for controlled projects shall be used to determine whether the governing body of the school corporation may adopt a resolution under subsection (g) and issue refunding bonds as provided in subsection (g).

(2) The governing body of the school corporation may not adopt a resolution under subsection (g) and may not issue refunding bonds as provided in subsection (g) unless more individuals sign the petition for the bond refunding under this subsection than the number of individuals signing a remonstrance against the bond refunding under this subsection.

Except as provided in this subsection, the provisions of IC 6-1.1-20-3.2(b) governing the petition and remonstrance process for a controlled project apply to a petition and remonstrance process under this subsection.

(f) Except as provided in subsection (e), IC 6-1.1-20 does not apply to bonds issued under this section.

(g) A school corporation that desires to be an eligible school corporation under this section must, before January 1, 2019, and notwithstanding any other law, adopt a resolution that sets forth the following:

(1) The determinations made under subsection (c), including the department of local government finance's certification of the percentage computed under subsection (c).

(2) A determination providing for the:

(A) issuance of bonds to refund not more than fifty percent (50%) of outstanding bonds or leases issued by or on behalf of the school corporation before January 1, 2009; and

(B) payment of redemption premiums and the costs of the refunding.

(3) With respect to the refunding bonds, the following:

(A) The maximum principal amount.

(B) The maximum interest rate.

(C) The annual lease or debt service payment.

(D) The final maturity date.

(E) The estimated amount of the increment that will occur for each year that the bonds that are being retired or refunded by the issuance of refunding bonds would have been outstanding.

(F) A finding that the annual debt service or lease payment on the refunding bonds will not increase the annual debt service or lease payment above the annual debt service or lease payment approved by the school corporation for the original project.

If the governing body adopts a resolution under this section, the governing body must publish notice of the adoption of the resolution as required by IC 5-3-1.

(h) An eligible school corporation may issue refunding bonds as

permitted by this section. In addition, an eligible school corporation may extend the repayment period beyond the repayment period for the bonds that are being retired or refunded by the issuance of refunding bonds. However, the repayment period may be extended only once for a particular bond, and the extension may not exceed ten (10) years after the latest maturity date for any of the bonds being retired or refunded by the eligible school corporation under this section.

(i) Property taxes imposed by an eligible school corporation to pay debt service for bonds permitted by this section shall be considered for purposes of calculating the limits to property tax liability under Article 10, Section 1 of the Constitution of the State of Indiana and for calculating a person's credit under IC 6-1.1-20.6-7.5. However, property taxes imposed by an eligible school corporation through December 31, 2019, to pay debt service for bonds permitted by this section may not be considered in an eligible county, as used in Article 10, Section 1(h) of the Constitution of the State of Indiana, for purposes of calculating the limits to property tax liability under Article 10, Section 1 of the Constitution of the State of Indiana or for calculating a person's credit under IC 6-1.1-20.6-7.5.

As added by P.L.229-2011, SEC.63. Amended by P.L.145-2012, SEC.1; P.L.257-2013, SEC.1; P.L.120-2014, SEC.1.

IC 5-1-5-3

Exchange for outstanding bonds

Sec. 3. Any bonds issued for refunding purposes may be delivered in exchange for the outstanding bonds being refunded or may be sold in the manner hereinafter provided.

(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-4

Refunding procedure

Sec. 4. (a) Bonds may be refunded under this chapter when the holders thereof voluntarily surrender them for exchange or payment, or, if they mature, or are subject to redemption prior to maturity within twenty (20) years from the date of the refunding bonds. In any advance refunding plan under this chapter the governing body shall provide in the ordinance authorizing the issuance of the advance refunding bonds for the redemption of the bonds to be refunded on any redemption date prior to maturity or at maturity.

(b) The ordinance authorizing the issuance of advance refunding bonds pursuant to this chapter may provide for a maximum interest rate, payable annually or at shorter intervals, and shall provide for the maturities at such time or times as may be determined by the ordinance. The bonds may be made redeemable before maturity at the option of the issuing body at such times and with such premiums, and under such terms and conditions as may be fixed in the

ordinance.

(c) The principal and interest of the bonds may be made payable in any lawful medium. The ordinance shall determine the form of the bonds, including the interest coupons if any to be attached thereto, and shall fix the denomination or denominations of the bonds 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) Subject to registration provisions, all such bonds shall have all the qualities and the incidents of negotiable instruments under the negotiable instruments law of the state. The bonds shall be exempt from all taxation, state, county, and municipal, as provided in IC 6-8-5. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone, or as to both principal and interest, but fully registered bonds shall be made convertible to coupon bonds at the option of the registered owner. The bonds shall be executed in the same manner as other bonds issued by the issuing body are executed.

(Formerly: Acts 1973, P.L.28, SEC.1.) As amended by P.L.23-1984, SEC.2.

IC 5-1-5-5

Principal amount; reserves to secure bonds

Sec. 5. Refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded. The principal amount of the refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of such bonds to be refunded. Any reserves held to secure the bonds to be refunded may be applied at the time the bonds to be refunded are paid to the redemption or retirement of such bonds, or if other available funds are sufficient and are used to retire and redeem such bonds, such reserves may be pledged as security for the refunding bonds.

(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-6

Proceeds of refunding bonds; disposition

Sec. 6. The proceeds of the refunding bonds issued pursuant to this chapter shall be placed in escrow and applied, with any other available funds, to the payment on the date selected for redemption of the principal, accrued interest and any redemption premiums of the bonds being refunded, and, if so provided or permitted in the ordinance authorizing the issuance of such refunding bonds or in the trust indenture securing the same, may also be applied to the payment of any interest on such refunding bonds, and any costs of refunding. Pending such application, such escrowed proceeds may be invested in direct obligations of, or obligations the principal of and the

interest on which are unconditionally guaranteed by the United States of America, which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended. In lieu of such investments, all or part of such proceeds may be placed in interest bearing time certificates of deposits with such eligible financial institutions in the state of Indiana as the governing body shall determine or other similar arrangements may be made with such eligible financial institutions with regard thereto which will assure that such proceeds, together with the interest accruing thereon, will be available when required for the purposes intended, provided that, if required by the governing body, such time certificates of deposits or other similar arrangements shall be secured to the full amount thereof by direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America of the type permitted for direct investment of the escrow fund. All interest or other income earned on such investments shall first be used to pay the interest on the refunding bonds as it becomes due. Any excess shall become a part of and held in the escrow fund. Any balance remaining in the escrow fund after redemption of all the bonds being refunded shall be deposited in the sinking fund established for the payment of the principal and interest on the refunding bonds.
(Formerly: Acts 1973, P.L.28, SEC.1; Acts 1974, P.L.12, SEC.1.) As amended by P.L.27-2012, SEC.1.

IC 5-1-5-7
Safekeeping and application of bond proceeds

Sec. 7. The governing body may contract with respect to the safekeeping and application of the advance refunding bond proceeds and other funds included therewith and the income therefrom. The governing body may provide in the refunding plan that until such moneys are required to redeem or retire revenue bonds to be refunded, the refunding bond proceeds and other available funds, and the income therefrom shall be used to pay and secure the payment of the principal of and interest on the advance refunding bonds. The governing body may additionally pledge for the payment of such refunding bonds any revenues which might legally be pledged for the payment of revenue bonds of the issuer of the type being refunded. Provisions must be made by the governing body for moneys sufficient in amount to accomplish the refunding as scheduled.
(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-8
Trust indenture to secure bonds

Sec. 8. (a) The governing body may secure the bonds by a trust indenture by and between the issuing body and a corporate trustee,

which may be any trust company or bank having the powers of a trust company within or outside of the state of Indiana, and may convey or mortgage property to the same extent as is authorized by statutes applicable to:

(1) the bonds being refunded; or

(2) the bonds that the bonds being refunded had previously refunded.

(b) The ordinance authorizing the bonds and fixing the details thereof may provide that the trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the issuing body.

(c) The trust indenture may set forth the rights and remedies of the bondholders or trustee, restricting the individual right of action of bondholders as is customary in trust indenture securing bonds and debentures of corporations. Except as is in this chapter otherwise provided, the governing body may provide by ordinance or in the trust indenture for any other terms or conditions pertaining to the refunding bonds as is authorized by statutes applicable to:

(1) the bonds being refunded; or

(2) the bonds that the bonds being refunded had previously refunded.

(Formerly: Acts 1973, P.L.28, SEC.1.) As amended by Acts 1982, P.L.28, SEC.3.

IC 5-1-5-9

Payment of bonds; sources of revenue

Sec. 9. When an issuing body has irrevocably set aside for and pledged to the payment of revenue bonds to be refunded, advance refunding bond proceeds and other moneys in amounts which together with known earned income from the investment thereof are sufficient in amount to pay the principal of and interest and any redemption premiums on such revenue bonds as the same become due and to accomplish the refunding as scheduled, the governing body may provide that the advance refunding revenue bonds shall be payable from any source which, either at the time of the issuance of the advance refunding bonds or the revenue bonds to be refunded, might legally be or have been pledged for the payment of the revenue bonds refunded to the extent it may legally do so, notwithstanding the pledge of such revenues for the payment of the outstanding revenue bonds being refunded.

(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-10

Irrevocable pledge to general obligation bond; effect

Sec. 10. When funds and investments and the known earned income therefrom in amounts sufficient to pay the principal of and interest and any premium on bonds to be refunded as they become

due at their respective maturities or at the date fixed for redemption have been irrevocably pledged to the bonds to be refunded, such bonds shall not constitute an indebtedness of the issuing body within the meaning of any constitutional or statutory debt limitation.
(Formerly: Acts 1973, P.L.28, SEC.1.) As amended by P.L.44-1987, SEC.1.

IC 5-1-5-11
Issuance; separate or in combination

Sec. 11. Bonds for refunding and bonds for any other purpose or purposes authorized may be issued separately or issued in combination in one (1) or more series or issues by the same issuer.
(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-12
Law governing issuance

Sec. 12. Except as specifically provided in this chapter, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable, either at the time of the issuance of the refunding bonds or at the time of issuance of the bonds to be refunded, to:

(1) the type of bonds being refunded; or
(2) the type of bonds that the bonds being refunded had previously refunded.

(Formerly: Acts 1973, P.L.28, SEC.1.) As amended by Acts 1982, P.L.28, SEC.4.

IC 5-1-5-13
Sale of bonds

Sec. 13. Refunding bonds issued under the provisions of this chapter may be sold in such manner and upon such terms and conditions as the issuer of such refunding bonds shall deem to be in the best interests of the issuing body, notwithstanding the provisions of IC 21-32-3, nor the provisions of IC 5-1-11, nor the provisions of any other law to the contrary. However, if such refunding bonds are sold to any person, limited liability company, firm, or corporation that has been rendering financial advisory services to the issuing body in connection with the proceedings and necessary fiscal arrangements related to such refunding bonds, then and in that event the issuing body shall not pay to such purchaser of the refunding bonds any fee or compensation for services rendered or as reimbursement for expenses incurred in connection therewith.
(Formerly: Acts 1973, P.L.28, SEC.1.) As amended by Acts 1981, P.L.11, SEC.15; P.L.8-1993, SEC.45; P.L.2-2007, SEC.67.

IC 5-1-5-14
Cumulative effect of chapter

Sec. 14. The authority of an issuing body to issue refunding bonds

pursuant to this chapter is additional to any existing authority to issue such bonds and nothing in this chapter shall prevent the issuance of such bonds pursuant to any other law, and this chapter shall not be construed to amend any existing law authorizing the issuance of refunding bonds by an issuing body.
(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-15
Lease modifications

Sec. 15. In connection with the issuance of refunding bonds, an issuing body and the lessee, or lessees, of any building, or buildings, financed from the proceeds of the bonds being refunded may enter into an amendment to the lease modifying or amending the provisions of such lease in any one (1) or more of the following respects:

(a) to provide for a reduction in the amount of lease rental payable by the lessee, or lessees, to be effective upon the redemption of the bonds being refunded; or the happening of the events set forth in section 9 of this chapter if permitted by law and the covenants on the bonds to be refunded;

(b) to provide for extensions or reductions of the times set forth in the lease before the options of the lessee or lessees to purchase may be exercised to such times as may be agreed upon between the issuing body and the lessee or lessees;

(c) to provide that the lease rental payable by the lessee or lessees, after the redemption of all the bonds being refunded may be payable to the trustee under a trust indenture securing such refunding bonds.

The refunding herein authorized shall in no way affect the obligation of the lessee or lessees to pay the lease rental under the lease of the building or buildings, except to the extent such lease rental may be reduced by any amendment as hereinbefore authorized.
(Formerly: Acts 1973, P.L.28, SEC.1.)

IC 5-1-5-16
Advance refunding bonds; issuance

Sec. 16. Notwithstanding any other law, advance refunding bonds may be issued by an issuing body without obtaining the approval of the utility regulatory commission whether such advance refunding bonds are issued under this chapter or any other law.
As added by P.L.44-1987, SEC.2. Amended by P.L.23-1988, SEC.3.

IC 5-1-5-17
Last date for payment of certain refunding bonds

Sec. 17. (a) This section applies to bonds that are:

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) Except as provided by section 2.5 of this chapter, the last date permitted under an agreement for the payment of principal and interest on bonds that are issued to retire or otherwise refund other revenue bonds or general obligation bonds may not extend beyond the maximum term of the bonds being refunded.

As added by P.L.146-2008, SEC.24. Amended by P.L.229-2011, SEC.64.

IC 5-1-5-18

Use of savings from refunding of bonds

Sec. 18. (a) This section applies to bonds that are:

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including bonds that are issued under a statute that permits the bonds to be issued without complying with any other law or otherwise expressly exempts the bonds from the requirements of this section.

(b) Savings (as computed under section 2 of this chapter) that accrue from the issuance of bonds to retire or otherwise refund other bonds may be used only for the following purposes:

(1) To maintain a debt service reserve fund for the refunding bonds at the level required under the terms of the refunding bonds, if the local issuing body adopts an ordinance, resolution, or order authorizing that use of the proceeds or earnings.

(2) To pay the principal or interest, or both, on:

(A) the refunding bonds; or

(B) other bonds, if the issuing body approves an ordinance authorizing the use of the savings to pay principal or interest on other bonds.

(3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

(c) An increment as computed under section 2.5 of this chapter that occurs from the issuance of bonds by an eligible school corporation to retire or otherwise refund other bonds as provided in section 2.5 of this chapter may be used only to make transfers permitted by IC 20-46-7-15 for the eligible school corporation.

As added by P.L.146-2008, SEC.25. Amended by P.L.229-2011, SEC.65.

IC 5-1-6

Chapter 6. Revenue Bond Refinancing

IC 5-1-6-1

Short title

Sec. 1. This chapter may be cited as "The Revenue Bond Refinancing Law of 1937."

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-2

Definitions

Sec. 2. The following terms wherever used or referred to in this chapter shall have the following meanings, unless a different meaning appears from the context:

(a) The term "issuing body" shall mean counties, cities, towns, townships, school cities, school towns, districts, political or civil subdivisions, or other public corporate bodies of this state.

(b) The term "governing body" shall mean the council, commission, board, or other body, officer, or officers which constitutes the governing body of an issuing body.

(c) The term "law" shall mean any law, act, or statute, general, special, or local, of this state.

(d) The term "enterprise" shall mean any work or works, undertaking, utility, or project which the issuing body is authorized to construct and from which the municipality derives revenues for the refinancing, or the refinancing and improving of which enterprise, refunding bonds are issued under this chapter, and such enterprise shall include all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto.

(e) The term "federal agency" shall include the United States of America, the President of the United States of America, or any agency, instrumentality or corporation of the United States of America, designated or created by or pursuant to any act or acts or joint resolution or joint resolutions of the Congress of the United States of America, or which may be owned or controlled, directly or indirectly, by the United States of America.

(f) The term "improving" shall mean reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving or any one (1) or more or all of the foregoing.

(g) The term "refunding bonds" shall mean notes, bonds, or other obligations of an issuing body issued pursuant to this chapter, or pursuant to any other law, as supplemented by, or in conjunction with this chapter.

(h) The term "refinancing" shall mean funding, refunding, paying, or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or

other obligations issued to finance or to aid in financing the acquisition, construction or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates.

(i) The term "revenues" shall mean all fees, tolls, rates, rentals and charges to be levied and collected in connection with and all other income and receipts of whatever kind or character derived by the issuing body from the operation of any enterprise or arising from any enterprise.

(j) The term "holder of bonds" or "bondholders" or any similar term shall mean any person who shall be the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered, or the registered owner of any such outstanding bond or bonds which shall at the time be registered other than to bearer.

(k) Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms, limited liability companies, and corporations.

As added by Acts 1980, P.L.8, SEC.10. Amended by P.L.8-1993, SEC.46; P.L.233-2015, SEC.5.

IC 5-1-6-3

Issuance of refunding bonds to refinance and improve enterprise

Sec. 3. Any issuing body shall have power and is hereby authorized to refinance, or to refinance and improve, any enterprise, and for such purpose or purposes to borrow money and issue refunding bonds from time to time.

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-4

Authorization by ordinance or resolution; municipally owned public utility; any enterprise

Sec. 4. (a) The refunding bonds shall be authorized by ordinance or resolution of the governing body. Such ordinance or resolution may be adopted at a regular or special meeting, and at the same meeting at which they are introduced in the manner now provided by law.

(b) Whenever refunding bonds are to be authorized and issued under this chapter for the purpose of refinancing and improving any municipally owned public utility (other than a sewage treatment works or a municipally owned public utility originally constructed pursuant to IC 8-1-2) the issuing body desiring to issue such refunding bonds shall file its petition in the office of the utility regulatory commission setting forth the facts showing the necessity for refinancing and improving such municipally owned utility and praying for the approval thereof by said commission. The petitioner shall give notice of the filing of such petition and hearing thereon to

the citizens and taxpayers of said issuing body by publication once each week for two (2) weeks prior to such hearing in a newspaper published in such issuing body, or in case no newspaper is there published, then in a newspaper published in the county in which such issuing body is situated, and if there be no newspaper published in such county, notice shall be posted for fifteen (15) days in three (3) public places therein. On the hearing of such petition, if it appears that a necessity exists for the relief prayed for, the utility regulatory commission shall approve the issuance of the refunding bonds, either as prayed for or with such modifications or on such conditions as may be deemed just and proper. Such approval shall contain a certification that the income and revenues of said utility, in addition to providing for operation and maintenance, and depreciation, are sufficient to pay the principal and interest of said bonds, together with a margin of ten percent (10%) in excess thereof. All such bonds so issued under the order of such commission shall be incontestable except for fraud, forgery, or violation of constitutional limitations. If on such hearing it shall appear that such relief should not be granted, the utility regulatory commission shall so declare and such bonds shall not be issued; however, in case any petition for the approval of the issuance of such bonds has been denied by the commission, the governing body affected by such denial may within ten (10) days from the date of such denial, file a petition with the commission praying for submission of the question of whether such bonds shall be issued, to the legal voters of such issuing body affected thereby. If such commission be satisfied that said last mentioned petition is in due form, it shall grant the prayer thereof within ten (10) days from the filing of such petition and order such election at a time to be fixed in such order. The county auditor shall give notice for such election and all proceedings for the holding of such election shall be governed by the law regulating general elections in such issuing body. The county auditor shall certify the result of such election to the utility regulatory commission, and if such result be in favor of the issuance of such bonds, said commission within ten (10) days after the filing of such certificate of result shall enter an order approving the issuance of said bonds. All cost and expenses for the holding of such election shall be paid by the issuing body proposing to issue such bonds.

(c) Whenever refunding bonds are to be authorized and issued, under this chapter, for the purpose of refinancing any enterprise, or for the purpose of refinancing and improving any enterprise except those mentioned in subsection (b), no proceedings or procedure of any character whatever, other than the adoption of the ordinance or resolution authorizing the issuance of such refunding bonds, shall be required for the issuance of such refunding bonds by the issuing body.

(d) Notwithstanding subsection (b) or any other law, refunding bonds may be issued under this chapter by an issuing body without

approval of the utility regulatory commission if the governing body of the issuing body finds that the refunding will either provide a savings to the issuing body or will not, by itself, result in a rate increase.

As added by Acts 1980, P.L.8, SEC.10. Amended by P.L.44-1987, SEC.3; P.L.23-1988, SEC.4.

IC 5-1-6-5

Terms and covenants of refunding bonds; negotiability

Sec. 5. The refunding bonds may be issued in one (1) or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, may bear interest at any rate, payable annually or at shorter intervals, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such 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 such manner and upon compliance with such conditions, and may contain such other terms and covenants, as may be provided by ordinance or resolution of the governing body. Notwithstanding the form or tenor, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall at all times be, and shall be treated as, and have all the qualities and incidents of negotiable instruments for all purposes.

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-6

Validity of authorization; issuance and obligations; recitals in bond

Sec. 6. Refunding bonds bearing the signatures of officers of the issuing body in office on the date of the signing shall be valid and binding obligations of the issuing body for all purposes, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the issuing body, the same as if such persons had continued to be officers of the issuing body until after delivery. The validity of the authorization and issuance of the refunding bonds shall not be dependent on or affected in any way by proceedings taken for the improving of any enterprise for the refinancing and improving of which the refunding bonds are to be issued, or by contracts made in connection with the improving of any such enterprise. Any resolution or ordinance authorizing refunding bonds may provide that any such refunding bond may contain a recital that such refunding bond is issued pursuant to this chapter, and any refunding bond containing such recital under authority of any such

resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of this chapter.
As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-7
Sale and exchange of refunding bonds

Sec. 7. (a) The refunding bonds may be sold or exchanged 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 refunding bonds may be exchanged in part or sold in part in installments at different times or at one (1) time. The refunding bonds may be sold or exchanged at any time, on, before, or after the maturity of any of the outstanding notes, bonds, or other obligations to be refinanced thereby.

(b) If the governing body determines to exchange any refunding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of the outstanding notes, bonds or other obligations of the issuing body issued to finance or to aid in financing the acquisition, the construction, the improving, the refinancing, or the improving and refinancing, of an enterprise. The refunding bonds may be exchanged for a like or greater principal amount of such notes, bonds or other obligations of the issuing body, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered.

(c) If the governing body determines to sell any refunding bonds, such refunding bonds shall be sold at not less than par at public sale in such manner and upon such terms as the governing body shall deem best for the interests of the issuing body.
As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-8
Lien on revenues of enterprise to secure bonds; additional security; priority; restrictions

Sec. 8. (a) The refunding bonds shall be special obligations of the issuing body and shall be payable from and secured by a lien upon the revenues of the enterprise, as shall be more fully described in the ordinance or resolution of the governing body authorizing the issuance of the refunding bonds, and, subject to the constitution and to the prior or superior rights of any person, any issuing body shall have power by ordinance or resolution of its governing body to pledge and assign for the security of the refunding bonds all or any

part of the gross or the net revenues of such enterprise.

(b) As additional security for any issue of refunding bonds hereunder, or any part thereof, any issuing body shall have power, and is hereby authorized, by ordinance or resolution of its governing body to confer upon the holders of the refunding bonds all rights, powers and remedies which said holders would be entitled to if they were the owners and had possession of the notes, bonds or other obligations for the refinancing of which such refunding bonds shall have been issued including, but not limited to, the preservation of the lien of such notes, bonds or other obligations without extinguishment, impairment or diminution thereof. In the event any issuing body exercises the power conferred by this subsection:

(1) each refunding bond shall contain a recital to the effect that the holder thereof has been granted the additional security provided by this subsection; and

(2) each note, bond or other obligation of the issuing body to be refinanced by any such refunding bonds, shall be kept intact and shall not be cancelled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged but shall be stamped with a legend to the effect that such note, bond, or other obligation has been refunded pursuant to this chapter.

(c) All refunding 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 of the enterprise in accordance with the provisions of this section and the ordinance or resolution authorizing the issuance of such refunding bonds.

(d) Nothing in this section or in any other section of this chapter shall be deemed in any way to alter the terms of any agreements made with the holders of any outstanding notes, bonds, or other obligations of the issuing body or to authorize the issuing body to alter the terms of any such agreements, or to impair, or to authorize the issuing body to impair the rights and remedies of any creditors of the issuing body.

(e) Nothing in this section or any other section of this chapter shall be deemed in any way to authorize any issuing body to do anything in any manner or for any purpose which would result in the creation or incurring of a debt or indebtedness or the issuance of any instrument which would constitute a bond or debt within the meaning of any provision, limitation, or restriction of the constitution relating to the creation or incurring of a debt or indebtedness or the issuance of an instrument constituting a bond or debt.

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-9

Liability of issuing body

Sec. 9. (a) No recourse shall be had for the payment of the

refunding bonds, or interest thereon, or any part thereof, against the general fund of any issuing body, nor shall the credit or taxing power of any issuing body be deemed to be pledged thereto.

(b) The refunding bonds, and interest thereon, shall not be a debt of the issuing body, nor a charge, lien, or encumbrance, legal or equitable, upon any property of the issuing body, or upon any income, receipts, or revenues of the issuing body other than such of the revenues of the enterprise as shall have been pledged to the payment thereof, and every refunding bond shall recite in substance that said bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the issuing body is under no obligation to pay the same, except from said revenues.

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-10

Exemption from taxation; exception

Sec. 10. The refunding bonds and the income therefrom shall be exempt from taxation, except the financial institutions tax and inheritance, estate and transfer taxes.

As added by Acts 1980, P.L.8, SEC.10. Amended by P.L.21-1990, SEC.4.

IC 5-1-6-11

Fiscal agent

Sec. 11. Any issuing body shall have power in connection with the issuance of refunding bonds to appoint a fiscal agent, to provide for the powers, duties and functions and compensations of such fiscal agent, to limit the liabilities of such fiscal agent, to prescribe a method for the resignation, removal, merger or consolidation of such fiscal agent and the appointment of a successor fiscal agent and the transfer of rights and properties to such successor fiscal agent.

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-12

Duties of issuing body and others to secure payment of bonds and interest

Sec. 12. (a) In order that the payment of the refunding bonds, and interest thereon, shall be adequately secured, any issuing body issuing refunding bonds pursuant to this chapter and the proper officers, agents and employees thereof, are hereby directed, and it shall be the mandatory duty of such issuing body and such officers, agents and employees under this chapter, and it shall further be of the essence of the contract of such issuing body with the bondholders, at all times:

(1) to pay or cause to be paid punctually the principal of every refunding bond, and the interest thereon, on the date or dates and at the place or places and in the manner and out of the funds mentioned in such refunding bonds and in the coupons

thereto appertaining and in accordance with the resolution authorizing their issuance;

(2) to operate the enterprise in an efficient and economical manner and to establish, levy, maintain, and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper, which said fees, tolls, rates, rentals, and other charges shall be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in the estimates:

(i) to pay all current expenses of operation, maintenance and repair of such enterprise;

(ii) to pay the interest on and principal of the refunding bonds as the same shall become due and payable;

(iii) to comply in all respects with the terms of the ordinance or resolution authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds; and

(iv) to meet any other obligations of the issuing body which are charges, liens, or encumbrances upon the revenues of such enterprise;

provided, however, that nothing in this section shall be construed as curtailing any authority of the utility regulatory commission to approve rates or charges;

(3) to operate, maintain, preserve, and keep, or cause to be operated, maintained, preserved, and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition;

(4) to preserve and protect the security of the refunding bonds and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons whomsoever;

(5) to pay and discharge, or cause to be paid or discharged any and all lawful claims for labor, materials, and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the refunding bonds, or which might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds shall be fully preserved and protected;

(6) to hold in trust the revenues pledged to the payment of the refunding bonds for the benefit of the holders of the refunding bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the refunding bonds or, if such resolution or resolutions shall thereafter be modified in the manner provided therein or herein, only as provided in such resolution or resolutions as modified; and

(7) to keep proper books of record and accounts of the enterprise (separate from all other records and accounts) in

which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the issuing body, shall at all times be subject to the inspection of the holder or holders of not less than ten percent (10%) of the refunding bonds then outstanding or his or their representatives duly authorized in writing.

(b) None of the foregoing duties shall be construed to require the expenditure in any manner or for any purpose by the issuing body of any funds other than revenues received or receivable from the enterprise.

As added by Acts 1980, P.L.8, SEC.10. Amended by P.L.23-1988, SEC.5.

IC 5-1-6-13

Additional powers of governing body; restrictions

Sec. 13. (a) The governing body shall have power, in addition to the other powers conferred by this chapter, to insert provisions in any ordinance or resolution authorizing the issuance of refunding bonds, which shall be a part of the contract with the holders of the refunding bonds, as to:

(1) limitations on the purpose to which the proceeds of sale of any issue of refunding bonds, or any notes, bonds, or other obligations then or thereafter to be issued to finance the improving of the enterprise, may be applied;

(2) limitations on the issuance of additional refunding bonds, or additional notes, bonds, or other obligations to finance the improving of the enterprise, and on the lien thereof;

(3) limitations on the right of the issuing body or its governing body to restrict and regulate the use of the enterprise;

(4) the amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance monies;

(5) pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence;

(6) covenanting against pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence;

(7) events of default and terms and conditions upon which any or all of the refunding bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such 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 any covenants made to secure, to pay, or in relation to the refunding bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and

conditions upon which the holders of the refunding bonds or any proportion or percentage of them may enforce any covenants made under this chapter or duties imposed hereby;

(10) a procedure by which the terms of any resolution or ordinance authorizing refunding bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated as to the amount of refunding bonds, the holders of which must consent thereto, 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 issuing body and the officers, agents, and employees thereof;

(12) refraining from pledging or in any manner whatever claiming or taking the benefit or advantage of any stay or extension law whenever enacted, which may affect the duties or covenants of the issuing body in relation to the refunding bonds, or the performance thereof, or the lien of such refunding bonds;

(13) the purchase out of any funds available therefor, including but not limited to the proceeds of refunding bonds, of any outstanding notes, bonds, or obligations, including but not limited to refunding bonds, and the price or prices at which and the manner in which such purchases may be made; and

(14) any other acts and things as may be necessary or convenient or desirable in order to secure the refunding bonds, or as may tend to make the refunding bonds more marketable.

(b) Nothing in this section shall be construed to authorize any issuing body to make any covenants, to perform any act or to do anything which shall require the expenditure in any manner or for any purpose by the issuing body of any funds other than revenues received or receivable from the enterprise.

As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-14

Default in payment of principal or interest of bonds; receiver; rights and powers; subsequent defaults; supervision of courts

Sec. 14. (a) In the event that the issuing body shall default in the payment of the principal or interest on any of the refunding bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the issuing body or the governing body or officers, agents, or employees thereof shall fail or refuse to comply with the provisions of this chapter or shall default in any agreement made with the holders of the refunding bonds, any holder or holders of refunding bonds, or trustee therefor, shall have the right to apply in an appropriate judicial proceeding in the circuit or superior court of the county in which the issuing body or the greater territorial

portion thereof is situated, or in which the enterprise is located, or any court of competent jurisdiction, for the appointment of a receiver of the enterprise, whether or not all refunding bonds have been declared due and payable and whether or not such holder or holders, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such refunding bonds. Upon such 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 such refunding bonds then outstanding, or any trustee for holders of such refunding bonds in such principal amount, shall appoint a receiver of the enterprise.

(b) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the enterprise and each and every part thereof and may exclude the issuing body, its governing body, officers, agents, and employees and all persons claiming under them wholly therefrom and shall have, hold, use, operate, manage, and control the same and each and every part thereof, and, in the name of the issuing body or otherwise, as the receiver may deem best, and shall exercise all rights and powers of the issuing body with respect to the enterprise as the issuing body itself might do. Such receiver shall maintain, restore, insure and keep insured, the enterprise, and from time to time shall make all such necessary or proper repairs as to such receiver may seem expedient and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the enterprise as such receiver may deem necessary or proper and reasonable, and shall collect and receive all revenues and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the court shall direct.

(c) Whenever all that is due upon the refunding bonds, and interest thereon, and upon any other notes, bonds or other obligations, and interest thereon, having a charge, lien, or encumbrance on the revenues of the enterprise and under any of the terms of any covenants or agreements with bondholders shall have been paid or deposited as provided therein, and all defaults shall have been cured and made good, the court may in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of the enterprise to the issuing body, the same right of the holders of the refunding bonds to secure the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

(d) Such receiver shall in the performance of the powers hereinabove conferred upon him, act under the direction and supervision of the court making such appointment and shall at all times be subject to the orders and decrees of such court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the

exercise by the receiver of any functions specifically set forth herein.
As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-15
Remedy; nature

Sec. 15. (a) Subject to any contractual limitations binding upon the holders of any issue of refunding bonds, or trustee therefor, including but not limited to the restrictions of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of refunding bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of refunding bonds similarly situated:

(1) by mandamus or other suit, action or proceeding at law or in equity to enforce his rights against the issuing body and its governing body and any of its officers, agents and employees and to require and compel such issuing body or such governing body or any such officers, agents, or employees to perform and carry out its and their duties and obligations under this chapter and its and their covenants and agreements with bondholders;

(2) by action or suit in equity to require the issuing body and the governing body thereof to account as if they were the trustee of an express trust;

(3) by action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders; and

(4) to bring suit upon the refunding bonds.

(b) No remedy conferred by this chapter upon any holder of refunding bonds, or any trustee therefor, is intended to be exclusive of any other remedy, but each such remedy is cumulative and 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 any default or breach of duty or contract, whether by any holder of refunding bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of refunding bonds, may be enforced and exercised from time to time and as often as may be deemed expedient. In case any suit, action, or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to the holder of the refunding bonds, or any trustee therefor, then and in every such case the issuing body and such holder, or such trustee, shall be restored to their former positions and rights and remedies as if no such suit, action or

proceeding had been brought or taken.
As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-6-16
Powers conferred by chapter

Sec. 16. This chapter constitutes full and complete authority for the issuance of refunding bonds. No procedure or proceedings, publications, notices, consents, approvals, orders, acts or things by any governing body, or any board, officer, commission, department, agency, or instrumentality of the state or any issuing body shall be required to issue any refunding bonds or to do any act or perform any thing under this chapter, except as may be prescribed in this chapter. The powers conferred by this chapter shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this chapter shall not affect, the powers conferred by any other law. This chapter is remedial in nature and shall be liberally construed.
As added by Acts 1980, P.L.8, SEC.10.

IC 5-1-7
Chapter 7. Redemption Bonds of Counties and Townships

IC 5-1-7-1
Contract with bond owner to pay matured bond by issuing redemption bond

Sec. 1. Whenever the bond fund of any county or of any township in this state is, for any reason, insufficient to pay the bonds of such county or township or any of them, at the date of the maturity thereof, together with the interest which shall have accrued thereon, the board of commissioners of such county is hereby authorized to represent and as representing the taxing district liable for the payment of any such bond to enter into a contract with the owner of any such bond to pay such matured bond by the issuance of a redemption bond, in the same amount and at any rate of interest and to pay such redemption bond and the accrued interest thereon, in not more than ten (10) annual installments, in the manner and subject to the conditions prescribed in this chapter.

As added by Acts 1980, P.L.8, SEC.12.

IC 5-1-7-2
Partial payments of principal with interest accrued; form of contract; cancellation of matured bond

Sec. 2. The contract entered into by the board of commissioners of any county and any such bondholder shall be signed by the parties to such contract, shall be attested on behalf of the county by the county auditor, and shall stipulate and agree that the board of commissioners of the county will pay all interest on such matured bond to the date of the maturity thereof, and that a new bond (referred to in this chapter as a redemption bond) in the same amount as the matured bond, will be issued to pay and retire such matured bond, and that such redemption bond will be and continue to be a valid and binding obligation of the county and that during the period fixed in the contract not exceeding ten (10) years the board of commissioners will pay annually to the owner of such redemption bond, one-tenth (1/10) of the principal amount of such redemption bond and, in addition thereto, will pay semiannually all interest which shall have accrued thereon to the date when such payment is to be made. The date on which such partial payments of the principal of such bond will be made shall be fixed and prescribed in such contract and may be on June 1 or December 1 of the year next succeeding the year in which such contract is executed and signed and June 1 or December 1 of each and every year thereafter until paid. The interest accrued on such bond shall be paid semiannually on June 1 and December 1, beginning on the same date as the first partial payment on such bond. The board of commissioners shall further agree to levy a tax on the taxable property of such county in an amount sufficient to make the payments on such redemption

bonds as they fall due, together with all interest which shall have accrued thereon. Any bondholder who elects to avail himself or herself of the provisions of this chapter shall agree that in consideration of the privilege hereby afforded the bondholder will not maintain or attempt to maintain a suit for the collection or the enforcement of the lien of any such bond, other than in accordance with the remedies afforded by the provisions of this chapter. The form of the contract herein contemplated shall be prescribed by the state board of accounts with the approval of the attorney general. At the time when the contract is executed and the redemption bond is issued, the matured bond shall be surrendered to the county auditor and shall be canceled by writing across the face of the matured bond the words "Canceled by issuing to _____ a redemption bond in the same principal sum as this bond, due and payable on the _____ day of _____, 20____.".
As added by Acts 1980, P.L.8, SEC.12. Amended by P.L.2-2005, SEC.11.

IC 5-1-7-3
Execution of contract; procedure

Sec. 3. All contracts so entered into shall be executed in duplicate and one (1) copy thereof shall be kept by the county auditor and one (1) copy shall be delivered to the owner of such bond. At the time of the execution of such contract, the county auditor shall register all such matured bonds as may be presented for redemption, and all such redemption bonds which are issued to redeem such matured bonds and which are merged in any contract entered into in accordance with the provisions of this chapter, in a record kept in the county auditor's office for that purpose, showing the name and address of the owner of the matured and redemption bond, the amount thereof, the rate of interest, the number of the bond or other identification mark and the amount of the annual payment, including both the partial payment on the principal sum of the redemption bond and the interest which will fall due and be payable on each of the ten (10) dates, respectively, when the county has obligated itself to make such payment, and appropriate entries shall be made in such record as the payments on such redemption bond, principal and interest, are made.
As added by Acts 1980, P.L.8, SEC.12.

IC 5-1-7-4
Calculation of tax levy necessary to make payments on principal and interest on redemption bonds; submission to county council

Sec. 4. At the time when the annual estimates are made for the county budget, the county auditor shall calculate the amount of the tax levy which will be necessary to make the payments on the principal and interest on such redemption bonds during the ensuing fiscal year of the county and shall submit his calculation, together with a detailed statement of all bonds outstanding and payable under

the provisions of this chapter, to the county council at its annual meeting, and the county council shall levy the amount found to be necessary to make such payments as they fall due during the ensuing fiscal year.
As added by Acts 1980, P.L.8, SEC.12.

IC 5-1-7-5
"Bond owner" or "bondholder" defined

Sec. 5. The term "bond owner" or "bondholder" shall be construed to mean the person who owns the bond at the time of the execution of such contract and the provisions of such contract shall inure to and be binding upon any subsequent grantee, executor, administrator, heir, devisee, trustee, receiver or assign of such matured and/or redemption bond owner or bondholder.
As added by Acts 1980, P.L.8, SEC.12.

IC 5-1-7-6
Validity or priority of lien of bond against taxable property

Sec. 6. Neither the provisions of this chapter nor any contract executed under this chapter shall release, waive, or destroy the validity or priority of any lien of any such bond against the taxable property of such county or any taxing district coterminous with such county, or any taxing district coterminous with any civil township of such county.
As added by Acts 1980, P.L.8, SEC.12.

IC 5-1-7-7
"Bond" and "bond fund" defined

Sec. 7. The term "bond" as used in this chapter shall mean and include any bond issued by and which is an obligation of the county in its civil capacity; and any so-called county unit road bond which has been issued by the board of commissioners and is an obligation of the taxing district which is coterminous with the county; and any so-called gravel road bond which has been issued by the board of commissioners and is an obligation of the taxing district which is coterminous with any civil township. The term "bond fund" means any fund from which any of such bonds so issued or the interest thereon is paid.
As added by Acts 1980, P.L.8, SEC.12.

IC 5-1-8

Chapter 8. Judgment Funding Bonds of Counties

IC 5-1-8-1

Issuance and sale of judgment funding bonds; purpose; authority; restrictions

Sec. 1. The county council may, in its discretion, authorize the issuance and sale of judgment funding bonds of the county for the purpose of procuring funds to pay any judgment taken against the county. Such bonds shall be authorized, issued and sold pursuant to statutes governing the issuance of refunding bonds of the county, and the amount thereof shall not exceed the face of the judgment or judgments being funded, plus the accrued interest thereon, together with the costs taxed by the court.

As added by Acts 1980, P.L.8, SEC.14.

IC 5-1-9

Chapter 9. Refunding Bonds of Cities and Towns

IC 5-1-9-1

Issuance; purpose; restrictions

Sec. 1. Any city or town whose indebtedness is evidenced by bonds, notes, judgments, or other obligations issued, rendered, or negotiated by the city or town, may, for the purpose of funding or refunding the indebtedness, or any part thereof, reducing the rate of interest thereon, extending the time of payment and cancelling so much thereof as may be or become due, by the vote of two-thirds (2/3) of the members of the fiscal body of the city or town, issue its bonds, for an amount not exceeding in the aggregate the whole amount of the indebtedness of the city or town.

As added by Acts 1980, P.L.8, SEC.15. Amended by P.L.8-1989, SEC.16.

IC 5-1-10

Chapter 10. Funding and Refunding Bonds of Townships

IC 5-1-10-1

Issuance; purpose; restrictions

Sec. 1. Any civil township in the state whose indebtedness is evidenced by bonds, notes, judgments, or other obligations issued or negotiated by such township, or rendered against such township, may for the purpose of funding or refunding such indebtedness, or any part thereof, reducing the rate of interest thereon, extending the time of payment and canceling so much thereof as may be or become due, by the vote of two-thirds (2/3) of the members of the township board, and with the approval of the township trustee, issue its bonds, with interest coupons attached, for an amount not exceeding in the aggregate the whole amount of the indebtedness of such township.

As added by Acts 1980, P.L.8, SEC.17. Amended by P.L.8-1987, SEC.6; P.L.233-2015, SEC.6.

IC 5-1-11
Chapter 11. Procedures for Selling Bonds

IC 5-1-11-1
Public sale; "bonds" defined; sale to federal government

Sec. 1. (a) Except as otherwise provided in this chapter or in the statute authorizing their issuance, all bonds issued by or in the name of counties, townships, cities, towns, school corporations, and special taxing districts, agencies or instrumentalities thereof, or by entities required to sell bonds pursuant to IC 5-1-11, whether the same be general obligations or issued in anticipation of the collection of special taxes or be payable out of revenues, shall be sold at public sale.

(b) The word "bonds" as used in this chapter means any obligations issued by or in the name of any of the political subdivisions or bodies referred to in subsection (a), except obligations payable in the year in which they are issued, obligations issued in anticipation of the collection of delinquent taxes, and obligations issued in anticipation of the collection of frozen bank deposits.

(c) Notwithstanding any of the provisions of subsection (a) or any of the provisions of section 2 of this chapter, any bonds may be sold to the federal government or any agency thereof, at private sale and without a public offering.

As added by Acts 1980, P.L.8, SEC.19. Amended by P.L.44-1983, SEC.3; P.L.23-1984, SEC.3.

IC 5-1-11-2
Publication of notice of sale; publication of notice of intent to sell

Sec. 2. (a) Notice of sale of bonds required to be sold at public sale under section 1 of this chapter shall be published in accordance with the provisions of this chapter and either IC 5-3-1 or subsection (b).

(b) If a political subdivision or body referred to in section 1 of this chapter determines to sell bonds under this subsection, notice of intent to sell such bonds shall be published once each week for two (2) weeks in accordance with IC 5-3-1-4 and in a newspaper of general circulation published in the state capital. The notice must state that any person interested in submitting a bid for the bonds may furnish in writing to the official of the political subdivision or body responsible for their sale, at the address set forth in the notice, the person's name, address, and telephone number. The person may also furnish a telex number. The notice of intent to sell bonds must state:

(1) the amount of the bonds to be offered;
(2) the denominations;
(3) the dates of maturity;
(4) the maximum rate or rates of interest;
(5) the place of sale; and

(6) the time within which the name, address, and telephone number must be furnished, which must not be less than seven (7) days after the last publication of the notice of intent to sell.

The official of the political subdivision or body responsible for the bond sale shall notify each person so registered of the date and time bids will be received not less than twenty-four (24) hours before the date and time of sale. The notification shall be made by telephone at the number furnished by the person, and also by telex if the person furnishes a telex number. Bids may not be received more than ninety (90) days after the first publication of the notice of intent to sell.

(c) This chapter does not prevent the sale of bonds under the provisions of any statute inconsistent with this chapter so long as the procedures required for the sale in that statute are complied with, but if notice of that sale must be published, the notice shall be published in accordance with IC 5-3-1.

As added by Acts 1980, P.L.8, SEC.19. Amended by Acts 1981, P.L.45, SEC.4; P.L.44-1983, SEC.4; P.L.23-1984, SEC.4.

IC 5-1-11-3

Maximum interest rate to be fixed; notice of intent to sell; bidding awards; continuation of sale; price of bonds; action to contest validity

Sec. 3. (a) In authorizing and advertising such bonds for sale only a maximum interest rate shall be fixed, not exceeding the maximum rate provided for in the governing statute or bond ordinance or resolution of the issuing political subdivision or body. Bidders for such bonds shall be required to bid on the interest rate or rates which the bonds shall bear.

(b) The notice of intent to sell the bonds required under section 2 of this chapter must:

(1) specify the principal amount of bonds maturing on each maturity date or mandatory sinking fund redemption date; or

(2) state that the principal maturity schedule or mandatory sinking fund redemption schedule will be provided at least twenty-four (24) hours before the scheduled time of sale upon request by bidders.

(c) The bonds shall be awarded to the bidder offering the lowest interest cost to be determined by computing the total interest on all bonds from the date thereof to the date of maturity and deducting therefrom the premium bid, if any, or adding thereto the amount of any discount, if any. If no acceptable bid is received at the time fixed for sale of the bonds, then the sale may be continued from day to day for a period not to exceed thirty (30) days without readvertising. During the continuation of the sale, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for the sale in the bond sale notice. The acceptability of a bid is within the sole discretion of the political subdivision or body referred to in section 1(a) that is issuing the

bonds.

(d) Any bonds sold at public sale under this chapter may be sold, notwithstanding the provisions of any other law, at a price or prices determined by the officer or body authorized by law to issue or sell bonds, but not for less than ninety-seven percent (97%) of their par value.

(e) An action to contest the validity of any bonds sold under this chapter may not be brought after the fifteenth day following the first publication of notice of the sale of the bonds. An action to contest the validity of any bond sale under this chapter may not be brought after the fifth day following the bond sale.

As added by Acts 1980, P.L.8, SEC.19. Amended by P.L.44-1983, SEC.5; P.L.23-1984, SEC.5; P.L.35-1990, SEC.1.

IC 5-1-11-4

Prohibitions; advantage in bidding; payment before delivery; technical services

Sec. 4. (a) It shall be unlawful for any officer or body authorized by law to issue or sell bonds to enter into a contract or agreement prior to the award of such bonds with any person, limited liability company, firm, or corporation, directly or indirectly interested in bidding on or purchasing such bonds, for the furnishing of legal, engineering, or other technical services, or for the furnishing of printed bond forms or any other contract or agreement which will give to any person, firm, limited liability company, or corporation an advantage in bidding on or purchasing such bonds or controlling the sale thereof. Any funds expended on account of any such contract or agreement shall be chargeable to the officer or officers authorizing or making such expenditure.

(b) It shall be unlawful for any officer or body authorized to issue or sell bonds to require the successful bidder therefor to pay for such bonds prior to the time that such bonds are delivered, or prior to the time that the successful bidder shall have had reasonable opportunity to examine such bonds and the proceedings had relative to the authorization, issuance and sale of the same. Nothing in this chapter, however, shall prevent any county, township, city, town, school corporation or special taxing district from employing or contracting for legal, engineering or other technical services, prior to the sale of any such bonds, provided that such services are not to be supplied by or through a person, firm, limited liability company, or corporation directly or indirectly interested in bidding on or purchasing such bonds.

As added by Acts 1980, P.L.8, SEC.19. Amended by P.L.8-1993, SEC.47.

IC 5-1-11-5

Transcript of proceedings relative to issuance of bonds to be furnished to purchaser

Sec. 5. Whenever any bonds are sold, there shall be furnished to the purchaser thereof a transcript of the proceedings had and actions taken relative to the authorization, issuance, and sale of such bonds, certified by the person or persons charged with recording the minutes or keeping the records of the body or bodies having to do with the authorization and issuance of such bonds. In cases where such transcripts relate to the issuance of general obligation bonds, or bonds payable in anticipation of the collection of special taxes, such transcripts shall also have attached thereto the certificate of the proper officers showing the assessed valuation of taxable property in and outstanding indebtedness of the issuing unit and other pertinent details bearing on the validity of said bonds. Such transcripts and the certificates attached thereto shall import verity and shall be accepted in evidence in any legal proceedings relating to or affecting said bonds.
As added by Acts 1980, P.L.8, SEC.19.

IC 5-1-11-6
Other statutory authorization to issue and exchange bonds for refunding or redeeming outstanding bonds

Sec. 6. (a) In cases where other statutes authorize the issuance and exchange of new bonds for the purpose of refunding or redeeming outstanding bonds for the payment of which no funds are available, it shall be the duty of the officers charged with issuance and exchange of such new bonds to cause the same to be offered at public sale as provided in this chapter.

(b) In cases where it is necessary to provide for the refunding of bonds or interest coupons maturing at various times over a period not exceeding six (6) months, the bodies and officials charged with the duty of issuing and selling such refunding bonds may, for the purpose of reducing the cost of issuance thereof, issue and sell one (1) issue of bonds in an amount sufficient to provide for the refunding of all of the bonds and interest coupons required to be refunded during said six (6) months period.
As added by Acts 1980, P.L.8, SEC.19.

IC 5-1-11-7
Restrictions on powers

Sec. 7. Nothing in this chapter contained shall be so construed as to enlarge the powers of counties, townships, cities, towns, school corporations, and special taxing districts, or agencies or instrumentalities thereof to issue bonds.
As added by Acts 1980, P.L.8, SEC.19.

IC 5-1-12

Chapter 12. Payment of Bond Premiums

IC 5-1-12-1

"Municipal corporation" defined

Sec. 1. The term "municipal corporation" means a county, township, city, town, or school corporation.

As added by Acts 1980, P.L.8, SEC.21.

IC 5-1-12-2

Premiums on bid prices to constitute part of fund to retire bond and pay interest thereon

Sec. 2. Whenever any bonds are sold by any municipal corporation and when the successful bidder agrees to pay and does pay any premium as a part of the bid price of such bonds, any and all premiums so received shall be paid into and shall constitute a part of the fund which is created to retire such bonds and to pay the interest thereon.

As added by Acts 1980, P.L.8, SEC.21.

IC 5-1-13

Chapter 13. Disposition of Surplus Bond Proceeds

IC 5-1-13-1

Definitions

Sec. 1. The definitions in this section apply throughout this chapter:

(1) "Bonds" has the same definition that the term is given in IC 5-1-11-1.

(2) "Local issuing body" has the meaning set forth in IC 5-1-5-1.

(3) "Political subdivision" has the same definition that the term is given in IC 36-1-2-13.

(4) "Special benefit taxes" has the meaning set forth in IC 5-1-5-1.

(5) "Tax increment revenues" has the meaning set forth in IC 5-1-5-1.

As added by Acts 1980, P.L.8, SEC.23. Amended by P.L.24-1984, SEC.1; P.L.146-2008, SEC.26.

IC 5-1-13-2

Use of surplus proceeds

Sec. 2. (a) Notwithstanding any other law, whenever:

(1) bonds are issued by any local issuing body in the state of Indiana for any lawful purpose or project;

(2) the purpose or project for which the bonds were issued has been accomplished or abandoned; and

(3) a surplus remains from the proceeds of the bonds or investment earnings derived from the proceeds of those bonds;

the local issuing body may use the surplus only in the manner prescribed by subsection (b), (c), or (d).

(b) The legislative body or other governing body of any such local issuing body may by an order, ordinance, or resolution entered of record direct the disbursing officer of such local issuing body to transfer the surplus bond proceeds or investment earnings to the fund of the local issuing body pledged to the payment of principal and interest on those bonds, and upon such order, ordinance, or resolution being made, the disbursing officer shall make such transfer. Thereafter such funds transferred shall be used for the payment of the bonds to which the surplus bond proceeds or investment earnings are attributable or interest due for such bonds.

(c) Surplus bond proceeds or investment earnings may be used by a local issuing body for the following purposes:

(1) To maintain a debt service reserve fund for the bonds to which the surplus bond proceeds or investment earnings are attributable, at the level required under the terms of the bonds, if the local issuing body adopts an ordinance, resolution, or order authorizing that use of the proceeds or earnings.

(2) To pay the principal or interest, or both, on any other bonds of the local issuing body, if the local issuing body adopts an ordinance, a resolution, or an order authorizing the use of the surplus proceeds to pay principal or interest on the bonds.

(3) To reduce the rate or amount of ad valorem property taxes, special benefit taxes on property, or tax increment revenues imposed by or allocated to the local issuing body.

(d) This section applies to bonds that are not payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes. Surplus bond proceeds or investment earnings may be used by a local issuing body for the same purpose or type of project for which the bonds were originally issued, if:

(1) the fiscal officer of the local issuing body certifies before or at the time of that use that the surplus was not anticipated at the time of issuance of the bonds; and

(2) the board or legislative body responsible for issuing the bonds takes action approving the use of surplus bond proceeds or investment earnings for the same purpose or type of project for which the bonds were originally issued.

As added by Acts 1980, P.L.8, SEC.23. Amended by P.L.24-1984, SEC.2; P.L.37-1988, SEC.1; P.L.2-1989, SEC.3; P.L.146-2008, SEC.27.

IC 5-1-13-3

Income from investment of proceeds of sale of bonds; application

Sec. 3. Notwithstanding any other law, income from the investment of proceeds of the sale of bonds issued by any political subdivision that are payable from property taxes shall be applied to the improvement or the public purpose for which the bonds were issued or shall be used to pay interest on the bonds and in no event may such income be used for any other purpose except as provided in section 2 of this chapter.

As added by P.L.24-1984, SEC.3.

IC 5-1-14

Chapter 14. Miscellaneous Provisions

IC 5-1-14-1

Bonds, notes, or warrants not subject to maximum interest rate limitations

Sec. 1. (a) Any bonds, notes, or warrants, whether payable from property taxes, revenues, or any other source, are not subject to the maximum interest rate limitations contained in any law enacted before December 31, 1982, if they are issued by or in the name of any entity named in IC 5-1-1-1.

(b) After July 1, 1979, any bond, coupon, certificate of indebtedness, or installment payment payable by a city, town, or property holder for public improvements under the Barrett Law is not subject to any maximum interest rate limitation. This subsection does not apply to interest rates or penalties on delinquencies provided under the Barrett Law.

(c) This section does not limit an interest rate review conducted by the department of local government finance under IC 6-1.1-20-7.

As added by Acts 1980, P.L.8, SEC.25. Amended by P.L.44-1983, SEC.6; P.L.90-2002, SEC.12.

IC 5-1-14-1.2

Issuer defined

Sec. 1.2. As used in this chapter, "issuer" means any issuer of obligations that is referred to in IC 5-1-1-1(b).

As added by P.L.37-1988, SEC.2.

IC 5-1-14-1.3

Definitions

Sec. 1.3. The following definitions apply throughout this chapter:

(1) "Local issuing body" has the meaning set forth in IC 5-1-5-1.

(2) "Special benefit taxes" has the meaning set forth in IC 5-1-5-1.

(3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4, except that the term includes a swap agreement entered into by an issuing body (as defined in section 17.2(b) of this chapter) only if any part of the payments owed by the issuing body under the agreement, including any termination or settlement payments, is payable out of:

(A) tax revenues; or

(B) a special assessment.

(4) "Tax increment revenues" has the meaning set forth in IC 5-1-5-1.

As added by P.L.146-2008, SEC.28. Amended by P.L.218-2011, SEC.1.

IC 5-1-14-1.5
Obligations defined

Sec. 1.5. As used in this chapter, "obligations" has the meaning set forth in IC 5-1-3-1(b).

As added by P.L.37-1988, SEC.3.

IC 5-1-14-2
Provisions for payment of bonds, notes, or warrants before maturity date

Sec. 2. Any bonds, notes, or warrants, whether payable from property taxes, revenues, or any other source, issued by an entity enumerated in section 1(a) of this chapter may provide that the bonds, notes, or warrants may be payable before maturity from available funds and with such premiums as are set forth in the bonds, notes, or warrants. In addition, the bonds, notes, or warrants may provide that they may be registered as to principal or interest, or both, at the option of the holder, and upon such terms and conditions as are set forth in the bonds, notes, or warrants.

As added by Acts 1980, P.L.8, SEC.25.

IC 5-1-14-3
Maintenance of federal tax exclusion from gross income for interest on bonds

Sec. 3. Notwithstanding any other law, any issuer may take any reasonable and necessary action to establish or maintain the exclusion from gross income for interest on obligations of the issuer under federal law. These actions may include, without limitation:

(1) filing information reports with the federal government;

(2) rebating money derived from bond proceeds or money treated as bond proceeds under federal law, or earnings thereon, to the federal government;

(3) restricting the yield on money or earnings described in subdivision (2) to the yield on bonds of the issuer;

(4) investing money or earnings described in subdivision (2) in obligations of issuers that bear interest that is excludable from gross income under federal law;

(5) issuing obligations in an amount sufficient to serve the public purpose of the financing without considering earnings thereon;

(6) qualifying obligations under any volume cap or electing any carryforward of unused volume cap;

(7) designating, through its legislative body or any board responsible for issuing obligations as long as the obligations are executed by the executive of the issuer, obligations to qualify for any exemption from the loss of any deduction for interest incurred by any financial institution to carry tax exempt obligations or for any exemption from federal arbitrage rebate requirements; and

(8) complying with limitations imposed by federal law on the issuance of tax exempt bonds under IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-15.3, including, without limitation:

(A) designation of redevelopment project areas by a legislative body (as defined in IC 36-1-2-9) having jurisdiction over the area;

(B) considering any factors required by federal law in determining whether an area meets the criteria for designation as a redevelopment project area; and

(C) limiting the use of property in a redevelopment project area.

As added by P.L.27-1986, SEC.1. Amended by P.L.37-1988, SEC.4; P.L.2-1989, SEC.4; P.L.185-2005, SEC.1.

IC 5-1-14-4

Pledge made by issuer binding; lien

Sec. 4. (a) Notwithstanding any other law, a pledge of revenues or other money, or property made by any issuer is binding from the time the pledge is made. Revenues or other money, or property pledged and thereafter received by the issuer are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the issuer, regardless of whether the parties have notice of any lien. No resolution, ordinance, indenture, or any other instrument by which a pledge is created needs to be filed or recorded except in the records of the issuer.

(b) Notwithstanding any other law, an issuer may pledge any revenues or other money or pledge or mortgage property to pay debt service on or secure any obligations or any lease rental or contractual payments, if:

(1) the issuer has the necessary statutory authority to issue obligations, pay lease rentals, or make contractual payments for any project or purpose for which the pledge or mortgage is made;

(2) the revenues, money, or property is legally available, under federal, state, and local laws, to pay or secure debt service, lease rentals, or contractual payments; and

(3) the pledge or mortgage does not purport to create an obligation in violation of any statutory or constitutional limitation to which the issuer is subject.

As added by P.L.27-1986, SEC.2. Amended by P.L.37-1988, SEC.5.

IC 5-1-14-5

Bond anticipation notes; issuance

Sec. 5. Notwithstanding any other law, any city, town, county, school corporation, or regional district organized under IC 13-26 or IC 13-3-2 (before its repeal) that has complied with all statutory requirements for the issuance of its bonds, other than IC 5-1-11 or

any public sale statute, may, in lieu of issuing bonds at that time and without the need for complying with any other law applicable to the issuance of bonds, notes, or other evidences of indebtedness, issue its notes in anticipation of the issuance of bonds to a financial institution. However, if the amount of the notes is at least one million dollars ($1,000,000), the notes may be issued to any purchaser. The bond anticipation notes may be issued on terms set forth in a resolution or ordinance authorizing their issuance and in any amount equal to or less than the amount of bonds authorized to be issued. The city, town, county, school corporation, or district may renew or extend the bond anticipation notes from time to time on terms agreed to with the financial institution or other purchaser. The amount of the accrued interest on the date of renewal or extension of the bond anticipation notes may be paid or added to the principal amount of the bond anticipation notes being renewed or extended as long as the aggregate principal amount of bond anticipation notes outstanding at any time does not exceed the maximum principal amount permitted by this section. The bond anticipation notes, including any renewals or extensions, must mature in the amounts and at the times (not exceeding five (5) years from the date of the original issuance of the bond anticipation notes) agreed to by the city, town, county, school corporation, or district and the financial institution or other purchaser. The bond anticipation notes must be finally paid, and interest on the bond anticipation notes may be finally paid, with the proceeds of the bonds issued by the city, town, county, school corporation, or district. In connection with the issuance of bonds, part or all of the proceeds of which will be used to retire the bond anticipation notes, it is not necessary for the city, town, county, school corporation, or district to repeat the procedures for the issuance of bonds, as the procedures followed before the issuance of the bond anticipation notes are for all purposes sufficient to authorize the issuance of the bonds.

As added by P.L.44-1987, SEC.4. Amended by P.L.2-1989, SEC.5; P.L.35-1990, SEC.2; P.L.1-1996, SEC.34.

IC 5-1-14-6

Use of proceeds for costs of issuance of obligation, funding debt services reserves, or payment of interest; reimbursements

Sec. 6. (a) Notwithstanding any other law, an issuer may use proceeds of its obligations to pay the reasonable cost of issuance of the obligations or to fund reasonably required debt service reserves to secure the payment of the obligations.

(b) Notwithstanding any other law, an issuer may use proceeds of the issuer's obligations to pay interest on the obligations for:

(1) a period not to exceed two (2) years from the date of issuance of the obligations; or

(2) any longer period that is permitted by any other statute.

(c) Notwithstanding any other law, an issuer may reimburse itself

for preliminary costs incurred in financing any project or purpose from proceeds of the obligations when issued.
As added by P.L.37-1988, SEC.6. Amended by P.L.35-1990, SEC.3; P.L.24-1995, SEC.22.

IC 5-1-14-7
Application of section; stadium; lease rental tax

Sec. 7. (a) This section applies to:

(1) 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); and

(2) each second class city located in a county described in subdivision (1).

(b) As used in this section, "stadium" means a structure used for athletic, recreational, cultural, and community events.

(c) Notwithstanding any other law, a stadium constitutes a:

(1) government building under IC 36-9-13;

(2) structure under IC 36-1-10;

(3) park purpose under IC 36-10-1;

(4) park improvement under IC 36-10-4; and

(5) redevelopment project or purpose under IC 36-7-14.

(d) Notwithstanding any other law, a legislative body of a city may levy a tax in the park district established under IC 36-10-4 to pay lease rentals to a lessor of a stadium under IC 36-1-10 or IC 36-9-13.
As added by P.L.38-1988, SEC.1. Amended by P.L.12-1992, SEC.14; P.L.170-2002, SEC.12; P.L.119-2012, SEC.11.

IC 5-1-14-8
Money withheld by auditor as not creating debt for constitutional purposes

Sec. 8. If a statute provides that amounts due under a loan to a political subdivision (as defined in IC 36-1-2) or a local public improvement bond bank shall or may be withheld by the auditor of state from other money payable to the political subdivision or bond bank upon failure to make repayment of the loan, the requirement or permission to withhold amounts due under the loan does not create a debt of the political subdivision for purposes of the Constitution of the State of Indiana.
As added by P.L.2-1989, SEC.6.

IC 5-1-14-9
Rights of owners of obligations not to be impaired

Sec. 9. (a) The general assembly covenants that it will not adopt, amend, or repeal a statute in a way that impairs the rights and remedies of the owners of obligations, until the obligations, interest on the obligations, interest on an unpaid installment of interest, and all costs and expenses in connection with an action or proceedings

by or on behalf of the owners are fully paid and discharged.

(b) An agency (as defined in IC 4-22-2-3) may not adopt, amend, or repeal a rule under IC 4-22-2 in a way that impairs the rights and remedies of the owners of obligations, until the obligations, interest on the obligations, interest on an unpaid installment of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of the owners are fully paid and discharged.

As added by P.L.2-1989, SEC.7.

IC 5-1-14-10

Maximum term or repayment period of obligations; continuation of payments

Sec. 10. (a) If an issuer has issued obligations under a statute that establishes a maximum term or repayment period for the obligations, notwithstanding that statute, the issuer may continue to make payments of principal, interest, or both, on the obligations after the expiration of the term or period if principal or interest owed to owners of the obligations remains unpaid.

(b) This section does not authorize the use of revenues or funds to make payments of principal and interest other than those revenues or funds that were pledged for the payments before the expiration of the term or period.

(c) Except as otherwise provided by this section, IC 5-1-5-2.5, IC 16-22-8-43, IC 36-7-12-27, IC 36-7-14-25.1, or IC 36-9-13-30 (but only with respect to any bonds issued under IC 36-9-13-30 that are secured by a lease entered into by a political subdivision organized and existing under IC 16-22-8), the maximum term or repayment period for obligations issued after June 30, 2008, that are wholly or partially payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes may not exceed:

(1) the maximum applicable period under federal law, for obligations that are issued to evidence loans made or guaranteed by the federal government or a federal agency;

(2) twenty-five (25) years, for obligations that are wholly or partially payable from tax increment revenues derived from property taxes; or

(3) twenty (20) years, for obligations that are not described in subdivision (1) or (2), and are wholly or partially payable from ad valorem property taxes or special benefit taxes on property.

As added by P.L.2-1989, SEC.8. Amended by P.L.146-2008, SEC.29; P.L.182-2009(ss), SEC.63; P.L.229-2011, SEC.66.

IC 5-1-14-11

Payment of fees and charges authorized

Sec. 11. If an issuer is authorized by statute to issue obligations and to make payments of principal and interest to owners of those obligations from any source, the issuer is authorized to pay fees and

charges associated with the issuance of the obligations from that source, including the payment of fees and charges associated with obtaining and enforcing credit enhancement for the obligations.
As added by P.L.2-1989, SEC.9.

IC 5-1-14-12
Refunding obligations

Sec. 12. Notwithstanding any other law, if an agency, an authority, a board, a department, or a commission of a unit (as defined in IC 36-1-2) is authorized to issue obligations in the name of the unit for any purpose for which any other agency, authority, board, department, or commission of the unit may issue its obligations, the agency, the authority, the board, the department, or the commission may issue obligations to refund obligations issued in the name of the unit by the other agency, authority, board, department, or commission of the unit.
As added by P.L.2-1989, SEC.10.

IC 5-1-14-12.5
Purchase and issuance of obligations on terms reasonable to issuer

Sec. 12.5. Notwithstanding any other law, an issuer may purchase any obligations on terms the issuer finds reasonable and may issue its obligations to effectuate that purpose on terms that the issuer finds reasonable.
As added by P.L.224-2003, SEC.265.

IC 5-1-14-13
Contesting validity of obligations

Sec. 13. The following provisions apply when an issuer negotiates a sale of obligations and a statute does not specify a time within which to contest the validity of the obligations or the sale of the obligations:

(1) No action to contest the validity of the obligations may be brought after the fifteenth day following the adoption of the resolution authorizing the sale of the obligations.

(2) No action to contest the validity of the sale of the obligations may be brought after the fifth day following the sale.

As added by P.L.2-1989, SEC.11.

IC 5-1-14-14 Version a
Loans, expenditures, and issuance of bonds for economic development

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 14. (a) Notwithstanding any other law, a municipality may sell the municipality's interest in any notes payable to the municipality at a negotiated sale.

(b) A county or municipality may establish a revolving fund from grants, the revenue received by the county or municipality under IC 6-3.5-7, the proceeds of the sale of notes, or the proceeds of bonds issued under this section and IC 36-9-32. The county or municipality may loan the money in the revolving fund to any borrower if the county or municipal fiscal body finds that the loan will be used by the borrower for one (1) or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of the county's or municipality's residents.

(2) Attracting a major new business enterprise to the county or municipality.

(3) Retaining or expanding a significant business enterprise in the county or municipality.

(c) Activities that may be undertaken by the borrower in carrying out an economic development purpose include expenditures for any of the following:

(1) Acquisition of land.

(2) Acquisition of property interests.

(3) Site improvements.

(4) Infrastructure improvements.

(5) Buildings.

(6) Structures.

(7) Rehabilitation, renovation, or enlargement of buildings or structures.

(8) Machinery.

(9) Equipment.

(10) Furnishings.

(d) Local governmental entities may borrow under subsection (b) if the local governmental entity's jurisdiction includes the geographic area within the boundaries of the county or municipality that established the revolving fund. Notwithstanding any other law, the following provisions apply to the borrowing:

(1) The county or municipality that established the revolving fund and the local governmental entity borrower may each authorize the loan from the revolving fund and the issuance of notes evidencing the loan by resolution. In each case, the resolution shall be adopted by the body with control over fiscal matters.

(2) A resolution adopted under subdivision (1) must approve:

(A) the term of the loan;

(B) the interest rate;

(C) the form of the note or notes;

(D) the medium of payment;

(E) the place and manner of payment;

(F) the manner of execution of the note or notes;

(G) the terms of redemption;

(H) the funds or sources of funds from which the note or

notes are payable, which may be any funds and sources of funds available to the borrower; and

(I) any other provisions not inconsistent with this section.

(3) The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This section contains full and complete authority for the making of the loan, the authorization, issuance, sale, and delivery of the notes, and the repayment of the loan by the borrower, and no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by any officer, department, agency, or instrument of the state or of any political subdivision is required to make the loan, issue the notes, or repay the loan except as prescribed in this section.

(4) The notes issued by a local governmental entity borrower are exempt from taxation for all purposes and are exempt from any security registration requirements provided for in Indiana statutes.

(5) Notes issued by a local governmental entity borrower under this section are obligations for all purposes of this chapter.

(e) A municipality may issue bonds under IC 36-9-32-7(b) through IC 36-9-32-7(j) for the economic development purposes listed in subsection (c) and may repay the indebtedness solely from revenues derived from the repayment of any notes, including notes evidencing loans made under subsection (b).

(f) To the extent a revolving fund under subsection (b) is funded from:

(1) revenues received by the county under IC 6-3.5-7; or

(2) repayments of principal and interest on loans from the revolving fund that were funded with revenues described in subdivision (1);

money in the revolving fund may at any time be transferred in whole or in part to the unit's economic development income tax fund, as determined by ordinance of the unit's fiscal body.

(g) The general assembly finds that counties and municipalities in Indiana have a need to foster economic development and industrial and commercial growth. The general assembly finds that it is necessary and proper to provide an alternative method for municipalities to foster the following:

(1) Economic development.

(2) Industrial and commercial growth.

(3) Employment opportunities.

(4) Diversification of industry and commerce.

It is declared that the fostering of economic development under this section for the benefit of the general public, including industrial and commercial enterprises, is a public purpose.

As added by P.L.35-1990, SEC.4. Amended by P.L.27-1995, SEC.5.

IC 5-1-14-14 Version b

Loans, expenditures, and issuance of bonds for economic development

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 14. (a) Notwithstanding any other law, a municipality may sell the municipality's interest in any notes payable to the municipality at a negotiated sale.

(b) A county or municipality may establish a revolving fund from grants, the revenue received by the county or municipality under IC 6-3.6-9 and allocated for economic development purposes under IC 6-3.6-6-9, the proceeds of the sale of notes, or the proceeds of bonds issued under this section and IC 36-9-32. The county or municipality may loan the money in the revolving fund to any borrower if the county or municipal fiscal body finds that the loan will be used by the borrower for one (1) or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of the county's or municipality's residents.

(2) Attracting a major new business enterprise to the county or municipality.

(3) Retaining or expanding a significant business enterprise in the county or municipality.

(c) Activities that may be undertaken by the borrower in carrying out an economic development purpose include expenditures for any of the following:

(1) Acquisition of land.

(2) Acquisition of property interests.

(3) Site improvements.

(4) Infrastructure improvements.

(5) Buildings.

(6) Structures.

(7) Rehabilitation, renovation, or enlargement of buildings or structures.

(8) Machinery.

(9) Equipment.

(10) Furnishings.

(d) Local governmental entities may borrow under subsection (b) if the local governmental entity's jurisdiction includes the geographic area within the boundaries of the county or municipality that established the revolving fund. Notwithstanding any other law, the following provisions apply to the borrowing:

(1) The county or municipality that established the revolving fund and the local governmental entity borrower may each authorize the loan from the revolving fund and the issuance of notes evidencing the loan by resolution. In each case, the resolution shall be adopted by the body with control over fiscal matters.

(2) A resolution adopted under subdivision (1) must approve:
(A) the term of the loan;
(B) the interest rate;
(C) the form of the note or notes;
(D) the medium of payment;
(E) the place and manner of payment;
(F) the manner of execution of the note or notes;
(G) the terms of redemption;
(H) the funds or sources of funds from which the note or notes are payable, which may be any funds and sources of funds available to the borrower; and
(I) any other provisions not inconsistent with this section.
(3) The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This section contains full and complete authority for the making of the loan, the authorization, issuance, sale, and delivery of the notes, and the repayment of the loan by the borrower, and no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by any officer, department, agency, or instrument of the state or of any political subdivision is required to make the loan, issue the notes, or repay the loan except as prescribed in this section.
(4) The notes issued by a local governmental entity borrower are exempt from taxation for all purposes and are exempt from any security registration requirements provided for in Indiana statutes.
(5) Notes issued by a local governmental entity borrower under this section are obligations for all purposes of this chapter.

(e) A municipality may issue bonds under IC 36-9-32-7(b) through IC 36-9-32-7(j) for the economic development purposes listed in subsection (c) and may repay the indebtedness solely from revenues derived from the repayment of any notes, including notes evidencing loans made under subsection (b).

(f) To the extent a revolving fund under subsection (b) is funded from:
(1) revenues received by the county under IC 6-3.6-9 and allocated for economic development purposes under IC 6-3.6-6-9; or
(2) repayments of principal and interest on loans from the revolving fund that were funded with revenues described in subdivision (1);

money in the revolving fund may at any time be transferred in whole or in part to the unit's economic development income tax fund, as determined by ordinance of the unit's fiscal body.

(g) The general assembly finds that counties and municipalities in Indiana have a need to foster economic development and industrial and commercial growth. The general assembly finds that it is

necessary and proper to provide an alternative method for municipalities to foster the following:

(1) Economic development.

(2) Industrial and commercial growth.

(3) Employment opportunities.

(4) Diversification of industry and commerce.

It is declared that the fostering of economic development under this section for the benefit of the general public, including industrial and commercial enterprises, is a public purpose.

As added by P.L.35-1990, SEC.4. Amended by P.L.27-1995, SEC.5; P.L.197-2016, SEC.1.

IC 5-1-14-15

Bonds and obligations to fund pension benefits

Sec. 15. (a) Before July 1, 2008, a county or municipality may issue bonds, notes, or other obligations for the purpose of providing funds to pay pension benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5.

(b) Notwithstanding any other law:

(1) bonds, notes, or other obligations issued for the purpose described in this section may have a final maturity date up to, but not exceeding, forty (40) years from the date of original issuance;

(2) the amount of bonds, notes, or other obligations that may be issued for the purpose described in this section may not exceed two percent (2%) of the true tax value of property located within the county or municipality; and

(3) the proceeds of bonds, notes, or other obligations issued for the purpose described in this section may be deposited to the issuing county's or municipality's separate account described in IC 5-10.3-11-6.

(c) This section is supplemental to all other laws but does not relieve a county or municipality from complying with other procedural requirements for the issuance of bonds, notes, or other obligations.

As added by P.L.234-2007, SEC.37. Amended by P.L.146-2008, SEC.30.

IC 5-1-14-16

Payment of principal and interest on obligations in nearly equal payment amounts and at regular designated intervals; exceptions

Sec. 16. (a) This section applies to obligations that are:

(1) issued after June 30, 2008, by a local issuing body; and

(2) payable from ad valorem property taxes, special benefit taxes on property, or tax increment revenues derived from property taxes;

including obligations that are issued under a statute that permits the bonds to be issued without complying with any other law or

otherwise expressly exempts the bonds from the requirements of this section.

(b) An agreement for the issuance of obligations must provide for the payment of principal and interest on the obligations in nearly equal payment amounts and at regular designated intervals over the maximum term of the obligations except to the extent that:

(1) interest for a particular repayment period has been paid from the proceeds of the obligations under section 6 of this chapter; or

(2) the local issuing body authorizes a different payment schedule to:

(A) maintain substantially equal payments, in the aggregate, in any period in which the local issuing body pays the interest and principal on outstanding obligations;

(B) provide for the payment of principal on the obligations in amounts and at intervals that will produce an aggregate amount of principal payments greater than or equal to the aggregate amount that would otherwise be paid as of the same date;

(C) provide for level principal payments over the term of the obligations, in order to reduce total interest costs;

(D) with respect to obligations wholly or partially payable from tax increment revenues derived from property taxes, provide for the payment of principal and interest in varying amounts over the term of the obligations as necessary due to the variation in the amount of tax increment revenues available for those payments; or

(E) provide for a repayment schedule that will result in the same or a lower amount of interest being paid on obligations that would be issued using nearly equal payment amounts.

As added by P.L.146-2008, SEC.31. Amended by P.L.182-2009(ss), SEC.64.

IC 5-1-14-17.2

Bond financing; swap agreement restrictions

Sec. 17.2. (a) This section does not apply to a political subdivision or other local entity when the political subdivision or other local entity participates in a program sponsored by the Indiana bond bank in which the actions of the Indiana bond bank are subject to this section.

(b) As used in this section, "issuing body" includes:

(1) the state of Indiana and its agencies, commissions, and authorities;

(2) the Indiana bond bank established under IC 5-1.5-2;

(3) a political subdivision, school corporation, hospital association, municipal corporation, and special taxing district;

(4) a local public improvement bond bank established under IC 5-1.4-2; and

(5) any entity that has issued bonds payable directly or indirectly from taxes or lease rentals payable by any of the entities listed in subdivisions (1) through (4).

(c) This section provides restrictions on any issuing body entering into a swap agreement and does not authorize an issuing body to enter into a swap agreement separate from any other authority the issuing body has for entering into a swap agreement.

(d) For an issuing body that is authorized by another law to enter into swap agreements, the issuing body:

(1) may enter into a swap agreement only in connection with the financing activities of the issuing body as provided in this section; and

(2) may not enter into a swap agreement as an investment.

(e) An issuing body may enter into one (1) or more swap agreements in connection with the financing activities of the issuing body only under the following conditions:

(1) If in connection with or in anticipation of the issuance of an obligation, entering into the swap agreement would not cause the percentage determined in STEP FOUR of the following STEPS to exceed twenty percent (20%):

STEP ONE: Determine the aggregate amount of the outstanding notional amounts of the issuing body's outstanding swap agreements.

STEP TWO: Determine the difference between:

(i) the aggregate amount of all the outstanding obligations of the issuing body; minus

(ii) the aggregate amount of the outstanding obligations of the issuing body for which no tax revenues nor special assessments were pledged as a means to repay the obligations.

STEP THREE: Determine the sum of:

(i) the STEP TWO result; plus

(ii) the amount of obligations not yet issued but for which one (1) or more swap agreements have been entered into by the issuing body.

STEP FOUR: Determine the quotient of:

(i) the STEP ONE result; divided by

(ii) the STEP THREE result.

Multiply the quotient by one hundred (100) to convert the quotient to a percentage.

For purposes of the calculation, if more than one (1) swap agreement has been entered into in connection with or in anticipation of specified principal amounts and maturities of the same obligations, only the swap agreement with the highest outstanding notional amount is to be included in the calculation of the aggregate outstanding notional amounts of outstanding swap agreements. However, if the issuing body, except the Indiana finance authority, receives prior approval for entering

into a particular swap agreement from the Indiana finance authority, an issuing body may enter into the swap agreement in excess of the threshold. In the case of the Indiana finance authority, the authority may enter into a swap agreement in excess of the threshold only after review by the budget committee.

(2) The issuing body, except the Indiana finance authority, has adopted a comprehensive swap agreement policy at a public meeting that:

(A) includes provisions governing the adoption of swap agreements;

(B) is not less restrictive than the swap agreement policy governing the adoption of swap agreements that is in place for the Indiana finance authority at the time the issuing body adopts the comprehensive swap agreement policy; and

(C) is submitted to the Indiana finance authority for a determination that it complies with this subdivision.

(3) Each swap agreement is approved by a resolution of the governing board of the issuing body at a public meeting and the resolution includes a thorough analysis of the risk the issuing body is assuming by entering into the swap agreement.

(f) On an annual basis, an issuing body shall report to the governing board of the issuing body the status and terms and conditions of all outstanding swap agreements. The issuing body shall provide a final report to the governing board of the issuing body upon termination or expiration of each swap agreement.

(g) A swap agreement shall be considered as being entered into in connection with the financing activities of an issuing body if:

(1) the swap agreement is entered into not later than one hundred eighty (180) days after the issuance of the obligation and specifically indicates the swap agreement's relationship to the obligation;

(2) the issuing body designates the swap agreement as having a relationship to the obligation;

(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 obligation.

As added by P.L.218-2011, SEC.2.

IC 5-1-15

Chapter 15. Fully Registered and Book Entry Obligations

IC 5-1-15-1

Application of chapter

Sec. 1. This chapter applies to any entities issuing bonds that are named in IC 5-1-1-1.

As added by P.L.44-1983, SEC.7.

IC 5-1-15-2

Form of obligations; interchangeable nature

Sec. 2. Notwithstanding any other provision of law, bonds, notes, evidences of indebtedness, or other written obligations may be issued in fully registered or book entry form, and may be interchangeable in any manner provided for by the issuing entity.

As added by P.L.44-1983, SEC.7.

IC 5-1-15-3

Delivery; registrar or paying agent; deposit; certificates

Sec. 3. (a) Bonds, notes, evidences of indebtedness, or other written obligations issued in book entry form shall:

(1) not be delivered to the owners thereof; and

(2) have a registrar or paying agent that may be:

(A) the issuing entity;

(B) a bank or trust company; or

(C) a securities depository corporation.

(b) In connection with issuance in book entry form, the following may be done:

(1) A written instrument may be deposited with the registrar or paying agent.

(2) Participation certificates or certificates of beneficial interest may be issued to the owner by the issuing entity, registrar, or paying agent.

As added by P.L.44-1983, SEC.7.

IC 5-1-15-4

Employment of bank or trust company

Sec. 4. The entity may employ any bank or trust company as paying agent or registrar, co-registrar, or depository institution. The bank or trust company need not be a depository bank under IC 5-13, and need not be located within the state of Indiana.

As added by P.L.44-1983, SEC.7. Amended by P.L.3-1990, SEC.19.

IC 5-1-15-5

Confidentiality of books and records

Sec. 5. Notwithstanding any other provision of law, registers or registration books or transfer records for bonds, notes, evidences of indebtedness, or other written obligations of any entity are not public

records, but are only for the use of the entity, any trustee, fiduciary, paying agent, registrar, co-registrar, or transfer agent. A trust department of a bank having possession of these records shall not disclose them to a bond department, commercial department, subsidiary of the bank, or a subsidiary of the parent corporation of the bank.
As added by P.L.44-1983, SEC.7.

IC 5-1-15-6
Register

Sec. 6. Registrars of bond issues shall keep a register of ownership of bonds.
As added by P.L.44-1983, SEC.7.

IC 5-1-16

Chapter 16. Indiana Finance Authority Financing of Health Facilities

IC 5-1-16-1

Definitions

Sec. 1. As used in this chapter:

"Authority" refers to the Indiana finance authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with

providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;

(D) habilitation, rehabilitation, or therapeutic services; or

(E) any related supporting services;

regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;

(2) is a residential facility for:

(A) individuals with a physical, mental, or emotional disability;

(B) individuals with a physical or mental illness; or

(C) the elderly; or

(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:

(1) owned or used by a participating provider;

(2) located:

(A) in Indiana; or

(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and

(3) utilized, directly or indirectly:

(A) in:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) the training or teaching of health care personnel; or

(v) any related supporting services;

(B) to provide a residential facility for:

(i) individuals with a physical, mental, or emotional

disability;
(ii) individuals with a physical or mental illness; or
(iii) the elderly; or
(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:

(1) is located in Indiana or outside Indiana;
(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:
(A) in Indiana; or
(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as determined by the authority, for the benefit of a health facility or facilities located in Indiana;
(3) is:
(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;
(B) a regional blood center;
(C) a community mental health center or community intellectual disability and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);
(D) an entity that:
(i) contracts with the division of disability and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or
(ii) provides a similar program under the laws of the state in which the entity is located;
(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;
(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for individuals with a physical, mental, or emotional disability,

individuals with a physical or mental illness, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

(i) individuals with a physical, mental, or emotional disability;

(ii) individuals with a physical or mental illness; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

As added by P.L.45-1983, SEC.1. Amended by P.L.41-1985, SEC.1;

P.L.28-1986, SEC.1; P.L.45-1987, SEC.1; P.L.39-1988, SEC.1; P.L.11-1990, SEC.104; P.L.2-1992, SEC.44; P.L.27-1992, SEC.1; P.L.2-1993, SEC.40; P.L.43-1993, SEC.1; P.L.56-1995, SEC.1; P.L.272-1999, SEC.3; P.L.5-2001, SEC.1; P.L.215-2001, SEC.7; P.L.64-2002, SEC.1; P.L.235-2005, SEC.62; P.L.141-2006, SEC.7; P.L.162-2007, SEC.15; P.L.99-2007, SEC.11; P.L.117-2015, SEC.1.

IC 5-1-16-1.1
Applicability of provisions to the authority

Sec. 1.1. This chapter:

(1) applies to the Indiana finance authority only when acting as the authority for the purposes set forth in this chapter; and

(2) does not apply to the Indiana finance authority when acting under any other statute for any other purpose.

As added by P.L.235-2005, SEC.63. Amended by P.L.162-2007, SEC.16.

IC 5-1-16-1.5
Appropriation and expenditure of county tax money; leases binding upon county

Sec. 1.5. (a) For purposes of this chapter, county commissioner action or approval for the appropriation and expenditure of county tax money shall presuppose and include approval by the county council.

(b) A lease entered into by the board of county commissioners with the authority is valid or binding upon the county only if the lease is approved by a majority vote of the county council.

As added by P.L.43-1993, SEC.2.

IC 5-1-16-2
Repealed

(As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.2; P.L.235-2005, SEC.64. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-3
Repealed

(As added by P.L.45-1983, SEC.1. Amended by P.L.235-2005, SEC.74. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-4
Repealed

(As added by P.L.45-1983, SEC.1. Amended by P.L.235-2005, SEC.66. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-5
Repealed

(As added by P.L.45-1983, SEC.1. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-6
Repealed
(As added by P.L.45-1983, SEC.1. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-7
Repealed
(As added by P.L.45-1983, SEC.1. Amended by P.L.235-2005, SEC.67. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-8
Repealed
(As added by P.L.45-1983, SEC.1. Amended by P.L.235-2005, SEC.68. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-9
Repealed
(As added by P.L.45-1983, SEC.1. Amended by P.L.235-2005, SEC.69. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-10
Repealed
(As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.3; P.L.8-1993, SEC.48. Repealed by P.L.235-2005, SEC.212.)

IC 5-1-16-10.5
Repealed
(As added by P.L.235-2005, SEC.70. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-11
Repealed
(As added by P.L.45-1983, SEC.1. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-12
Repealed
(As added by P.L.45-1983, SEC.1. Amended by P.L.235-2005, SEC.71. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-13
Powers of authority
Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including but not limited to the following:

(1) To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and

the exercise of its powers and functions under this chapter.
(2) To employ architects, engineers, independent legal counsel, inspectors, accountants, and health care and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment without the approval of or consent by any other state official, and to fix their compensation.
(3) To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it considers advisable, including the power to pay premiums on any such insurance.
(4) To procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, to secure payment:
(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and
(B) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee.
(5) To procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.
(6) To receive and accept from any source any money, property, or thing of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States of America for any purpose consistent with this chapter.
(7) To provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, health facility property to be located within a health facility.
(8) To lease as lessor any item of health facility property for such rentals and upon such terms and conditions as the authority considers advisable and are not in conflict with this chapter.
(9) To sell by installment or otherwise to sell by option or contract for sale, and to convey all or any part of any item of health facility property for such price and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.
(10) To make contracts and incur liabilities, borrow money at such rates of interest as the authority determines, issue its bonds in accordance with this chapter, and secure any of its bonds or

obligations by a mortgage or pledge of all or any of its property, franchises, and income or as otherwise provided in this chapter.
(11) To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any item of health facility property, including the retiring of any outstanding obligations issued by a participating provider, and the reimbursement to a participating provider of advances, for the cost of any health facility property purchased in anticipation of procuring such financing or refinancing from the authority or other sources, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.
(12) To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this chapter.
(13) To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, health facility property, or any interest therein, wherever situated.
(14) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.
(15) To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.
(16) To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.
(17) Except as otherwise provided in a trust agreement or bond resolution securing bonds of the authority, and notwithstanding IC 5-13, to invest:
(A) the authority's money, funds, and accounts;
(B) any money, funds, and accounts in the authority's custody; and
(C) proceeds of bonds or notes;
in the manner provided by an investment policy established by resolution of the authority.
(18) To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, leases, sales, advances, insurance, commitments, and servicing.
(19) To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency.
(20) To sell, at public or private sale, with or without public

bidding, any loan or other obligation held by the authority.

(21) To assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the proceeds of the bonds will be used by participating providers in Indiana. Neither the state of Indiana nor the authority, nor any officers, agents, or employees of the state or the authority, are subject to any liability resulting from assistance to or coordination or participation with other issuers of tax exempt bonds under this subsection. Any assistance, coordination, or participation provided under this subsection is given with the understanding that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

(22) Subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lienholders and other creditors.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.4; P.L.5-2001, SEC.2; P.L.235-2005, SEC.72; P.L.162-2007, SEC.17.

IC 5-1-16-13.1
Repealed

(As added by P.L.5-1996, SEC.4. Amended by P.L.235-2005, SEC.73. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-14
Competitive bidding requirement

Sec. 14. Health facility property financed under this chapter is not subject to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of health facility property with regard to any action taken under authority of this chapter. However, if the prospective lessee or purchaser requests in writing, the authority shall call for the construction bids in a manner determined by the authority with the approval of such lessee or purchaser.
As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.5.

IC 5-1-16-15
Health facility property; participating providers

Sec. 15. The authority may initiate a program of providing health facility property to be operated by participating providers in health facilities. In furtherance of this objective, the authority may also:

(1) establish eligibility standards for participating providers, without complying with IC 4-22-2; however, these standards have the force of law if the standards are adopted after a public hearing for which notice has been published in a newspaper published in the city of Indianapolis, at least ten (10) days in advance of the hearing;

(2) contract with any entity securing the payment of bonds under section 13(a)(4) and 13(a)(5) of this chapter, authorizing the entity to approve the participating providers that can finance or refinance health facility property with proceeds from the bond issue secured by that entity;

(3) lease to a participating provider specific items of health facility property upon terms and conditions that the authority considers proper, to charge and collect rents therefor, to terminate any such lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides, to include in any such lease provisions that the lessee has the options to renew the term of the lease for such periods and at such rents as may be determined by the authority or to purchase any or all of the health facility property to which the lease applies;

(4) loan to a participating provider under an installment purchase contract or loan agreement money to finance, reimburse, or refinance the cost of specific items of health facility property and to take back a secured or unsecured promissory note evidencing such a loan and a security interest in the health facility property financed or refinanced with such loan, upon such terms and conditions as the authority considers proper;

(5) sell or otherwise dispose of any unneeded or obsolete health facility property under terms and conditions as determined by the authority;

(6) maintain, repair, replace, and otherwise improve or cause to

be maintained, repaired, replaced, and otherwise improved any health facility property owned by the authority;

(7) obtain or aid in obtaining property insurance on all health facility property owned or financed, or to accept payment if any health facility property is damaged or destroyed; and

(8) enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, or letter of credit, accepting payment in such manner and form as provided therein if a participating provider defaults, and to assign any such insurance, guarantee, or letter of credit as security for bonds issued by the authority.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.6; P.L.5-2001, SEC.3; P.L.162-2007, SEC.18.

IC 5-1-16-16

Authority management; agreements

Sec. 16. The authority may employ and may enter into agreements with, and delegate to any person as it sees fit, the power to manage the routine affairs of the authority, including the originating and processing of any applications from participating providers for the lease or purchase from the authority, or financing, reimbursing, or refinancing by the authority, of health facility property and to service the leases, installment purchase contracts, and loan agreements between the authority and the participating providers.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.7.

IC 5-1-16-17

Security; transactions with participating providers

Sec. 17. Before exercising any of the powers conferred by section 15 of this chapter, the authority may:

(1) require that the lease, installment purchase contract, or loan agreement involved be insured by a loan insurer, be guaranteed by a loan guarantor, or be secured by a letter of credit; and

(2) require any other type of security from the participating providers that it considers reasonable and necessary.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-18

Power to issue bonds

Sec. 18. The authority may issue, sell, and deliver its bonds, in accordance with this chapter, for the purpose of paying for or making loans to participating providers for the financing, reimbursing, or refinancing of all or any part of the cost of health facility property, to finance the acquisition of health facility property for lease or sale to participating providers, and any other purposes authorized by this chapter.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.8.

IC 5-1-16-19
Bonds; requisites

Sec. 19. (a) The bonds must be dated, must bear interest at such rates (fixed or variable), must mature at such times not exceeding forty (40) years from their date, and may be made redeemable before maturity at such prices and upon terms and conditions determined by the authority. The bonds, including any interest coupons to be initially attached thereto, must be in the forms and denominations and payable at such places, as the authority determines. The bonds shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority, and the seal of the authority, or facsimile seal, shall be affixed or imprinted on the bonds. The seal shall be attested by the manual or facsimile signature of the public finance director. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized officer of a trustee for the bondholders. Any coupons attached must bear the facsimile signature of the chairman or vice chairman of the authority. If an officer's signature or a facsimile of whose signature appears on any bonds or coupons, and the officer ceases to be an officer before the delivery of and payment for such bonds, such signature or such facsimile is nevertheless valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery and payment. The bonds may be issued in coupon or in fully registered form, or both, or may be payable to a specific person, as the authority determines, and provision may be made for the registration of any coupon bonds as to principal alone or as to both principal and interest, for the conversion of coupon bonds into fully registered bonds without coupons, and for the conversion into coupon bonds of any fully registered bonds without coupons. The duty of conversion may be imposed upon a trustee in a trust agreement.

(b) The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from and may be secured by a pledge of all or any part of the proceeds of bonds, revenues derived from the lease or sale of health facility property or realized from a loan made by the authority to finance or refinance in whole or in part health facility property, revenues derived from operating health facility property, including insurance proceeds, or any other revenues provided by a participating provider.

(c) The authority shall sell the bonds at prices it determines, at public or private sale.

(d) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such bonds, and, if considered advisable by the authority, for the additional purpose of paying all or any part of the cost of health facility

property.

(e) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Subject to the provisions of any trust indenture to the contrary, any such escrowed proceeds, pending such use, may be invested and reinvested in such obligations as are determined by the authority in order to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof shall be returned to the authority or the participating providers for use by them in any lawful manner. All such bonds are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.9; P.L.1-2009, SEC.12.

IC 5-1-16-20

Bond proceeds; use; disbursement

Sec. 20. The proceeds of the bonds (other than refunding bonds) of each issue shall be used for the payment of all or part of the cost of, or for the making of a loan in the amount of all or part of the cost of, the health facility property for which such bonds have been authorized and, at the option of the authority, for the deposit to a reserve fund or reserve funds for the bonds. However, the authority may be paid, out of money from the proceeds of the sale and delivery of its bonds issued in accordance with this chapter, all of the authority's out-of-pocket expenses and costs in connection with the issuance, sale, and delivery of such bonds, and the costs of obtaining insurance, guarantees, and letters of credit securing payment of the bonds and the lease and the loan and installment purchase payments, plus an amount equal to the compensation paid to any employees of the authority for the time those employees have spent on activities relating to the issuance, sale, and delivery of the bonds. Bond proceeds shall be disbursed in the manner and under the restrictions determined by the authority.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.10.

IC 5-1-16-21

Trust indenture to secure bonds; operating expenses

Sec. 21. (a) The bonds may be secured by a trust indenture by and between the authority and a corporate trustee which may be any bank having the power of a trust company or any trust company in Indiana. The trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the holders of the bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the custody, investing, safekeeping, and application of all money. The authority may provide by the trust indenture for the payment of the proceeds of the bonds and the revenue to the trustee under the trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the authority may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the authority. If the bonds are secured by a trust indenture, the holders of the bonds have no authority to appoint a separate trustee to represent them.

(b) All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability may be incurred by the authority or the state beyond the extent to which money has been provided under this chapter.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-22

Bond resolutions or related instruments; provisions and additional security authorized

Sec. 22. Any bond resolution or related trust indenture, indenture of mortgage, or deed of trust may contain provisions, which must be a part of the contract with the holders of the bonds to be authorized, as to:

(1) pledging or assigning the revenues generated by the health facility property, pledging or assigning the notes and mortgage, lease, or other security given by the participating providers whose health facility property has been financed with the proceeds of such bonds or other specified revenues or property of the authority;

(2) the rentals, fees, interest, and other amounts to be charged by the authority, the schedule of principal payments, and the sums to be raised in each year thereby, and the use, investment, and disposition of such sums;

(3) setting aside any reserves or sinking funds, and the regulation, investment, and disposition thereof;

(4) limitation on the use of the health facility property;

(5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter may be applied;

(6) limitations on the issuance of additional bonds, terms upon which additional bonds may be issued and secured, and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;
(7) the refunding of outstanding bonds;
(8) the procedure, if any, by which the terms of any contract with holders of the bonds may be amended or abrogated, the amounts of bonds the holders of which must consent thereto, the manner in which such consent may be given, and restrictions on the individual rights of action by holders of the bonds;
(9) acts or omissions that constitute a default in the duties of the authority to holders of its bonds and providing the rights and remedies of such holders in the event of default; and
(10) any other matters relating to the bonds that the authority considers desirable.

Bonds of the authority may also be secured by and payable from a pooling of leases or of notes and mortgages or other security instruments whereby the authority may assign its rights, as lessor, and pledge rents under two (2) or more leases of health facility property with two (2) or more participating providers, as lessees, or assign its rights as payee or secured party and pledge the revenues under two (2) or more notes and loan agreements from two (2) or more participating providers, upon such terms as may be provided for in bond resolutions or other instruments under which such bonds are issued.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.11.

IC 5-1-16-23
Payment of bonds

Sec. 23. Every issue of bonds is payable solely out of revenues, assets, or money of the authority as the authority determines, subject only to any agreements with the holders of particular bonds pledging any particular money or revenue. The bonds may be additionally secured by a pledge of any grant, contribution, or guarantee from the federal government or any corporation, limited liability company, association, institution, or person or a pledge of any money, income, or revenue of the authority from any source.

As added by P.L.45-1983, SEC.1. Amended by P.L.8-1993, SEC.49.

IC 5-1-16-24
Bonds not indebtedness or obligation of state

Sec. 24. (a) Bonds issued under this chapter do not, and shall state upon the face of each bond that they do not, represent or constitute a debt of the authority or of the state within the meaning of the provisions of the Constitution or statutes of Indiana or a pledge of the faith and credit of the authority or the state or grant to the owners or holders thereof any right to have the authority or the state levy any

taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the bond resolution or trust agreement securing the same.

(b) This chapter does not authorize the authority or any department, board, commission, or other agency to create an obligation of the state within the meaning of the Constitution or statutes of Indiana.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-25

Pledge by authority

Sec. 25. Any pledge made by the authority is valid and binding from the time when the pledge is made. The revenue, money, or properties so pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-26

Repurchase of authority bonds

Sec. 26. The authority, subject to such agreements with holders of the bonds as then exist, may purchase bonds of the authority out of any available funds, which shall thereupon be cancelled, at any reasonable price which, if the bonds are then redeemable, does not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-27

Negotiability of bonds

Sec. 27. Regardless of whether the bonds are in the form and character of negotiable instruments, the bonds are negotiable instruments, subject only to provisions of the bonds relating to registration.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-28

Personal liability of bond issuers

Sec. 28. Neither the members of the authority nor any other person executing the bonds issued under this chapter is subject to personal liability by reason of the issuance of the bonds.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-29
Establishment of funds and accounts

Sec. 29. The authority may establish funds and accounts necessary for its purposes.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-30
Deposit of funds in accounts

Sec. 30. All money of the authority, except as otherwise provided in this chapter, shall be deposited as soon as practical in a separate account in banks or trust companies organized under the laws of Indiana or in national banking associations. The money in these accounts shall be paid by checks signed by the public finance director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits.

As added by P.L.45-1983, SEC.1. Amended by P.L.1-2009, SEC.13.

IC 5-1-16-31
Enforcement of rights and duties concerning bonds

Sec. 31. (a) Any holder of bonds or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds, except to the extent the rights given in this chapter may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of Indiana, or under such trust agreement or resolution, or under any other contract executed by the authority under this chapter, 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 authority or by any officer thereof.

(b) The state does hereby pledge to and agree with the holders of any bonds issued under this chapter that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders of bonds, or in any way impair the rights or remedies of the holders until the bonds, together with the interest thereon, 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 authority may include this subsection in any agreement with the holders of the bonds.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-32
Payment of expenses

Sec. 32. All expenses incurred by the authority in carrying out this

chapter are payable solely from funds provided under this chapter, except to the extent payable from grants or advances from participating providers or any other entity, which grants or advances may be reimbursed from bond proceeds, and this chapter does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of it.
As added by P.L.45-1983, SEC.1.

IC 5-1-16-33
Public property; tax exemption

Sec. 33. All property acquired or held by the authority under this chapter is declared to be public property used for public and governmental purposes, and all property, income therefrom and bonds issued under this chapter, interest payable thereon and income derived therefrom, are exempt from all taxes, direct or indirect, imposed by the state, any county, any city, or any political subdivision of the state.
As added by P.L.45-1983, SEC.1.

IC 5-1-16-34
Bonds as legal investments

Sec. 34. The bonds issued under this chapter by the authority are legal investments in which all public officers or public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies, associations, and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or in other obligations of this state, may invest funds, including capital, in their control or belonging to them. Such bonds are securities which may be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is authorized by law.
As added by P.L.45-1983, SEC.1.

IC 5-1-16-35
Repealed

(As added by P.L.45-1983, SEC.1. Amended by P.L.28-2004, SEC.54; P.L.235-2005, SEC.74. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-36
Construction of chapter

Sec. 36. Nothing in this chapter may be construed as a restriction

or limitation upon any powers which the authority might otherwise have under any other law of this state, and this chapter is cumulative to such powers. This chapter shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized, and shall be construed as supplemental to powers conferred by any other laws. The adoption by the authority of bylaws and rules, and the issuance of bonds by the authority under this chapter need not comply with the requirements of any other state laws applicable to the adoption of bylaws and rules and the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval is required for the issuance of any bonds or any instrument or the security therefor, or for the proper conduct of the authority's business, affairs, or operations, except as provided in this chapter.
As added by P.L.45-1983, SEC.1.

IC 5-1-16-37
Repealed

(As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.12; P.L.11-1987, SEC.8; P.L.3-1990, SEC.20; P.L.2-1992, SEC.45; P.L.2-1993, SEC.41. Repealed by P.L.1-2010, SEC.156.)

IC 5-1-16-38
Leases by county with the authority

Sec. 38. (a) A county may lease land and buildings, including the necessary equipment and appurtenances, from the authority for hospital purposes. No contract of lease on a particular building shall be entered into for a period of more than forty (40) years. However, a contract of lease is renewable for less than forty (40) years.

(b) A lease entered into by a county may require the funding of a reserve fund for the benefit of the authority or the authority's assigns. In order to assure the maintenance of the required reserve amount in any reserve fund, the county council may appropriate for deposit in the reserve fund the sum certified by the county fiscal officer to the county council that is necessary to restore the reserve fund to an amount equal to the required reserve amount. The county fiscal officer shall annually before December 1 prepare and deliver a certificate to the county council stating the sum required to restore the reserve fund to the appropriate reserve amount. Nothing in this subsection creates a debt or liability of the county to make an appropriation.

(c) All amounts received because of money appropriated by the county to a reserve fund must be held by the authority under the lease and applied in accordance with the lease.
As added by P.L.43-1993, SEC.3.

IC 5-1-16-39
Leases before construction, erection, or renovation of buildings

Sec. 39. A county may, in anticipation of the construction,

erection, or renovation of a building (including the necessary equipment and appurtenances), make and enter into a contract of lease with the authority prior to the actual acquisition of a site and the construction, erection, or renovation of the building. The contract of lease shall not provide for the payment of any lease rental by the lessee until the building is ready for occupancy. However, if a building is to be acquired and renovated under this chapter, a county may, in anticipation of the acquisition and renovation, make and enter into a contract of lease upon terms and conditions that are agreed upon by the county and the authority, including:

(1) terms and conditions upon which the county may continue to operate the building until completion of the renovation; and

(2) the payment of a lease rental by the lessee during the period of renovation.

As added by P.L.43-1993, SEC.4.

IC 5-1-16-40

Payment of lease rental

Sec. 40. (a) Any lease executed under section 38 or 39 of this chapter may provide for the payment of the lease rental in any one (1) of the following ways as established in the lease:

(1) Entirely from the levy of taxes.

(2) Entirely from the net revenues of the hospital of which the leased building is a part.

(3) In part from the levy of taxes and in part from the net revenues described in subdivision (2).

(b) If any lease provides for the payment of lease rental in whole or in part from net revenues of the hospital, the lease may further provide that the county and the board of trustees or board of managers of the hospital set aside and hold as a reserve for such purpose excess net revenues over and above the amount required to pay lease rental payable from net revenues. The reserve fund may not exceed an amount equal to the amount of lease rental payable from net revenues for two (2) years. The reserve fund shall be held and used only for the purpose of paying lease rental payable from net revenues, if such net revenues at any time are insufficient to pay lease rentals. The amount in the reserve fund may be invested in the manner and to the extent provided in the lease. All interest or other income from the investment shall become part of the reserve fund unless the reserve fund contains the maximum amount required to be in the reserve fund. The following occur if the reserve fund contains the maximum amount required to be in the reserve fund:

(1) If any of the lease rental is payable from taxes, the interest or other income shall be transferred to the fund to be used for the payment of the lease rental provided to be paid from taxes.

(2) If none of the lease rental is payable from taxes, the interest or other income shall become a part of the reserve fund.

As added by P.L.43-1993, SEC.5.

IC 5-1-16-41

Payment of lease rental from cumulative building fund

Sec. 41. In addition to the ways specified in section 40 of this chapter for the payment of lease rental, any lease executed under this chapter may provide for the payment of lease rental from a cumulative building fund established by the lessee under IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). Part or all of a cumulative building fund and the tax levied for that cumulative building fund may be committed and pledged to the payment of the lease rental. To the extent that the amount committed and pledged is insufficient to pay the lease rental, the lease shall provide that any remaining lease rental shall be paid entirely from the net revenues of the hospital of which the leased building is a part. So long as the lease remains in effect:

(1) any amount of cumulative building fund so committed and pledged may not be expended by lessee for any other purpose; and

(2) the tax levy committed and pledged for the cumulative building fund may not be reduced or rescinded by the county council.

Notwithstanding any other provision of this chapter, if a lease provides for payment of lease rental under this section, no approval of the county council is required for the lease, the terms and conditions of the lease, or the sale of the land by the county to the authority under this chapter.

As added by P.L.43-1993, SEC.6.

IC 5-1-16-42

Notice of public hearing; notice of execution of lease; action to contest validity of lease; taxpayer objections to lease

Sec. 42. (a) When the authority, the board of trustees or board of managers of the hospital, the board of commissioners of the county, and a majority of the county council have agreed upon the terms and conditions of any lease proposed to be entered into under section 38 or 39 of this chapter, and before the final execution of the lease, the county auditor shall give notice by publication of a public hearing to be held in the county by the board of commissioners. The hearing shall take place on a day not earlier than ten (10) days after the publication of the notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the county. The notice shall do the following:

(1) Name the day, place, and hour of the hearing.

(2) Set forth a brief summary of the principal terms of the lease agreed upon, including the character and location of the property to be leased, the lease rental to be paid, and the number of years the contract is to be in effect.

(3) State a location where the proposed lease, drawings, plans,

specifications, and estimates may be examined.

The proposed lease and the drawings, plans, specifications, and estimates of construction cost for the building shall be open to inspection by the public during the ten (10) day period and at the hearing. All interested persons shall have a right to be heard at the hearing on the necessity for the execution of the lease and whether the lease rental under the lease is fair and reasonable. The hearing may be adjourned to a later date with the place of the hearing fixed prior to adjournment. Following the hearing, the board of commissioners may either authorize the execution of the lease as originally agreed upon or may make modifications that are agreed upon by the authority, the board of trustees or board of managers of the hospital, and the county council. The authorization shall be by an order that is entered in the official records of the board of commissioners. The lease contract shall be executed on behalf of the county by the board of commissioners.

(b) If the execution of the lease as originally agreed upon or as modified by agreement is authorized, notice of the signing of the lease shall be given on behalf of the county by publication one (1) time in a newspaper of general circulation printed in the English language and published in the county. Except as provided in subsection (d), ten (10) or more taxpayers in the county whose tax rate will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of the lease or that the lease rental under the lease is not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the execution of the lease that sets forth the taxpayers' objections and facts supporting those objections. Upon the filing of a petition, the county auditor shall immediately certify a copy of the petition together with such other data as may be necessary in order 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 in the affected county for the hearing of the matter that is not less than five (5) or more than fifteen (15) days after receipt. Notice of the hearing shall be given by the department of local government finance to the board of county commissioners and to the first ten (10) taxpayer petitioners upon the petition by certified mail sent to the addresses listed on the petition at least five (5) days before the date of the hearing.

(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, 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.

(d) The authority for taxpayers to object to a proposed lease under subsection (b) does not apply if the authority complies with the

procedures for the issuance of bonds and other evidences of indebtedness described in IC 6-1.1-20.
As added by P.L.43-1993, SEC.7. Amended by P.L.35-1997, SEC.1; P.L.90-2002, SEC.13; P.L.146-2008, SEC.32.

IC 5-1-16-43
Options to renew and to purchase; obligations of county; general obligation bonds

Sec. 43. (a) A lease under this chapter may provide that the lessee has an option to renew the lease for a like or lesser term, on the conditions that are provided in the lease. A lease shall contain an option to purchase:

(1) at any time after ten (10) years from the execution of the lease and prior to the expiration of the term of lease on the date fixed in the lease; and

(2) at a price equal to:

(A) the amount required to enable the authority to redeem all outstanding securities payable out of the rentals provided for in the lease, all premiums payable on the redemption, and accrued and unpaid interest; and

(B) all other expenses, indebtedness, and obligations of the authority attributable to the acquisition, construction, renovation, and leasing of the building.

(b) No lease shall provide or be construed to provide that the county is under any obligation to purchase the leased building or under any obligation with respect to any creditor or bondholder of the authority.

(c) A county exercising an option to purchase may issue general obligation bonds for the purpose of procuring funds with which to pay the purchase price of the building. The general obligation bonds shall be authorized, issued, and sold in the manner provided by law for the authorization, issuance, and sale of general obligation bonds of the county for other purposes.
As added by P.L.43-1993, SEC.8.

IC 5-1-16-44
Approval of plans, specifications, and cost estimates

Sec. 44. On behalf of the authority, the board of directors or board of managers of the hospital shall, prior to the execution of a contract of lease, submit to and receive the approval of the board of commissioners of the county of the plans, specifications, and estimates of cost for the building or renovation. The plans and specifications shall be submitted to and approved by the state board of health, the division of fire and building safety, and other state agencies that are required by law to pass on plans and specifications for public buildings.
As added by P.L.43-1993, SEC.9. Amended by P.L.1-2006, SEC.86.

IC 5-1-16-45
Sale of county land to the authority

Sec. 45. A county desiring to have a building erected or renovated on land owned or to be acquired by the county may sell that land or building to the authority. Before the sale may take place, the county commissioners shall file a petition with the circuit court, superior court, or probate court of the county requesting the appointment of:

(1) one (1) disinterested freeholder of the county as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the land or building. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land or building. Upon appointment, the appraisers shall fix the fair market value of the land or building and shall report that value within two (2) weeks from the date of their appointment. The county may then sell the land or building to the authority for an amount not less than the amount fixed by the appraisers as the fair market value. The amount shall be paid in cash upon delivery of the deed by the county to the authority. If a cumulative building fund exists at the time of the sale, the proceeds from the sale shall be placed in that fund. If a cumulative building fund does not exist at the time of the sale, the proceeds from the sale shall be paid into the county hospital fund with the principal and interest on the fund to be used solely by the county hospital for the purposes set forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). A sale of land or a building by a county to the authority shall be authorized by the board of commissioners by an order that shall be entered in the official records of the board. The deed shall be executed on behalf of the county by the board of county commissioners.

As added by P.L.43-1993, SEC.10. Amended by P.L.113-2006, SEC.1; P.L.252-2015, SEC.6; P.L.84-2016, SEC.19.

IC 5-1-16-46
Party wall agreements

Sec. 46. A county and an authority that have entered into, or propose to enter into, a lease under this chapter may enter into party wall agreements or other agreements concerning the attaching of an addition to a hospital building, if the agreement is:

(1) approved by the board of trustees or board of managers of the hospital; and

(2) recorded in the office of the recorder of the county in which the hospital is located.

An agreement may provide for an easement or license to construct a part of an addition over or above the existing hospital building.

As added by P.L.43-1993, SEC.11.

IC 5-1-16.5

Chapter 16.5. Indiana Health and Educational Facilities Financing Authority; Additional Provisions; Financing Projects for Private Colleges and Universities; Participation in Risk Retention Group

IC 5-1-16.5-1

Declaration; purpose

Sec. 1. It is declared:

(1) that for the benefit of the people of the state, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills;

(2) that to achieve the ends in subdivision (1), it is of the utmost importance that nonprofit colleges or universities within Indiana be provided with appropriate additional means to assist youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills; and

(3) that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable nonprofit colleges or universities in Indiana to refund or refinance outstanding indebtedness incurred by nonprofit colleges or universities in Indiana for the renovation, construction, acquisition, or equipping of educational facilities, to establish liability or other loss insurance reserves or to contribute those insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses, and to provide the needed additional educational facilities for the public benefit and good, and in execution of the public policy set forth in this section.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-2

Powers

Sec. 2. The exercise of the powers granted by this chapter must be in all respects for the benefit of the people of Indiana, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-3

Liberal construction

Sec. 3. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes of this chapter.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-4
Supplemental effect

Sec. 4. This chapter provides a complete, an additional, and an alternative method for doing the things authorized under this chapter and is supplemental and additional to powers conferred by other laws. The adoption of rules and the issuance of bonds under this chapter need not comply with the requirements of any other law that would otherwise be applicable to the rules or issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority under this chapter are subject to the supervision or regulation or require the approval or consent of:

(1) any municipality or political subdivision;

(2) any department, division, commission, board, body, bureau, official, or agency of any municipality or political subdivision; or

(3) the state.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-5
Applicability of authority

Sec. 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.2-2007, SEC.69.

IC 5-1-16.5-6
Bond issues; authorized actions

Sec. 6. Bonds issued and other actions taken under IC 20-12-63 before its repeal shall be treated as an action taken under this chapter.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-7
"Authority"

Sec. 7. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

As added by P.L.2-2007, SEC.69. Amended by P.L.162-2007, SEC.19.

IC 5-1-16.5-8
"Bonds"

Sec. 8. As used in this chapter, "bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-9
"Bond resolution"

Sec. 9. As used in this chapter, "bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and conditions applicable to bonds issued under this chapter.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-10
"Cost"

Sec. 10. As used in this chapter, "cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of the project, reserves for principal and interest, engineering, legal, architectural, and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months after the estimated date of completion.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-11
"Educational facility"

Sec. 11. As used in this chapter, "educational facility" means any property located within Indiana that:

(1) is suitable for:
  (A) the instruction, feeding, recreation, or housing of students;
  (B) the conduct of research or other work of a nonprofit college or university; or
  (C) use by a nonprofit college or university in connection with any educational, research, or related or incidental activity conducted by the nonprofit college or university;
(2) is suitable for use as or in connection with:
  (A) an academic facility;
  (B) an administrative facility;
  (C) an agricultural facility;
  (D) an assembly hall;
  (E) an athletic facility;
  (F) an auditorium;
  (G) a boating facility;
  (H) a campus;
  (I) a communication facility;
  (J) a computer facility;
  (K) a continuing education facility;
  (L) a classroom;
  (M) a dining hall;

(N) a dormitory;
(O) an exhibition hall;
(P) a firefighting facility;
(Q) a fire prevention facility;
(R) a food service and preparation facility;
(S) a gymnasium;
(T) a greenhouse;
(U) a health care facility;
(V) a hospital;
(W) housing;
(X) an instructional facility;
(Y) a laboratory;
(Z) a library;
(AA) a maintenance facility;
(BB) a medical facility;
(CC) a museum;
(DD) offices;
(EE) a parking area;
(FF) a physical education facility;
(GG) a recreational facility;
(HH) a research facility;
(II) a stadium;
(JJ) a storage facility;
(KK) a student union;
(LL) a study facility;
(MM) a theater; or
(NN) a utility;

(3) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(4) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-12
"Eligible member"

Sec. 12. As used in this chapter, "eligible member" means a state educational institution or any nonprofit college or university.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-13
"Liability"

Sec. 13. As used in this chapter, "liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims for expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-14
"Liability or loss insurance reserves"

Sec. 14. As used in this chapter, "liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-15
"Nonprofit"

Sec. 15. As used in this chapter, "nonprofit college or university" has the meaning set forth in IC 21-7-13-23(a).

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-16
"Project"

Sec. 16. As used in this chapter, "project" means:

(1) the acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a nonprofit college or university; or

(2) the funding of any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-17
"Property"

Sec. 17. As used in this chapter, "property" means any real, personal, or mixed property, or any interest in real property or mixed property, including:

(1) any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, or rights-of-way and structures; or

(2) any interest in real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, or rights-of-way and structures.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-18
"Revenues"

Sec. 18. As used in this chapter, "revenues" means with respect to any project the rents, fees, charges, and other income or profit derived from the project.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-19
"Risk retention group"

Sec. 19. As used in this chapter, "risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-20
"State educational institution"

Sec. 20. As used in this chapter, "state educational institution" has the meaning set forth in IC 21-7-13-32.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-21
Powers of authority

Sec. 21. (a) The authority may determine the location and character of any project to be financed under this chapter.

(b) The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this section.

(c) The authority may designate a nonprofit college or university as the authority's agent to carry out the authority of this section.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-22
Bonds; issuance; funding and refunding

Sec. 22. The authority may issue bonds or fund and refund bonds as provided in this chapter.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-23
Rents and charges

Sec. 23. The authority:

(1) may require that the rates, rents, fees, or charges established by a nonprofit college or university are sufficient to discharge the institution's obligations to the authority; but

(2) has no other jurisdiction over the rates, rents, fees, or charges.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-24
Rules for projects

Sec. 24. The authority may:

(1) establish rules for the use of a project or any part of a project; and

(2) designate a nonprofit college or university as the authority's

agent to establish rules for the use of a project undertaken for that nonprofit college or university.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-25
Employees

Sec. 25. The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and other employees and agents the authority believes are necessary, and fix their compensation.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-26
Receipt and use of funds

Sec. 26. The authority may:

(1) receive and accept from any source loans, contributions, or grants for or in aid of the construction or funding of a project or any part of a project in either money, property, labor, or other things of value; and

(2) when required, use the funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-27
Loans

Sec. 27. (a) The authority may make loans to any nonprofit college or university for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the nonprofit college or university.

(b) A loan authorized under this section may not exceed the total cost of the project as determined by the nonprofit college or university and approved by the authority.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-28
Loans and bonds

Sec. 28. (a) The authority may make loans to a nonprofit college or university to refund outstanding obligations or advances issued, made, or given by the nonprofit college or university for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group to provide insurance coverage against liability claims or other losses.

(b) The authority may issue bonds and make loans to a nonprofit

college or university to refinance indebtedness incurred or to reimburse advances made for projects undertaken before the date of the bond issue whenever the authority finds that the financing is in the public interest and either:

(1) alleviates a financial hardship upon the nonprofit college or university;

(2) results in a lesser cost of education; or

(3) enables the nonprofit college or university to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-29

Costs

Sec. 29. The authority may charge to and apportion among nonprofit colleges or universities the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-30

Financing

Sec. 30. (a) The authority may, for financing purposes, combine a project or projects and some or all future projects of any nonprofit college or university or nonprofit colleges or universities provided that:

(1) the authority obtains the consent of all of the nonprofit colleges or universities that are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and

(2) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds is held for the sole benefit of a series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

(b) To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be:

(1) fully open end, thus providing for unlimited issuance of additional series; or

(2) partially open end, limited as to additional series;

all in the discretion of the authority.

(c) Notwithstanding any provision of this chapter, the authority may permit a nonprofit college or university to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for

any educational facility financed under this chapter on the terms and conditions that the authority may prescribe.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-31
Mortgages

Sec. 31. The authority may mortgage all or any part of:

(1) any project and any other educational facilities conveyed to the authority for an educational purpose; and

(2) the site or sites of the facilities, whether presently owned or subsequently acquired;

for the benefit of the holders of the bonds of the authority issued to finance a project or any portion of a project or issued to refund or refinance outstanding indebtedness of a nonprofit college or university as permitted by this chapter.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-32
Risk retention

Sec. 32. The authority may join in a risk retention group with state educational institutions or any nonprofit college or university.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-33
Authority

Sec. 33. The authority may do all things necessary to carry out the purposes of this chapter.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-34
Payment of expenses

Sec. 34. All expenses incurred in carrying out this chapter are payable solely from funds provided under the authority of this chapter. No liability may be incurred by the authority beyond the extent to which money has been provided under this chapter.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-35
Acquisitions

Sec. 35. The authority may acquire:

(1) directly;

(2) by and through a nonprofit college or university as the private institution's agent;

(3) by purchase solely from funds provided under this chapter; or

(4) by gift or devise;

lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands

lying under water and riparian rights that are located in Indiana, as the authority finds necessary or convenient, for the construction or operation of a project, upon the terms and at the prices as are agreed upon between the authority and the owner of a property interest. The authority may take title to property in the authority's own name or in the name of a nonprofit college or university as the authority's agent.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-36
Conveyance of title

Sec. 36. The authority shall promptly take any action and execute any deeds and conveyances necessary and required to convey the title to a project or projects to the appropriate nonprofit college or university whenever:

(1) the principal of and interest on bonds of the authority issued to finance the cost of a project or projects for a nonprofit college or university, including any refunding bonds issued to refund and refinance the bonds, have been fully paid and retired; or

(2) adequate provision has been made to fully pay and retire bonds of the authority issued to finance the cost of a project or projects for a nonprofit college or university, all other conditions of the bond resolution have been satisfied, and the lien created by the bond resolution has been released in accord with the provisions of the bond resolution.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-37
Issuance of bonds

Sec. 37. The authority may periodically issue bonds for any corporate purpose. All bonds or other obligations of the authority issued under this chapter are negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-38
Bonds of issue

Sec. 38. The bonds of every issue are payable solely out of revenues of the authority, including accumulated reserves or sinking funds. Any income received from the investment of reserves or sinking funds must be applied in reduction of the rentals or other amounts paid by the nonprofit college or university or nonprofit colleges or universities for whose project or projects the reserves or sinking funds were created. Funds held as reserves or sinking funds when invested must be allocated to a specific project or projects of the institution for which the fund was created, and the income from the investment must be used to reduce the bonded indebtedness

attributable to the project or projects.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-39
Bonds; serial and term

Sec. 39. (a) The bonds issued by the authority may be issued as serial bonds or term bonds, or both. The bonds:

(1) must be authorized by a bond resolution of the authority; and

(2) must:

(A) bear the date or dates;

(B) mature at the time or times not exceeding forty (40) years from their respective dates of issue;

(C) bear interest at the rate or rates, without regard to any limit contained in any other statute or law of Indiana;

(D) be payable at the time or times;

(E) be in the denominations;

(F) be in the form, either coupon or fully registered;

(G) carry the registration and conversion privileges;

(H) be payable in lawful money of the United States of America at the places; and

(I) be subject to the terms of redemption;

as are in current or customary usage in municipal bond markets and as the bond resolution may provide.

(b) The bond resolution for bonds of the authority may set the maximum interest rate or rates that the bonds may bear and delegate to an officer or agent of the authority power to set an interest rate or rates that the bonds may bear at the time of sale of the bonds. However, the rate or rates may not exceed the maximum rate established by the authority in the bond resolution.

(c) The bonds of the authority must be executed by the manual or facsimile signatures of the officers or agents of the authority designated by the authority. In the case of bonds having a maturity of one (1) year or less, the bond resolution that authorizes the bonds may concurrently provide for the issuance, delivery, and sale of refunding bonds subject to the terms and conditions prescribed in the bond resolution and this chapter. The bonds must be sold in the manner that the authority determines. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates, which must be exchanged for the definitive bonds.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-40
Bond resolutions

Sec. 40. Any bond resolution of the authority may contain provisions that become part of the contract with the holders of the bonds to be authorized, as to:

(1) pledging or assigning the revenues of the project or projects

with respect to which the bonds are to be issued;
(2) the rentals, fees, and other amounts to be charged, and the sums to be raised in each year, and the use, investment, and disposition of the sums;
(3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition of reserves or sinking funds;
(4) limitations on the use of the project;
(5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied;
(6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;
(7) the refunding of outstanding bonds;
(8) the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must give consent and the manner in which the consent may be given;
(9) defining the acts or omissions to act that constitute a default in the duties of the authority to holders of the authority's obligations and providing the rights and remedies of the holders in the event of a default;
(10) mortgaging the project or projects with respect to which any bonds are to be issued and other educational facilities conveyed to the authority for a purpose for the benefit of the holders of the bonds;
(11) the establishment of liability or other loss insurance reserves or the contribution of those reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses; and
(12) any other matters relating to the bonds which the authority considers desirable.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-41
Immunity for executing bonds

Sec. 41. Neither the members of the authority nor any person executing the bonds of the authority may be held liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-42
Bonds; purchasing

Sec. 42. The authority may purchase bonds issued by the authority using any funds available for the purpose. The authority may hold,

pledge, cancel, or resell bonds issued by the authority subject to and in accordance with agreements with bond holders.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-43
Bonds; trust agreements

Sec. 43. (a) The authority may secure any bonds issued under this chapter by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank in Indiana having the powers of a trust company.

(b) The bond resolution providing for the issuance of bonds secured by a trust agreement:

(1) must pledge the revenues to be received by the authority from the project or projects;

(2) may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including provisions specifically authorized to be included in any bond resolution of the authority; and

(3) may restrict the individual right of action by bondholders.

(c) Any bond resolution may contain any other provisions that the authority determines reasonable and proper for the security of the bondholders.

(d) All expenses incurred in carrying out the provisions of the bond resolution may be treated as a part of the cost of the operation of a project.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-44
Bonds; restrictions

Sec. 44. (a) Bonds issued under this chapter do not, and must state upon the face of each bond that the bonds do not:

(1) represent or constitute:

(A) a debt of the authority or of the state within the meaning of the provisions of the Constitution or statutes of the state of Indiana; or

(B) a pledge of the faith and credit of the authority or the state; or

(2) grant to the owners or holders of the bonds any right to have the authority or the general assembly levy any taxes or appropriate any funds for the payment of the principal of or interest due on the bonds.

(b) Bonds issued under this chapter are payable and must state that the bonds are payable solely from the funds pledged for payment of the bonds in accordance with the bond resolution.

(c) This chapter may not be construed to authorize the authority or any department, board, commission or other agency to create an obligation of the state of Indiana within the meaning of the

Constitution of the State of Indiana or the statutes of Indiana.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-45
Leases

Sec. 45. (a) In connection with any lease entered into between the authority and any nonprofit college or university, the authority shall fix, revise, charge, and collect rents for the use of each project and contract with any person, partnership, association, limited liability company, or corporation, or other body, public or private, in respect thereof.

(b) Each lease entered into by the authority with a nonprofit college or university must provide that the rents or other money payable by the nonprofit college or university is sufficient at all times:

(1) to pay the private institution's share of the administrative costs and expenses of the authority;

(2) to pay the principal of the premium, if any, and the interest on outstanding bonds of the authority issued in respect of the project as the bonds become due and payable; and

(3) to create and maintain reserves that may be required or provided for in the bond resolution relating to the bonds of the authority.

(c) The authority shall pledge the revenues derived and to be derived from a project for the purposes specified in subsection (b).

(d) Additional bonds may be issued that rank on a parity with other bonds relating to the project to the extent and on the terms and conditions provided in the bond resolution.

(e) A pledge is valid and binding from the time the pledge is made. The revenues pledged by the authority are immediately subject to the lien of a pledge without any physical delivery of the pledge document or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort or contract or otherwise against the authority, irrespective of whether the parties have notice of the lien.

(f) Neither the bond resolution nor any financing statement, continuation statement, or other instrument by which a pledge is created or by which the authority's interest in revenues is assigned need be filed or recorded in public records to perfect the lien created by a pledge of revenues by the authority as against third parties, except that a copy of the pledge document must be filed in the records of the authority and with the treasurer of state.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-46
Bond proceeds

Sec. 46. All money received under this chapter, whether as proceeds from the sale of bonds or as revenues, are trust funds to be

held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, money received under this chapter is deposited shall act as trustee of the moneys and shall hold and apply the money for the purposes described in this chapter, subject to any provisions set forth in this chapter and the bond resolution authorizing the bonds of any issue.
As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-47
Rights of bond holders and trustees

Sec. 47. Any holder of bonds issued under this chapter or a trustee under a trust agreement entered into under this chapter, except to the extent that the rights of a holder or a trustee are restricted by any bond resolution, may, by any suitable form of legal proceedings, protect and enforce any rights under the laws of Indiana or granted by the bond resolution. These rights include the right:

(1) to compel the performance of all duties of the authority required by this chapter or the bond resolution;

(2) to enjoin unlawful activities; and

(3) in the event of default with respect to the payment of any principal of, premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to the circuit court, superior court, or probate court to appoint a receiver:

(A) to administer and operate the project or projects, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on the bonds;

(B) with full power to pay, and to provide for payment of, principal of premium, if any, and interest on the bonds; and

(C) with the powers, subject to the direction of the court, as are permitted by law and are accorded receivers, excluding any power to pledge additional revenues of the authority to the payment of the principal, premium and interest.

As added by P.L.2-2007, SEC.69. Amended by P.L.84-2016, SEC.20.

IC 5-1-16.5-48
Refunding bonds generally

Sec. 48. The authority may provide for the issuance of bonds of the authority:

(1) to refund any bonds of the authority then outstanding, including the payment of any redemption premium on the bonds and any interest accrued or to accrue to the earlier or any subsequent date of redemption, purchase, or maturity of the bonds; and

(2) if determined advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any part of an addition, improvement, extension,

or enlargement of a project.

However, no refunding bonds may be issued unless the authority provides for the payment of rentals adequate to satisfy the requirements of section 34 of this chapter.

As added by P.L.2-2007, SEC.69. Amended by P.L.3-2008, SEC.17.

IC 5-1-16.5-49

Issuance of bonds to refund outstanding bonds

Sec. 49. The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority:

(1) be applied to the purchase or retirement at maturity or redemption of the outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity of the outstanding bonds; and

(2) pending the application of the proceeds, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of the outstanding bonds on a date determined by the authority.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-50

Proceeds of refunding bonds; disposition

Sec. 50. Any escrowed proceeds, pending use for the refunding of outstanding bonds, may be invested and reinvested in:

(1) direct obligations of the United States of America; or

(2) obligations having the timely payment of principal and interest unconditionally guaranteed by the United States of America;

maturing at a time or times that are appropriate to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be refunded. Any interest, income, and profits earned or realized on any investment may also be applied to the payment of the outstanding bonds to be refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and any interest, income and profits earned or realized on the investments described in this section must be returned to the nonprofit college or university for use by the nonprofit college or university in any lawful manner.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-51

Bonds; authority to refund

Sec. 51. All bonds issued to refund outstanding bonds of the authority are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-52

Power to invest bonds

Sec. 52. Except as otherwise provided in section 50 of this chapter or in any trust indenture providing for the issuance of bonds, the authority may invest:

(1) the authority's money, funds, and accounts;

(2) any money, funds, and accounts in the authority's custody; and

(3) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-53

Authority to invest bonds

Sec. 53. All:

(1) banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and insurance companies and associations; and

(2) executors, administrators, guardians, trustees, and other fiduciaries;

may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued by the authority under this chapter.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-54

Repealed

(As added by P.L.2-2007, SEC.69. Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16.5-55

Competitive bidding requirement

Sec. 55. Except as provided in IC 21-36-2, a project is not subject to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of property with regard to any action taken under authority of this chapter. If, however, the prospective lessee so requests in writing, the authority shall call for the construction bids in the manner determined by the authority with the approval of the lessee.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-56

Powers of authority; financing

Sec. 56. Notwithstanding any other provision of this chapter, the authority may:

(1) finance the cost of an educational facility or refund

outstanding indebtedness of a nonprofit college or university, as authorized under section 28 of this chapter; or

(2) finance the establishment of liability or other loss insurance reserves or the contribution of reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses;

by issuing the authority's bonds for the purpose of loaning the proceeds to a nonprofit college or university for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-57

Promissory notes

Sec. 57. (a) Any promissory notes received under section 56 of this chapter:

(1) must have the same principal amounts, maturities, and interest rates as the bonds being issued;

(2) may be secured by a first mortgage lien on the educational facility being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to any exceptions that the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority; and

(3) may be insured or guaranteed by others.

(b) Any bonds described in section 56 of this chapter must be payable solely out of the payments to be made on the promissory notes and under the corresponding agreement. Any bonds described in section 56 of this chapter may not exceed in principal amount the cost of the educational facility, as determined by the nonprofit college or university, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects:

(1) the bonds are subject to the provisions of section 39 of this chapter; and

(2) the trust agreement or indenture creating the bonds may contain any of the provisions set forth in section 40 of this chapter that the authority determines appropriate.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-58

Mortgages

Sec. 58. If an educational facility is financed and mortgaged under sections 56 and 57 of this chapter:

(1) the title to the facility must remain in the nonprofit college or university owning the facility, subject to the lien of the

mortgage securing the promissory notes then being purchased; and

(2) there may not be a lease of the facility between the authority and the institution.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-59

Power of authority; restrictions

Sec. 59. Section 36 of this chapter does not apply to any educational facility or any liability or other loss insurance reserves financed under sections 56 through 58 of this chapter and this section. However, the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the nonprofit college or university issuing the promissory notes when:

(1) the bonds have been fully paid and retired or adequate provision has been made to pay and retire the bonds fully;

(2) all other conditions of the trust agreement or indenture creating the bonds have been satisfied; and

(3) the lien has been released in accordance with the provisions of the instrument creating the lien.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-60

Power of authority; operation and maintenance of projects

Sec. 60. Because the operation and maintenance of a project by the authority or the authority's agent constitutes the performance of an essential public function, neither the authority nor the authority's agent are required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of:

(1) a project or any property acquired or used by the authority or the authority's agent under this chapter or upon the income from the project or property;

(2) the bonds issued under this chapter or the interest on those bonds; and

(3) the proceeds received from bonds issued under this chapter:

(A) by a holder from the sale of such bonds, to the extent of the holder's cost of acquisition;

(B) upon redemption before maturity; or

(C) at maturity.

As added by P.L.2-2007, SEC.69.

IC 5-1-16.5-61

Bonds; tax exemption

Sec. 61. All bonds and the interest on bonds issued under this chapter 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.

As added by P.L.2-2007, SEC.69.

IC 5-1-17

Chapter 17. Indiana Stadium and Convention Building Authority

IC 5-1-17-0.3

General assembly findings

Sec. 0.3. The general assembly finds the following:

(1) Marion, Boone, Johnson, Hamilton, Hancock, Hendricks, Morgan, and Shelby counties, and certain municipalities located in those counties, face unique and distinct challenges and opportunities related to the economic development issues associated with the construction and maintenance of a world-class convention center and stadium facility in Indianapolis.

(2) A unique approach is required to ensure that these counties have sufficient revenue sources to allow them to meet these challenges and opportunities.

(3) The powers and responsibilities provided to these counties and to the Indiana stadium and convention building authority created by this chapter are appropriate and necessary to carry out the public purposes of encouraging and fostering economic development in central Indiana and constructing a world-class convention center and stadium facility in Indianapolis.

(4) The retention of a National Football League franchised professional football team in Indianapolis poses unique challenges due to the need for development of a world class football stadium and related infrastructure that would not be needed apart from the needs related to the retention of a National Football League franchised professional football team in Indianapolis.

(5) The retention of a National Football League franchised professional football team in Indianapolis is critical to successful economic development in Indianapolis and is a public purpose.

(6) Encouragement of economic development in Indianapolis will:

(A) generate significant economic activity, a substantial portion of which results from persons residing outside Indiana, which may attract new businesses and encourage existing businesses to remain or expand in Indianapolis;

(B) promote the consolidated city to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to the Indianapolis area;

(C) protect and increase state and local tax revenues; and

(D) encourage overall economic growth in Indianapolis and in Indiana.

(7) Indianapolis faces unique challenges in the development of infrastructure and other facilities necessary to promote

economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax exempt properties located in Indianapolis because Indianapolis is the seat of government, the home to multiple institutions of higher education, and the site of numerous state and regional nonprofit corporations.

(8) 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 P.L.220-2011, SEC.58.

IC 5-1-17-1
"Authority"

Sec. 1. As used in this chapter, "authority" refers to the Indiana stadium and convention building authority created by this chapter.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-2
"Board"

Sec. 2. As used in this chapter, "board" refers to the board of directors of the authority.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-3
"Bonds"

Sec. 3. As used in this chapter, "bonds" means bonds, notes, commercial paper, 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.214-2005, SEC.6.

IC 5-1-17-4
"Capital improvement board"

Sec. 4. As used in this chapter, "capital improvement board" refers to a capital improvement board of managers created by IC 36-10-8 or IC 36-10-9.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-5
"State agency"

Sec. 5. As used in this chapter, "state agency" has the meaning set forth in IC 4-13.5-1-1.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-6
Establishment

Sec. 6. An Indiana stadium and convention building authority is created in Indiana as a separate body corporate and politic as an

instrumentality of the state to acquire, construct, equip, own, lease, and finance facilities for lease to or for the benefit of a capital improvement board.
As added by P.L.214-2005, SEC.6.

IC 5-1-17-7
Membership

Sec. 7. (a) The board is composed of the following seven (7) members, who must be residents of Indiana:

(1) Four (4) members appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a member under this subdivision.

(2) Two (2) members appointed by the executive of a county having a consolidated city.

(3) One (1) member appointed by the governor, who has been nominated by the county fiscal body of a county that is contiguous to a county having a consolidated city, determined as follows:

(A) The member nominated for the initial term shall be nominated by the contiguous county that has the largest population of all the contiguous counties that have adopted an ordinance to impose a food and beverage tax under IC 6-9-35.

(B) The member nominated for each successive term shall be nominated by the contiguous county that:

(i) contributed the most revenues from the tax imposed by IC 6-9-35 to the capital improvement board of managers created by IC 36-10-9-3 in the immediately previous calendar year; and

(ii) has not previously made a nomination to the governor or, if all the contributing counties have previously made such a nomination, is the one whose then most recent nomination occurred before those of all the other contributing counties.

(b) A member appointed under subsection (a)(1) through (a)(2) is entitled to serve a three (3) year term. A member appointed under subsection (a)(3) is entitled to serve a one (1) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new member for the remainder of the vacated term. If the vacated member was appointed under subsection (a)(2) or (a)(3), the governor shall appoint a new member who has been nominated by the person or body who made the nomination of the vacated member.

(d) A member may be removed for cause by the appointing authority.

(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 board.

(f) The governor shall nominate an executive director for the authority, subject to the veto authority of the executive of a county having a consolidated city.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-8

Meetings; officers; quorum

Sec. 8. (a) The board shall hold an initial organizational meeting on or before June 30, 2005. Immediately after January 15 of each year, the board shall hold its annual organizational meeting.

(b) The governor shall appoint a member of the board to serve as chair of the board.

(c) The board shall elect one (1) of the members vice chair 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 board may elect an assistant secretary-treasurer.

(d) Special meetings may be called by the chair of the board or any three (3) members of the board.

(e) 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.214-2005, SEC.6.

IC 5-1-17-9

Bylaws; rules; code of ethics

Sec. 9. (a) The board may adopt the bylaws and rules it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

(b) The board shall, without complying with IC 4-22-2, adopt the code of ethics in executive order 05-12 for its members and employees.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-9.5

Personal liability of members or employees

Sec. 9.5. The:

(1) members of the authority;

(2) officers and employees of the authority; and

(3) executive director;

executing bonds, leases, obligations, or other agreements under this chapter are not subject to personal liability or accountability by reason of any act authorized by this chapter.

As added by P.L.120-2006, SEC.1.

IC 5-1-17-10
Purpose

Sec. 10. The authority is organized for the following purposes:

(1) Acquiring, financing, constructing, and leasing land and capital improvements to or for the benefit of a capital improvement board.

(2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to or for the benefit of a capital improvement board.

(3) Acquiring land or all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease and leasing the land or these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more capital improvements from a capital improvement board by purchase or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-11
Powers

Sec. 11. (a) The authority may also:

(1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and capital improvements;

(2) lease the land or those capital improvements to a capital improvement board;

(3) sue, be sued, plead, and be impleaded;

(4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;

(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) after giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;

(7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;

(8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees;

(9) make and enter into all contracts and agreements, including agreements to arbitrate, that are necessary or incidental to the performance of its duties and the execution of its powers under

this chapter;

(10) acquire in the name of the authority by the exercise of the right of condemnation, in the manner provided in subsection (c), public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this chapter; and

(11) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

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

(c) If the authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this chapter, the authority may proceed to procure the condemnation of the property under IC 32-24-1. The authority may not institute a proceeding until the authority has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the authority of the property involved; and

(3) sets out any other facts that the authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the authority, in the circuit or superior court of the county in which the real property is located.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-12

Bonds; refunding; leases; property

Sec. 12. (a) Bonds issued under IC 36-10-8 or IC 36-10-9 or prior law may be refunded as provided in this section.

(b) A capital improvement board may:

(1) lease all or a portion of land or a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-8 or IC 36-10-9 or prior law and issuing its bonds to refund those bonds; and

(2) sell all or a portion of land or a capital improvement or

improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the land or capital improvement or improvements from the authority.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-13

Lease; findings; term; conditions

Sec. 13. (a) Before a lease may be entered into by a capital improvement board under this chapter, the capital improvement board must find that the lease rental provided for is fair and reasonable.

(b) A lease or sublease of land or capital improvements from the authority, or from a state agency under section 26 of this chapter, to a capital improvement board:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rentals for a newly constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;

(3) may contain provisions:

(A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation of that capital improvement or any other capital improvement; and

(B) requiring payment of lease rentals for land, for an existing capital improvement being used, reconstructed, or renovated, or for any other existing capital improvement;

(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 capital improvement board to purchase the capital improvement upon the terms stated in the lease:

(A) during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness; or

(B) for one dollar ($1) after the term of the lease, if all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness, is no longer outstanding;

(6) may be entered into before acquisition or construction of a capital improvement;

(7) may provide that the capital improvement board shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority;

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(D) pay a deposit or series of deposits to the authority from any funds legally available to the capital improvement board before the commencement of the lease to secure the performance of the capital improvement board's obligations under the lease;

(8) subject to IC 36-10-8-13 and IC 36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from:

(A) proceeds of one (1) or more of the excise taxes as defined in IC 36-10-8 or IC 36-10-9;

(B) proceeds of the county supplemental auto rental excise tax imposed under IC 6-6-9.7;

(C) that part of the proceeds of the county food and beverage tax imposed under IC 6-9-35, which the capital improvement board or its designee receives pursuant thereto;

(D) revenue captured under IC 36-7-31;

(E) net revenues of the capital improvement;

(F) any other funds available to the capital improvement board; or

(G) any combination of the sources described in clauses (A) through (F);

(9) subject to subdivision (10), must provide that the capital improvement board is solely responsible for the operation and maintenance of the capital improvement upon completion of construction, including the negotiation and maintenance of agreements with tenants or users of the capital improvement;

(10) must provide that, during the term of the lease, the authority retains the right to approve any lease agreements and amendments to any lease agreements between the capital improvement board and any National Football League franchised professional football team that will use the capital improvement;

(11) must provide that:

(A) subject to the terms of the lease, the capital improvement board will retain all revenues from operation of the capital improvement; and

(B) the authority has no responsibility to fund the ongoing maintenance and operations of the capital improvement; and

(12) with respect to a capital improvement that is subject to the county admissions tax imposed by IC 6-9-13, must provide that upon request of the authority the capital improvement board will impose a fee:

(A) not to exceed three dollars ($3), as determined by the authority, for each admission to a professional sporting event described in IC 6-9-13-1; and

(B) not to exceed one dollar ($1), as determined by the

authority, for each admission to any other event described in IC 6-9-13-1;

and, so long as there are any current or future obligations owed by the capital improvement board to the authority or any state agency pursuant to a lease or other agreement entered into between the capital improvement board and the authority or any state agency under section 26 of this chapter, the capital improvement board or its designee shall deposit the revenues received from the fee imposed under this subdivision in a special fund, which may be used only for the payment of the obligations described in this subdivision.

(c) A capital improvement board may designate the authority as its agent to receive on behalf of the capital improvement board any of the revenues identified in subsection (b)(8).

(d) All information prepared by the capital improvement board or a political subdivision served by the capital improvement board with respect to a capital improvement proposed to be financed under this chapter, including a construction budget and timeline, must be provided to the budget director. Any information described in this subsection that was prepared before May 15, 2005, must be provided to the budget director not later than May 15, 2005.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-14

Complete authority

Sec. 14. This chapter contains full and complete authority for leases between the authority and a capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-15

Capital improvement plans and specifications; approval

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-16

Agreements; common wall; easements; licenses

Sec. 16. The authority and a capital improvement board 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 in which the capital improvement is located.
As added by P.L.214-2005, SEC.6.

IC 5-1-17-17
Capital improvement; land; sale; lease

Sec. 17. (a) A capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by a capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) A capital improvement board may sell property to the authority.
As added by P.L.214-2005, SEC.6.

IC 5-1-17-18
Bond issues

Sec. 18. (a) Subject to subsection (h), the authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or

(3) funding or refunding bonds issued under IC 36-10-8 or IC 36-10-9 or prior law.

(b) The bonds are payable from the lease rentals from the lease of the capital improvements 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 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 forty (40) years.

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

(g) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of the acquisition or construction, or both, of capital improvements, 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 facility and all buildings, facilities, structures, and improvements related to it;

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

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

for use and operations;

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

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

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

(10) 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) for, and interest on, the bonds being refunded or refinanced.

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

(1) Each contract or subcontract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires the contractor or subcontractor to enter into a project labor agreement as a condition of being awarded and performing work on the contract.

(2) The capital improvement board and the authority have entered into a written agreement concerning the terms of the financing of the facility. This agreement must include the following provisions:

(A) Notwithstanding any other law, if the capital improvement board selected a construction manager and an architect for a facility before May 15, 2005, the authority will contract with that construction manager and architect and use plans as developed by that construction manager and architect. In addition, any other agreements entered into by the capital improvement board or a political subdivision served by the capital improvement board with respect to the design and construction of the facility will be reviewed by a selection committee consisting of:

(i) two (2) of the members appointed to the board of directors of the authority under section 7(a)(1) of this chapter, as designated by the governor;

(ii) the two (2) members appointed to the board of directors of the authority under section 7(a)(2) of this chapter; and

(iii) the executive director of the authority.

The selection committee is not bound by any prior commitments of the capital improvement board or the political subdivision, other than the general project design, and will approve all contracts necessary for the design and construction of the facility.

(B) If before May 15, 2005, the capital improvement board acquired any land, plans, or other information necessary for the facility and the board had budgeted for these items, the capital improvement board will transfer the land, plans, or other information useful to the authority for a price not to exceed the lesser of:

(i) the actual cost to the capital improvement board; or

(ii) three million five hundred thousand dollars ($3,500,000).

(C) The capital improvement board agrees to take any legal action that the authority considers necessary to facilitate the financing of the facility, including entering into agreements during the design and construction of the facility or a sublease of a capital improvement to any state agency that is then leased by the authority to any state agency under section 26 of this chapter.

(D) The capital improvement board is prohibited from taking any other action with respect to the financing of the facility without the prior approval of the authority. The authority is not bound by the terms of any agreement entered into by the capital improvement board with respect to the financing of the facility without the prior approval of the authority.

(E) As the project financier, the Indiana finance authority (or its successor agency) and the public finance director will be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

(F) The capital improvement board agrees to deliver to the authority the one hundred million dollars ($100,000,000) that is owed to the capital improvement board, the consolidated city, or the county having a consolidated city pursuant to an agreement between the National Football League franchised professional football team and the capital improvement board, the consolidated city, or the county. This amount shall be applied to the cost of construction for the stadium part of the facility. This amount does not have to be delivered until a lease is entered into for the stadium between the authority and the capital improvement board.

(G) The authority agrees to consult with the staff of the capital improvement board on an as needed basis during the design and construction of the facility, and the capital improvement board agrees to make its staff available for this purpose.

(H) The authority, the county, the consolidated city, the capital improvement board and the National Football League franchised professional football team must commit to using their best efforts to assist and cooperate with one another to design and construct the facility on time and on budget.

(3) The capital improvement board and the National Football

League franchised professional football team have entered into a lease for the stadium part of the facility that has been approved by the authority and has a term of at least thirty (30) years.

As added by P.L.214-2005, SEC.6. Amended by P.L.1-2006, SEC.87; P.L.252-2015, SEC.7.

IC 5-1-17-18.5

Negotiating with a single bidder for a project

Sec. 18.5. (a) This section applies to bids received with respect to a capital improvement under this chapter:

(1) that is constructed by, for, or on behalf of the authority; and

(2) for which only one (1) bid was received from a responsible bidder.

(b) The board may attempt to negotiate a more advantageous proposal and contract with the bidder if the board determines that rebidding:

(1) is not practicable or advantageous; or

(2) would adversely affect the construction schedule or budget of the project.

(c) The board shall prepare a bid file containing the following information:

(1) A copy of all documents that are included as part of the invitation for bids.

(2) A list of all persons to whom copies of the invitation for bids were given, including the following information:

(A) The name and address of each person who received an invitation for bids.

(B) The name of each bidder who responded and the dollar amount of the bid.

(C) A summary of the bid received.

(3) The basis on which the bid was accepted.

(4) Documentation of the board's negotiating process with the bidder. The documentation must include the following:

(A) A log of the dates and times of each meeting with the bidder.

(B) A description of the nature of all communications with the bidder.

(C) A copy of all written communications, including electronic communications, with the bidder.

(5) The entire contents of the contract file except for proprietary information included with the bid, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids.

As added by P.L.120-2006, SEC.2.

IC 5-1-17-19

Bonds; complete authority

Sec. 19. 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 or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-20

Bonds; legal investments

Sec. 20. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-21

Bonds; security

Sec. 21. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;

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

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

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

As added by P.L.214-2005, SEC.6.

IC 5-1-17-22

Bond issue for leased property purchase

Sec. 22. If a capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by statute.
As added by P.L.214-2005, SEC.6.

IC 5-1-17-23
Tax exemption

Sec. 23. All:

(1) property owned by the authority;
(2) revenues of the authority; and
(3) bonds issued by the 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.
As added by P.L.214-2005, SEC.6.

IC 5-1-17-24
Bonds; contesting validity

Sec. 24. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

(1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.
As added by P.L.214-2005, SEC.6.

IC 5-1-17-25
Bonds; maximum amount; conditions

Sec. 25. The authority shall not issue bonds in a principal amount exceeding five hundred million dollars ($500,000,000) to finance any capital improvement in a county having a consolidated first class city unless:

(1) on or before June 30, 2005, the county fiscal body:
(A) increases the rate of the tax authorized by IC 6-6-9.7 by the maximum amount authorized by IC 6-6-9.7-7(c);
(B) increases the rate of the tax authorized by IC 6-9-8 by the maximum amount authorized by IC 6-9-8-3(d);
(C) increases the rate of tax authorized by IC 6-9-12 by the maximum amount authorized by IC 6-9-12-5(b); and
(D) increases the rate of the tax authorized by IC 6-9-13 by the maximum amount authorized by IC 6-9-13-2(b); and

(2) on or before October 1, 2005, the budget director makes a determination under IC 36-7-31-14.1 to increase the amount of money captured in a tax area established under IC 36-7-31 by up to eleven million dollars ($11,000,000) per year, commencing July 1, 2007.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-26

Leases between authority and state agency

Sec. 26. (a) Notwithstanding any other law, any capital improvement that may be leased by the authority to a capital improvement board under this chapter may also be leased by the authority to any state agency to accomplish the purposes of this chapter. Any lease between the authority and a state agency under this chapter:

(1) must set forth the terms and conditions of the use and occupancy under the lease;

(2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy under the lease;

(3) must provide that the state agency is not obligated to continue to pay for the use and occupancy under the lease but is instead required to vacate the facility if it is shown that the terms and conditions of the use and occupancy and the amount to be paid for the use and occupancy are unjust and unreasonable considering the value of the services and facilities thereby afforded;

(4) must provide that the state agency is required to vacate the facility if funds have not been appropriated or are not available to pay any sum agreed to be paid for use and occupancy when due;

(5) may provide for such costs as maintenance, operations, taxes, and insurance to be paid by the state agency;

(6) may contain an option to renew the lease;

(7) may contain an option to purchase the facility for an amount equal to the amount required to pay the principal and interest of indebtedness of the authority incurred on account of the facility and expenses of the authority attributable to the facility;

(8) may provide for payment of sums for use and occupancy of an existing capital improvement being used by the state agency, but may not provide for payment of sums for use and occupancy of a new capital improvement until the construction of the capital improvement or portion thereof has been completed and the new capital improvement or a portion thereof is available for use and occupancy by the state agency; and

(9) may contain any other provisions agreeable to the authority and the state agency.

(b) Any state agency that leases a capital improvement from the authority under this chapter may sublease the capital improvement

to a capital improvement board under the terms and conditions set forth in section 13(a) of this chapter, section 13(b)(1) through 13(b)(4) of this chapter, section 13(b)(6) through 13(b)(8) of this chapter, and section 13(c) of this chapter.

(c) Notwithstanding any other law, in anticipation of the construction of any capital improvement and the lease of that capital improvement by the authority to a state agency, the authority may acquire an existing facility owned by the state agency and then lease the facility to the state agency. A lease made under this subsection shall describe the capital improvement to be constructed and may provide for the payment of rent by the state agency for the use of the existing facility. If such rent is to be paid pursuant to the lease, the lease shall provide that upon completion of the construction of the capital improvement, the capital improvement shall be substituted for the existing facility under the lease. The rent required to be paid by the state agency pursuant to the lease shall not constitute a debt of the state for purposes of the Constitution of the State of Indiana. A lease entered into under this subsection is subject to the same requirements for a lease entered into under subsection (a) with respect to both the existing facility and the capital improvement anticipated to be constructed.

(d) This chapter contains full and complete authority for leases between the authority and a state agency and subleases between a state agency and a capital improvement board. No laws, procedures, proceedings, publications, notices, consents, approvals, orders, or acts by the board, the governing body of any state agency or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any such lease or sublease, except as prescribed in this chapter.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-27

Real property conveyance without bid or advertisement

Sec. 27. In order to enable the authority to lease a capital improvement or existing facility to a state agency under section 26 of this chapter, the governor may convey, transfer, or sell, with or without consideration, real property (including the buildings, structures, and improvements), 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 chapter.

As added by P.L.214-2005, SEC.6.

IC 5-1-17-28

Lease payments from taxes; budget director designee

Sec. 28. If the authority enters into a lease with a capital improvement board under section 13 of this chapter or a state agency

under section 26 of this chapter, which then enters into a sublease with a capital improvement board under section 26(b) of this chapter, and the rental payments owed by the capital improvement board to the authority under the lease or to the state agency under the sublease are payable from the taxes described in section 25 of this chapter or from the taxes authorized under IC 6-9-35, the budget director may choose the designee of the capital improvement board, which shall receive and deposit the revenues derived from such taxes. The designee shall hold the revenues on behalf of the capital improvement board pursuant to an agreement between the authority and the capital improvement board or between a state agency and the capital improvement board. The agreement shall provide for the application of the revenues in a manner that does not adversely affect the validity of the lease or the sublease, as applicable.
As added by P.L.214-2005, SEC.6.

IC 5-1-17.5

Chapter 17.5. Motorsports Investment District

IC 5-1-17.5-1

Legislative findings

Sec. 1. The general assembly finds the following:

(1) Marion County and certain surrounding counties and municipalities located in those counties face unique and distinct challenges and opportunities related to the economic development issues associated with the maintenance of a world-class motorsports facility in the town of Speedway.

(2) A unique approach is required to ensure that such a motorsports facility can be maintained to allow these counties and municipalities to meet these challenges and opportunities.

(3) The powers and responsibilities provided to the Indiana motorsports commission created by this chapter and the Indiana finance authority are appropriate and necessary to carry out the public purposes of encouraging and fostering economic development in central Indiana and maintaining a world-class motorsports facility in the town of Speedway.

(4) Encouragement of economic development in central Indiana will:

(A) generate significant economic activity, a substantial part of which results from persons residing outside Indiana, which may attract new businesses and encourage existing businesses to remain or expand in central Indiana;

(B) promote central Indiana to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to central Indiana;

(C) protect and increase state and local tax revenues; and

(D) encourage overall economic growth in central Indiana and in Indiana.

(5) Marion County faces unique challenges in the development of infrastructure and other facilities necessary to promote economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax-exempt properties located in Marion County, because Indianapolis is the seat of state government and Marion County government, and because Marion County is home to multiple institutions of higher education and the site of numerous state and regional nonprofit corporations.

(6) 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 P.L.233-2013, SEC.5.

IC 5-1-17.5-2

"Admissions fees"

Sec. 2. As used in this chapter, "admissions fees" means the admissions fees under IC 6-8-14.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-3
"Affected statutes"
Sec. 3. As used in this chapter, "affected statutes" has the meaning set forth in IC 4-4-10.9-1.2.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-4
"Authority"
Sec. 4. As used in this chapter, "authority" refers to the Indiana finance authority.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-5
"Board"
Sec. 5. As used in this chapter, "board" refers to the board of directors of the commission.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-6
"Bonds"
Sec. 6. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-7
"Budget agency"
Sec. 7. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1-3.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-8
"Budget committee"
Sec. 8. As used in this chapter, "budget committee" means the budget committee established by IC 4-12-1-3.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-9
"Commission"
Sec. 9. As used in this chapter, "commission" refers to the Indiana motorsports commission created by this chapter.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-10
"Department"

Sec. 10. As used in this chapter, "department" refers to the department of state revenue.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-11
"Motorsports investment district"
Sec. 11. As used in this chapter, "motorsports investment district" means the geographic area established as a motorsports investment district under this chapter.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-12
"Person"
Sec. 12. As used in this chapter, "person" has the meaning set forth in IC 36-1-2-12.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-13
"Political subdivision"
Sec. 13. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-14
"Qualified motorsports facility"
Sec. 14. (a) As used in this chapter, "qualified motorsports facility" means a facility that:
(1) is located in Indiana;
(2) is used for professional motorsports racing events;
(3) has a motorsports racetrack that is greater than two (2) miles in length; and
(4) holds at least two (2) professional motorsports racing events annually at which the combined admissions total at least two hundred thousand (200,000).
(b) For purposes of this section, a professional motorsports racing event includes a professional motorsports racing practice session that is open to the general public.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-15
Commission established; purpose
Sec. 15. The Indiana motorsports commission is created in Indiana as a separate body corporate and politic, as an instrumentality of the state, to finance and lease real and personal property improvements for the benefit of an owner of a qualified motorsports facility within a motorsports investment district.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-16
Board of directors of the commission

Sec. 16. (a) The board of directors of the commission is composed of the following five (5) directors, who serve at the pleasure of the governor and must be residents of Indiana:

(1) The budget director, or the budget director's designee, who shall serve as chair of the commission.

(2) Four (4) directors appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a director under this subdivision.

(b) The commission shall be governed by the board. The directors may not be elected public officials of the state or any political subdivision. Except for the budget director, the directors first appointed continue in office for terms expiring on July 1, 2014, July 1, 2015, July 1, 2016, and July 1, 2017, and until their respective successors are duly appointed and qualified.

(c) Except for the budget director, the term of any director first appointed must be designated by the governor. If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new director. The successor of each such director is appointed for a term of four (4) years, except that any person appointed to fill a vacancy is appointed to serve only for the unexpired term and until a successor is duly appointed and qualified. A director is eligible for reappointment.

(d) The directors shall hold an initial organizational meeting within thirty (30) days after the board's appointment and after public notice given by the budget director in accordance with IC 5-3-1-4. As soon as practicable after January 15 of each year, the board shall hold its annual organizational meeting. The board shall elect one (1) of the directors as vice chair and another director as 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. Special meetings may be called by the chair or any two (2) directors of the board.

(e) Three (3) directors constitute a quorum of the board, and the affirmative vote of at least three (3) directors is necessary for any official action taken by the board. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

(f) Except for the budget director, the directors are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with their duties as provided by law. Directors are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) or any other compensation while performing their duties.

(g) All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under this

chapter or from the proceeds of bonds issued by the authority under this chapter, and no liability or obligation shall be incurred by the commission or the authority under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

(h) The board:

(1) is responsible for implementing the powers and duties of the commission under this chapter;

(2) may adopt bylaws for the regulation of the affairs of the board, the conduct of the business of the commission, and the safeguarding of the funds and property entrusted to the commission; and

(3) shall, without complying with IC 4-22-2, adopt the code of ethics specified in executive order 05-12 for its members and employees.

As added by P.L.233-2013, SEC.5. Amended by P.L.2-2014, SEC.9.

IC 5-1-17.5-17

Powers of the commission

Sec. 17. The commission is authorized and empowered to do the following:

(1) To sue and be sued, and to plead and be impleaded in the name of the commission.

(2) To receive and accept from any federal agency grants and to receive and accept aid or contributions from any source of 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.

(3) To hold, use, administer, and expend such sum or sums as may at any time be appropriated or transferred to the commission.

(4) To purchase, acquire, or hold debt securities or other investments for the commission's own account at prices and in a manner the commission considers advisable, and to sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the commission considers advisable.

(5) To lease real or personal property as lessor or lessee from or to the authority or any person under this chapter.

(6) To do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-18

Staff support and expenses; employees

Sec. 18. The authority shall provide staff support for the commission and pay all expenses of the commission from funds transferred to the commission from the motorsports investment

district fund established under section 30 of this chapter. In providing such staff, the authority may employ, without the approval of the attorney general or any other state officer, any accounting and technical experts, attorneys, and other officers, employees, and agents, permanent or temporary, as may be necessary in the authority's judgment to carry out the efficient operation of the commission, including professionals who can prepare a report on the matters to be considered in making the findings of the commission set forth in section 24 of this chapter, and the commission may fix their compensation and title. Employees of the authority employed under this section shall not be considered employees of the state.
As added by P.L.233-2013, SEC.5. Amended by P.L.2-2014, SEC.10.

IC 5-1-17.5-19
Surety bonds of directors

Sec. 19. (a) Except as provided in subsection (b), each director of the board shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). To the extent an individual described in this section is already covered by a bond required by state law, the individual is not required to obtain another bond, so long as the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the commission.

(b) Instead of a bond, the chair may execute a blanket surety bond covering each director.

(c) Each surety bond must be conditioned upon the faithful performance of the individual's duties and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each individual described in this section shall maintain the surety bonds in full force and effect. All costs of the surety bonds shall be borne by the commission.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-20
Personal liability of directors

Sec. 20. The directors of the board are not subject to personal liability or accountability by reason of any act authorized by this chapter with respect to the:

(1) issuance of any obligations;
(2) execution of any lease or sublease; or
(3) execution of any other agreement under this chapter.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-21
Annual audit

Sec. 21. The commission shall cause an audit or review of its books and accounts to be made at least once each year by certified public accountants.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-22
Annual report

Sec. 22. The commission shall, following the close of each fiscal year of the commission, submit an annual report of its activities for the preceding year to the governor, the budget committee, and 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. Each report must set forth a complete operating and financial statement for the commission during the fiscal year the report covers.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-23
Director's interest in contracts or in sale or lease of property prohibited

Sec. 23. (a) A director of the commission who knowingly has an interest:

(1) in any contract with the commission; or

(2) in the sale or lease of any real or personal property to the commission;

commits a Class A misdemeanor. All such contracts or leases are void.

(b) This section does not apply to contracts for purchases of property, real or personal, between the commission and:

(1) the authority;

(2) any political subdivision; or

(3) any department or agency of the state.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-24
Resolution by commission establishing a district; public hearing; required findings by commission; territory of district

Sec. 24. (a) The commission may, after a public hearing, adopt a resolution establishing a motorsports investment district. Notice of the public hearing must be provided in accordance with IC 5-3-1.

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

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

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

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

(c) A motorsports investment district consists of:

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

(2) adjacent property that is:

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

(B) owned by the owner of the qualified motorsports facility or a subsidiary or affiliate of the qualified motorsports facility;

(3) property on which activities related to the qualified motorsports facility occur; and

(4) other public property specified by the commission;

as determined in the resolution adopted by the commission.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-25

Allocation of amounts appropriated to the commission; expiration date of district

Sec. 25. A resolution establishing a motorsports investment district must provide for the allocation to the motorsports investment district fund established under section 30 of this chapter of the money appropriated to the commission. The resolution must state an expiration date for the motorsports investment district, which must be the later of:

(1) the date that is thirty (30) years after the date of the adoption of the resolution; or

(2) the date on which the owner or owners of a qualified motorsports facility no longer have a financial liability to the commission.

Subject to section 24(c) of this chapter, the commission shall specify in the resolution the geographic area that is included within the motorsports investment district.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-26

Filing of informational tax returns by certain taxpayers; guidelines

Sec. 26. (a) A taxpayer operating in the motorsports investment district that files a consolidated return with the department also shall file annually an informational return with the department for each business location of the taxpayer within the motorsports investment district.

(b) If the department is unable to determine the extent to which taxes remitted by a taxpayer are gross retail incremental amounts or income tax incremental amounts for purposes of IC 4-10-23, the department shall use the best information available in calculating those incremental amounts.

(c) The department shall adopt guidelines to govern its responsibilities under this chapter.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-27
Submission to the budget agency of resolution establishing district

Sec. 27. Upon adoption by the commission of a resolution establishing a motorsports investment district under this chapter, the commission shall submit the resolution to the budget agency.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-28
Budget committee review; approval by budget agency; required findings before resolution may be approved

Sec. 28. The budget agency, after review by the budget committee, shall approve the resolution establishing the motorsports investment district if the budget agency finds that the improvements to be made within the qualified motorsports facility are economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the motorsports investment district.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-29
Information to be provided to department of state revenue

Sec. 29. (a) If the commission adopts a resolution establishing a motorsports investment district, the commission shall notify the department in an electronic format approved by the department of the adoption of the resolution and shall include with the notification a complete list of the following:

(1) Employers and vendors with a responsibility to remit taxes in the motorsports investment district.

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

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

(c) At the request of the department, the commission, the owner or owners of a motorsports facility located in the district, and any political subdivision in which all or a part of the district is located shall disclose to the department the names of the employers described in subsection (a) and such other information that may assist in the determination of the gross retail incremental amounts or income tax incremental amounts for purposes of IC 4-10-23.

(d) At the request of the department, a political subdivision in which the qualified motorsports facility is located shall provide to the department information requested by the department concerning permits issued by the political subdivision to vendors operating within the motorsports investment district.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-30

Motorsports investment district fund; request for appropriations; use of money in the fund

Sec. 30. (a) If a motorsports investment district is established under this chapter, the commission, or the authority for and on behalf of the commission, shall establish a motorsports investment district fund for the motorsports investment district. The fund shall be administered by the commission. Except as provided in subsection (g), money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The commission shall deposit amounts appropriated to the commission in the motorsports investment district fund as provided in this chapter.

(c) The commission shall request that the general assembly make an appropriation not to exceed five million dollars ($5,000,000) to the commission for deposit in the motorsports investment district fund in each state fiscal year following the creation of the motor sports investment district fund, until the earlier of:

(1) the date that is twenty-two (22) years after the date on which appropriations are first deposited in the motorsports investment district fund; or

(2) the date on which all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding.

The commission may use money in the motorsports investment district fund for the purposes of this chapter.

(d) Amounts held in the motorsports investment district fund may be distributed to a trustee of any bonds that are issued or to be issued by the authority under section 37 of this chapter and that are secured by rent to be paid by the commission under a lease entered into with the authority under section 32 of this chapter.

(e) In addition, to the extent the rent due in a state fiscal year under leases of structures or other capital improvements that are within a motorsports investment district is anticipated to be insufficient to pay debt service on bonds issued under section 37 of this chapter, when due in that state fiscal year, the authority shall make the request under subsection (c) upon reaching the determination.

(f) Money in the motorsports investment district fund may be used by the commission, the authority, or a trustee for the following:

(1) Payment of the rent due under leases of structures or other capital improvements that are located within a motorsports investment district.

(2) Payment of all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter, including those incurred in connection with the establishment of the motorsports investment district.

(3) Payment of debt service on bonds issued under section 37 of

this chapter, but only to the extent of any deposit made to the motorsports investment district fund from appropriations requested under subsection (e) or section 30.5(d) of this chapter.

(g) On the date that all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding and all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter have been paid, all money then remaining on deposit in the motorsports investment district fund reverts to the state general fund.

As added by P.L.233-2013, SEC.5. Amended by P.L.213-2015, SEC.55; P.L.149-2016, SEC.16.

IC 5-1-17.5-30.5

Establishment of motorsports facility fund; deposits; reversions; requests for appropriations

Sec. 30.5. (a) If a motorsports investment district is established under this chapter, the commission shall establish a motorsports facility fund for the motorsports investment district.

(b) During the term of the written agreement entered into by:

(1) the owner or owners of the qualified motorsports facility;

(2) the authority; and

(3) the commission;

the commission shall, in each state fiscal year, deposit in the motorsports facility fund two million dollars ($2,000,000) solely from payments established under section 37(f)(1) of this chapter.

(c) Subject to subsection (e), the commission, or the authority for and on behalf of the commission, shall request that the general assembly make an appropriation to the commission in each state fiscal year in which the written agreement described in subsection (b) is in effect. The amount of the requested appropriation must be equal to the amount that the commission is required to deposit into the motorsports facility fund under subsection (b) for that state fiscal year. An appropriation made to the commission under this subsection:

(1) must be deposited in the motorsports investment district fund established under section 30 of this chapter; and

(2) is in addition to an amount appropriated under section 30 of this chapter.

(d) In addition, to the extent the rent due in a state fiscal year under leases of structures or other capital improvements that are within a motorsports investment district, plus the appropriation requested under section 30(e) of this chapter, are anticipated to be insufficient to pay debt service on bonds issued under section 37 of this chapter, when due in that state fiscal year, the authority shall make the request under subsection (c) upon reaching the determination.

(e) The commission may not request an appropriation under

subsection (c) after the earlier of:

(1) the date specified in section 30(c)(1) of this chapter; or

(2) the date specified in section 30(c)(2) of this chapter.

(f) Money in the motorsports facility fund reverts to the state general fund on June 30 of each year.

As added by P.L.190-2014, SEC.8. Amended by P.L.213-2015, SEC.56.

IC 5-1-17.5-31

Powers of Indiana finance authority

Sec. 31. The authority may do any of the following:

(1) Finance the improvement, construction, reconstruction, renovation, and acquisition of real and personal property improvements within a qualified motorsports facility.

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

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-32

Lease of structures and improvements; requirements

Sec. 32. (a) The commission may lease all or any part of structures and capital improvements located within a qualified motorsports facility from the authority, and the authority may lease all or any part of structures and capital improvements located within a qualified motorsports facility to the commission. Any property subject to such a lease is not exempt from taxation under the laws of the state solely by reason of it being subject to such a lease. In a lease from the authority to the commission, the commission may pledge:

(1) amounts appropriated to the commission and deposited in the motorsports investment district fund;

(2) any other rental payments, receipts, and income from the leased structures and capital improvements; or

(3) any other money legally available to the commission for the payment of rent under such a lease.

(b) The amount of any such rent may include the amount necessary to pay the principal of, redemption premium, and interest on any bonds issued by the authority under section 37 of this chapter, when due, the amount of any necessary reserves, and the amount of any expenses incurred by the authority or the commission in connection with the exercise of its duties and obligations set forth in this chapter.

(c) A lease from the authority to the commission under subsection (a):

(1) must set forth the terms and conditions of the use and occupancy, if applicable, under the lease;

(2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy, if applicable, under the lease;

(3) must provide that the commission is not obligated to continue to pay for the use and occupancy, if applicable, under the lease, but is instead required to vacate the equipment, structures, and capital improvements subject to the lease, if it is shown that the terms and conditions of such use and occupancy and the amount to be paid for such use and occupancy are unjust and unreasonable considering the value of the services, equipment, structures, and capital improvements thereby afforded;

(4) must provide that the commission is required to vacate such equipment, structures, and capital improvements if funds are not available to pay any sum agreed to be paid for such use and occupancy when due; and

(5) may contain any other provisions agreed upon by the authority and the commission.

(d) If the commission enters into such a lease with the authority, it may sublease the structures and capital improvements subject to the lease to the owner or owners of the qualified motorsports facility.

(e) The commission may, in anticipation of the acquisition, construction, reconstruction, renovation, or equipping of any such structures or capital improvements, including any equipment or necessary appurtenances, enter into a lease with the authority before any such construction, reconstruction, renovation, or equipping. Such a lease must require the payment of lease rental by the commission to begin when the equipment, structures, or improvements have been acquired or completed and are ready for use and occupancy, if applicable, but not before that time.

(f) If necessary to enter into a lease under subsection (a):

(1) the commission may lease structures and capital improvements located within a motorsports investment district from the owner or owners of the qualified motorsports facility and sublease all or any part of such structures and capital improvements to the authority for a nominal rent; and

(2) the authority may lease all or any part of such structures and capital improvements from the commission for a nominal rent.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-33
Option to renew lease

Sec. 33. A lease from the authority to the commission under section 32 of this chapter may provide the commission with an option to renew the lease for the same term or a shorter term, on the conditions provided in the lease.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-34
Option to purchase leased property; conveyance of property; requirements

Sec. 34. (a) A lease from the authority to the commission under section 32 of this chapter shall give the commission an option to purchase the leased property before the expiration of the term of the lease:

(1) on the date or dates in each year that are fixed by the lease; and

(2) at a price to be computed by a method set forth in the lease.

However, such a lease may not provide, or be construed to provide, that the commission is under an obligation to purchase the leased structures or improvements or is under an obligation respecting any creditors or bondholders of the authority.

(b) If the commission does not exercise the option to purchase the property, then upon the expiration of the lease and upon full performance by the commission, the property becomes the absolute property of the commission or the authority's leasehold interest in such property terminates, as applicable. The authority shall take the steps necessary to convey title or such leasehold interest to the commission.

(c) If the commission purchases the leased property as provided in subsection (a) or in the event described in subsection (b), the commission may convey, with or without consideration, its ownership or leasehold interest, as applicable, in such property to the owner or owners of the qualified motorsports facility. However, the commission shall not convey its ownership or leasehold interest in any such property to the owner or owners of the qualified motorsports facility until:

(1) the date on which the aggregate amount of credits provided to the owner or owners of the qualified motorsports facility under IC 4-10-23 equals or exceeds the aggregate of the amount of money appropriated to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent; and

(2) all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-35

Authorization and execution of leases by commission board of directors

Sec. 35. Each lease under section 32 of this chapter must be authorized by resolution of the board, which shall be entered in the official records of the commission. Such a lease must be executed on behalf of the commission by the chair or the vice-chair and the secretary-treasurer of the commission, and on behalf of the authority by the chairman or the vice chairman of the authority and the public

finance director.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-36
Commission approval of financed improvements; liens and security interests; transfer of controlling ownership interest in qualified motorsports facility; credits against obligations of owners

Sec. 36. (a) Improvements financed under this chapter must be approved by the commission. The commission shall secure the obligations of the owner or owners of the qualified motorsports facility to the commission under a lease or sublease under this chapter with liens or security interests, which may include:

(1) perfected security interests in personal property;
(2) a mortgage lien on the real property; or
(3) such other security determined to be appropriate by the commission and the authority.

(b) On the date that the aggregate amount of credits provided to the owner or owners of the qualified motorsports facility under IC 4-10-23 equals or exceeds the aggregate of the amount of the appropriations made to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent, and all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding, the commission shall take the legal steps required to terminate each of its security interests in and mortgage liens on the improvements described in subsection (a).

(c) If a controlling ownership interest in a qualified motorsports facility is sold after the authority issues bonds under this chapter, the commission shall determine whether there exists good cause not to allow the purchaser to assume the motorsports facility's obligations under this chapter. If the commission determines that no such good cause exists, the commission shall be deemed to have accepted the purchaser's assumption of the motorsports facility's obligations under this chapter, and the purchaser shall be deemed to have assumed and become obligated to fully perform those obligations. If the commission determines that there exists good cause not to approve the purchaser's assumption of the motorsports facility's obligations under this chapter, the commission shall be deemed to have disapproved such assumption and the commission may require that the owner or owners of the qualified motorsports facility shall pay or cause to be paid to the commission an amount to be deposited in the motorsports investment district fund sufficient to pay the cost of defeasing all outstanding bonds issued by the authority under section 37 of this chapter and paying all expenses of the commission and the authority incurred in connection with such defeasance. For purposes of this section, the following shall not be deemed to be the sale of a

controlling ownership interest:

(1) Transfers among the qualified motorsports facility and its subsidiaries and affiliates existing at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter.

(2) Transfers among the qualified motorsports facility's existing equity owners (as determined at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter).

(3) Transfers between the qualified motorsports facility's existing equity owners (as determined at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter) and trusts, family limited partnerships, and other entities for estate planning purposes.

(d) Money deposited in the motorsports investment district fund may be used to pay the cost of defeasing all outstanding bonds issued by the authority under section 37 of this chapter and paying all other expenses of the commission and the authority incurred in connection with such defeasance.

(e) If, after the date payments are received by the commission from the owner or owners of the qualified motorsports facility under subsection (c), all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding, and all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter have been paid, all money then remaining in the motorsports investment district fund reverts to the state general fund.

As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-37

Issuance of bonds; terms and conditions; use of bond proceeds

Sec. 37. (a) Subject to subsection (f), the authority may issue bonds for the purpose of obtaining money to pay the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping improvements within a qualified motorsports facility.

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

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

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

(e) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping improvements within a qualified motorsports facility, or payment of

the cost of refunding or refinancing outstanding bonds for which the bonds are issued. The cost may include:

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

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

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

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

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

(6) reserves for principal and interest;

(7) interest during construction;

(8) financial advisory fees;

(9) insurance during construction;

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

(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(f) The authority may not issue bonds under this chapter unless:

(1) the owner or owners of the qualified motorsports facility, the authority, and the commission have entered into a written agreement concerning the terms of the financing of the improvements financed under this chapter, including the obligation of the owner or owners of the qualified motorsports facility to make payments in an amount equal to at least two million dollars ($2,000,000) in each state fiscal year to the commission for deposit in the motorsports facility fund during the term of the agreement;

(2) in connection with the issuance of such bonds, the authority has leased the equipment, structures, and capital improvements being financed with the proceeds of the bonds to the commission under a lease under section 32 of this chapter, and the commission has entered into a sublease of such equipment, structures, and capital improvements with the owner or owners of the qualified motorsports facility. Such a sublease must include the terms described in sections 34(c) and 36(c) of this chapter; and

(3) as part of the written agreement concerning the terms of the financing of the improvements, the ultimate parent company of the qualified motorsports facility:

(A) guarantees the full and timely performance of all of the duties, responsibilities, and obligations of the qualified motorsports facility and the owner or owners of the qualified motorsports facility; and

(B) guarantees that if:

(i) the aggregate amount credited to the owner or owners of the qualified motorsports facility under IC 4-10-23-12 from income tax incremental amounts, gross retail incremental amounts, and admissions fees deposited in the state general fund under IC 6-8-14 during the thirty (30) years after the date of the adoption of the resolution establishing the motorsports improvement district; plus

(ii) the amounts deposited in the motorsports facility fund established under section 30.5 of this chapter;

is less than the aggregate of the amount of money appropriated to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent, then the ultimate parent company will pay the difference to the commission.

(g) Each bond issued under this chapter must contain on its face a statement that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the bond.

(h) In connection with the issuance of each series of bonds under this section, the authority (or its successor agency) and the public finance director shall be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

As added by P.L.233-2013, SEC.5. Amended by P.L.190-2014, SEC.9.

IC 5-1-17.5-38

Authority for certain actions by the commission and the Indiana finance authority; bonds as legal investments

Sec. 38. (a) This chapter contains full and complete authority for the issuance of bonds, the improvement, construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of structures and capital improvements located within a motorsports investment district by the commission and the authority, and the leasing of such structures and capital improvements by the commission or the authority. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the commission, the authority, or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds under this chapter, to improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip structures and capital improvements located within a motorsports investment district, or to enter into any lease, except as prescribed in this chapter.

(b) Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of

discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-39
Securing of bonds; trust indenture; validity of pledge or assignment

Sec. 39. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

(1) pledge or assign money appropriated to the commission and to be paid as rent by the commission to the authority, but may not mortgage land or capital improvements;

(2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority;

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

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

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether or not they have notice of the lien. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the authority.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-40
Action to contest validity of bonds

Sec. 40. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

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

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

whichever occurs first.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-41
Equal opportunities in procurement and contracting

Sec. 41. Improvements financed under this chapter are subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. The goal for participation by minority business enterprises shall be fifteen percent (15%), the goal for participation by women's business enterprises shall be eight percent (8%), and the goal for participation by veteran or disabled business enterprises shall be three percent (3%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goals, historical precedents in the same market shall be taken into account.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-42
Income tax withholding; department of state revenue guidelines

Sec. 42. The department shall develop guidelines and instructions concerning the appropriate amount of adjusted gross income tax to be withheld from purse money and prizes won for racing in the motorsports investment district.
As added by P.L.233-2013, SEC.5.

IC 5-1-17.5-43
Office of management and budget review

Sec. 43. The office of management and budget shall in 2023 do the following:

(1) Conduct a review of:

(A) the structures and improvement that have been financed and constructed under this chapter;

(B) the amount of:

(i) the gross retail incremental amounts and income tax incremental amounts remitted for purposes of IC 4-10-23; and

(ii) the motorsports admissions fees that have been remitted under IC 6-8-14;

(C) the amount and terms of outstanding debt issued by the authority under this chapter; and

(D) the status, economic impact, and viability of the qualified motorsports facility.

(2) Before November 1, 2023, submit a copy of the review conducted under subdivision (1) to the budget committee and to the legislative council in an electronic format under IC 5-14-6.
As added by P.L.233-2013, SEC.5.

IC 5-1-18

Chapter 18. Reports Concerning Bonds and Leases of Political Subdivisions

IC 5-1-18-1

"Bonds"

Sec. 1. As used in this chapter,"bonds" means any bonds, notes, or other evidences of indebtedness, including guaranteed energy savings contracts and advances from the common school fund, whether payable from property taxes, other taxes, revenues, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness made in anticipation of and to be paid from current revenues of a political subdivision actually levied and in the course of collection for the fiscal year in which the notes, warrants, or other evidences of indebtedness are issued.

As added by P.L.199-2005, SEC.2.

IC 5-1-18-2

"Department"

Sec. 2. As used in this chapter, "department" refers to the department of local government finance.

As added by P.L.199-2005, SEC.2.

IC 5-1-18-3

"Lease"

Sec. 3. As used in this chapter, "lease" means a lease of real property that is entered into by a political subdivision for a term of at least twelve (12) months, whether payable from property taxes, other taxes, revenues, or any other source.

As added by P.L.199-2005, SEC.2.

IC 5-1-18-4

"Lease rentals"

Sec. 4. As used in this chapter, "lease rentals" means the payments required under a lease.

As added by P.L.199-2005, SEC.2.

IC 5-1-18-5

"Political subdivision"

Sec. 5. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.199-2005, SEC.2.

IC 5-1-18-6

Information report for bonds and leases

Sec. 6. A political subdivision that issues bonds or enters into a lease after December 31, 2005, shall supply the department with a debt issuance report not later than one (1) month after the date on

which the bonds are issued or the lease is executed.
As added by P.L.199-2005, SEC.2. Amended by P.L.219-2007, SEC.8; P.L.137-2012, SEC.4.

IC 5-1-18-7
Bond report requirements; uniformity; electronic submission

Sec. 7. (a) Except as provided by subsection (b), the debt issuance report required by section 6 of this chapter must be submitted on a form prescribed by the department and must include the following information concerning bonds:

(1) The par value of the bond issue.
(2) A schedule of maturities and interest rates.
(3) The purposes of the bond issue.
(4) The itemized costs of issuance information, including fees for bond counsel, other legal counsel, underwriters, and financial advisors.
(5) The type of bonds that are issued.
(6) Other information as required by the department.

A copy of the official statement and bond covenants, if any, must be supplied with this information.

(b) A political subdivision or a person acting on behalf of a political subdivision shall submit the debt issuance report information described in subsection (a) to the department electronically, in the manner prescribed by the department.

(c) For taxes due and payable for an assessment date after January 15, 2012, the department may not approve an appropriation or a property tax levy that is associated with a debt unless the debt issuance report for the debt has been submitted to the department, unless the department has granted a waiver under subsection (d).

(d) The department may for good cause grant a waiver to the requirement under subsection (c) and approve an appropriation or a property tax levy, notwithstanding a political subdivision's failure to submit a required debt issuance report.
As added by P.L.199-2005, SEC.2. Amended by P.L.137-2012, SEC.5.

IC 5-1-18-8
Lease report requirements; uniformity; electronic submission

Sec. 8. (a) Except as provided by subsection (b), the lease information required by section 6 of this chapter must be submitted on a form prescribed by the department and must include the following information concerning leases:

(1) The term of the lease.
(2) The annual and total amount of lease rental payments due under the lease.
(3) The purposes of the lease.
(4) The itemized costs incurred by the political subdivision with respect to the preparation and execution of the lease, including

fees for legal counsel and other professional advisors.

(5) If all or part of the lease rental payments are used by the lessor as debt service payments for bonds issued for the acquisition, construction, renovation, improvement, expansion, or use of a building, structure, or other public improvement for the political subdivision:

(A) the name of the lessor;

(B) the par value of the bond issue; and

(C) the purposes of the bond issue.

(6) Other information as required by the department.

(b) A political subdivision or a person acting on behalf of a political subdivision shall submit the debt issuance report information described in subsection (a) to the department electronically, in the manner prescribed by the department.

(c) For taxes due and payable for an assessment date after January 15, 2012, the department may not approve an appropriation or a property tax levy that is associated with a debt unless the debt issuance report for the debt has been submitted to the department, unless the department has granted a waiver under subsection (d).

(d) The department may for good cause grant a waiver to the requirement under subsection (c) and approve an appropriation or a property tax levy, notwithstanding a political subdivision's failure to submit a required debt issuance report.

As added by P.L.199-2005, SEC.2. Amended by P.L.137-2012, SEC.6.

IC 5-1-18-9

Bonds or leases outstanding; annual summary; annual verification

Sec. 9. (a) This subsection applies to reporting that occurs before January 1, 2013. Each political subdivision that has any outstanding bonds or leases shall submit a report to the department before March 1 of 2006 and each year thereafter that includes a summary of all the outstanding bonds of the political subdivision as of January 1 of that year. The report must:

(1) distinguish the outstanding bond issues and leases on the basis of the type of bond or lease, as determined by the department;

(2) include a comparison of the political subdivision's outstanding indebtedness compared to any applicable statutory or constitutional limitations on indebtedness;

(3) include other information as required by the department; and

(4) be submitted on a form prescribed by the department or through the Internet or other electronic means, as determined by the department.

(b) This subsection applies to reporting that occurs after December 31, 2012. The department may annually require each political subdivision to verify to the department that the list of indebtedness and related details in the department's database are

current and accurate.
As added by P.L.199-2005, SEC.2. Amended by P.L.137-2012, SEC.7.

IC 5-1-18-10
Compiled reports; electronic data base; Internet publication

Sec. 10. The department shall:

(1) compile an electronic data base that includes the information submitted under this chapter; and

(2) after December 31, 2006, post the information submitted under this chapter on the Internet at least annually.

As added by P.L.199-2005, SEC.2.

IC 5-1-18-11
Information submitted; public record

Sec. 11. Information submitted to the department under this chapter is a public record that may be inspected and copied under IC 5-14-3.
As added by P.L.199-2005, SEC.2.

IC 5-1-18-12
Rulemaking power

Sec. 12. The department may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.
As added by P.L.199-2005, SEC.2.

IC 5-1.4

ARTICLE 1.4. LOCAL PUBLIC IMPROVEMENT BOND BANKS

IC 5-1.4-1

Chapter 1. Definitions

IC 5-1.4-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-2

"Bank"

Sec. 2. "Bank" refers to the local public improvement bond bank established under IC 5-1.4-2-1.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-3

"Board"

Sec. 3. "Board" refers to the board of directors established under IC 5-1.4-2-2.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-4

"Bond"

Sec. 4. "Bond" refers to a bond of the bank issued under this article.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-5

"City"

Sec. 5. "City" refers to any of the following:

(1) A consolidated city.

(2) A second class city.

(3) A city having a population of more than five thousand (5,000) but less than five thousand one hundred (5,100).

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.1; P.L.255-1997(ss), SEC.1; P.L.170-2002, SEC.13; P.L.119-2012, SEC.12.

IC 5-1.4-1-6

"County"

Sec. 6. "County" refers to the county in which the bank is located.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-7

"Financial institution"

Sec. 7. "Financial institution" means a financial institution as defined in IC 28-1-1-3.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-8

"Holder"

Sec. 8. "Holder" means a person who is:

(1) the bearer of any outstanding bond or note registered to bearer or not registered; or

(2) the registered owner of any outstanding bond or note that is registered other than to bearer.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-9

"Note"

Sec. 9. "Note" refers to a note of the bank issued under this article.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-10

"Qualified entity"

Sec. 10. "Qualified entity" means the following:

(1) A city.

(2) A county.

(3) A special taxing district located wholly within a county.

(4) Any entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(5) A political subdivision (as defined in IC 36-1-2-13) that is located wholly within a county:

(A) that has a population of:

(i) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(ii) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000); or

(B) containing a city that:

(i) is described in section 5(3) of this chapter; and

(ii) has a public improvement bond bank under this article.

(6) A charter school established under IC 20-24 that is sponsored by the executive of a consolidated city.

(7) Any authority created under IC 36 that leases land or facilities to any qualified entity listed in subdivisions (1) through (6).

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.2; P.L.46-1987, SEC.1; P.L.12-1992, SEC.15; P.L.255-1997(ss), SEC.2; P.L.127-2002, SEC.1 and P.L.179-2002, SEC.1; P.L.1-2005, SEC.71; P.L.119-2012, SEC.13.

IC 5-1.4-1-11
"Reserve fund"

Sec. 11. "Reserve fund" refers to the reserve fund established under IC 5-1.4-5-1.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-1-12
"Security"

Sec. 12. "Security" means a bond, note, or evidence of indebtedness issued by a qualified entity and payable from taxes, revenues, rates, charges, assessments, proceeds of funding or refunding bonds or notes, or any combination of the foregoing.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-2

Chapter 2. Establishment and Organization

IC 5-1.4-2-1

Local public improvement bond bank; establishment; nature; purpose

Sec. 1. (a) In a city there is established a local public improvement bond bank, to be known as "The _____ (name of city) _____ Local Public Improvement Bond Bank", for:

(1) the public purposes set out in this article; and

(2) in the case of a city described in IC 5-1.4-1-5(3), the additional public purposes of:

(A) developing infrastructure;

(B) promoting education and tourism; and

(C) assisting economic development.

(b) The bank is a body corporate and politic separate from the city in its corporate capacity.

(c) The purpose of the bank is to buy and sell securities of qualified entities.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.3; P.L.11-1987, SEC.9; P.L.255-1997(ss), SEC.3.

IC 5-1.4-2-1.5

Public purpose

Sec. 1.5. The general assembly finds that the establishment of a local public improvement bond bank in a city described in IC 5-1.4-1-5(3):

(1) is necessary as a result of:

(A) unique sources of revenues available to the city in relation to its budget;

(B) extraordinary needs for infrastructure improvements in the city and in the county in which the city is located;

(C) unprecedented opportunities for economic development, including tourism development; and

(D) unique demands for education and workforce development, including facilities for providing education and training;

(2) will afford the city the necessary flexibility to address the extraordinary demands and opportunities in a manner that will best serve the interests of the city and the state; and

(3) constitutes an important public purpose and will protect and improve the health, safety, and welfare of the people of the city and the state.

As added by P.L.255-1997(ss), SEC.4.

IC 5-1.4-2-2

Board of directors; establishment; membership; appointment; vacancy

Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of five (5) directors appointed by the mayor of the city.

(c) Each of the five (5) directors appointed by the mayor:

(1) must be a resident of the county;

(2) serves for a term of three (3) years and until a successor is appointed and qualified;

(3) is eligible for reappointment;

(4) shall serve without compensation, but is entitled to reimbursement for traveling expenses and other expenses, actually incurred in connection with the director's duties;

(5) may be removed for cause by the mayor; and

(6) may not be an officer or employee of:

(A) the city;

(B) the county; or

(C) any qualified entity.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the mayor for the unexpired term only.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-2-3

Duties of board

Sec. 3. The board shall do the following:

(1) Elect from its membership a chairman and a vice chairman.

(2) Appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer. The executive director may be the fiscal officer of the city, in which case the executive director will receive no compensation for services performed as the executive director.

(3) Establish and maintain the office of the bank in the city.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-2-4

Quorum

Sec. 4. Three (3) directors constitute a quorum at any meeting of the board.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-2-5

Action by affirmative vote of three directors; effect of vacancy

Sec. 5. Action may be taken by the board at a meeting by the affirmative vote of at least three (3) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-2-6
Surety bonds; issuer; cost

Sec. 6. (a) Each director and the executive director must execute a surety bond in an amount specified by the legislative body of the city. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. In lieu of these surety bonds, the bank may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the bank.

(b) The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

(c) The cost of the surety bonds required by this section shall be paid by the bank.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.4.

IC 5-1.4-2-7
Disclosure of interest in contract; abstention; validity of contract

Sec. 7. (a) Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if the director:

(1) has, or to the director's knowledge may have or may later acquire, a direct or indirect pecuniary interest in a contract with the bank; or

(2) is an officer, member, manager, director, or employee of, or has an ownership interest in, any firm, limited liability company, or corporation that is or may be a party to the contract;

if the director discloses in writing to the bank the nature and extent of the interest as soon as the director has knowledge of the interest and abstains from discussion, deliberation, action, and voting with respect to the contract.

(b) Notwithstanding any provision of this article or any other law, a contract or transaction is not void or voidable because of the existence of an interest described in subsection (a), if the provisions of subsection (a) have been satisfied.

As added by P.L.42-1985, SEC.1. Amended by P.L.8-1993, SEC.50.

IC 5-1.4-2-8
Liability of director or issuer of bonds or notes

Sec. 8. Neither a director nor a person executing bonds or notes issued under this article is liable personally on the bonds or notes.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-2-9
Executive director; duties

Sec. 9. (a) The executive director appointed under section 3 of this chapter shall, in addition to other duties fixed by the directors:

(1) administer, manage, and direct the employees of the bank;

(2) approve all amounts for salaries, allowable expenses of the

bank or of any employee or consultant of the bank, and expenses incidental to the operation of the bank; and

(3) attend the meetings of the board, keep a record of the proceedings of the board, and maintain all books, documents, and papers filed with the bank, the minutes of the board, and the bank's official seal.

(b) The executive director may:

(1) cause copies to be made of all minutes and other records and documents of the bank; and

(2) give certificates under seal of the bank to the effect that those copies are true copies, and all persons dealing with the bank may rely upon those certificates.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-3

Chapter 3. Powers and Duties

IC 5-1.4-3-1

Powers

Sec. 1. The bank is granted all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including the following:

(1) Have a perpetual existence as a body politic and corporate and an independent instrumentality, but not a city or county agency, exercising essential public functions.

(2) Sue and be sued.

(3) Adopt and alter an official seal.

(4) Make and enforce bylaws and rules for the conduct of its business and for the use of its services and facilities.

(5) Acquire, hold, use, and dispose of its income, revenues, funds, and money.

(6) Acquire, rent, lease, hold, use, and dispose of other personal property for its purposes.

(7) Make contracts and incur liabilities, borrow money, issue its negotiable bonds or notes, subject to provisions for registration of negotiable bonds and notes, and provide for and secure their payment and provide for the rights of their holders, and purchase, hold, and dispose of any of its bonds or notes.

(8) Fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities.

(9) Accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, the state, any governmental unit, or any person, carry out the terms or provisions of or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants.

(10) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(11) Procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

(12) Cooperate with and exchange services, personnel, and information with any federal, state, or local government agency.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.5.

IC 5-1.4-3-2

Additional powers

Sec. 2. The bank may:

(1) make, enter into, and enforce all contracts necessary, convenient, or desirable for the purposes of the bank or pertaining to:

(A) a purchase or sale of securities or other investments; or
(B) the performance of its duties and execution of any of its powers under this article;

(2) purchase or hold securities at prices and in a manner the bank considers advisable and sell securities acquired or held by it at prices without relation to cost and in a manner the bank considers advisable;

(3) prescribe the form of application or procedure required of a qualified entity for a purchase of its securities, fix the terms and conditions of the purchase, and enter into agreements with qualified entities with respect to purchases;

(4) render services to a qualified entity in connection with a public or private sale of its securities, including advisory and other services, and charge for services rendered;

(5) charge for its costs and services in review or consideration of a proposed purchase by the bank of securities, whether the securities are purchased;

(6) fix and establish terms and provisions with respect to:
(A) a purchase of securities by the bank, including date and maturities of the securities;
(B) redemption or payment before maturity; and
(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the bank;

(7) to the extent permitted under its contracts with the holders of bonds or notes of the bank, consent to modification of the rate of interest, time for payment of any installment of principal or interest, security, or any other term of a bond or note, contract, or agreement of any kind to which the bank is a party; and

(8) appoint and employ general or special counsel, accountants, financial advisors or experts, and all such other or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-3-3
Investments

Sec. 3. Money not being used to purchase securities may be invested as provided in a resolution, agreement, or trust agreement of the bank.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.6.

IC 5-1.4-3-4
Prohibited acts

Sec. 4. The bank may not:

(1) purchase securities other than from a qualified entity or

other than for investment under section 3 of this chapter;

(2) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States, of the state, or of any other state or jurisdiction, domestic or foreign, except as authorized in this article;

(3) emit bills of credit, accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank, savings association, or any other kind of financial institution;

(4) engage in any form of private or commercial banking business; or

(5) purchase securities from a qualified entity located in a county other than the county in which the bank is located.

As added by P.L.42-1985, SEC.1. Amended by P.L.79-1998, SEC.5.

IC 5-1.4-3-5

Audit of books and accounts; annual report to mayor

Sec. 5. (a) The bank shall have an audit of its books and accounts made at least once each year by either the state board of accounts or by an auditor or auditing firm to be appointed by the board upon review of the firm's proposal by the state board of accounts. The cost of the audit shall be considered an expense of the bank, and a copy of the audit shall be made available to the public.

(b) The bank shall submit a report of its activities for each fiscal year to the mayor not more than forty-five (45) days after the end of each fiscal year. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.7.

IC 5-1.4-3-6

Annual budget; amendment

Sec. 6. The board shall adopt an annual budget on either a calendar or fiscal year basis. The annual budget may be amended from time to time during the year.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.8.

IC 5-1.4-3-7

Expenses

Sec. 7. All expenses incurred in carrying out this article are payable solely from revenues of the bank or funds appropriated under this chapter, and nothing in this article authorizes the bank to incur an indebtedness or liability on behalf of or payable by the city or county.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.9.

IC 5-1.4-3-8

Open meetings; records

Sec. 8. All meetings of the bank shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the bank shall be subject to the requirements of IC 5-14-3.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-4

Chapter 4. Issuance of Obligations

IC 5-1.4-4-1

Bonds or notes; purposes; general obligation of bank; additional security

Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

(1) the purchase of securities;

(2) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due; and

(3) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) Except as otherwise provided in this article or by the board, every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, the state, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.10.

IC 5-1.4-4-2

Nature of bonds or notes; state pledge and agreement

Sec. 2. (a) A bond or note of the bank:

(1) is not a debt, liability, loan of the credit, or pledge of the faith and credit of any qualified entity;

(2) is payable solely from the money pledged or available for its payment under this article, unless funded or refunded by bonds or notes of the bank; and

(3) must contain on its face a statement that the bank is obligated to pay principal and interest, and redemption premiums if any, and that the faith, credit, and taxing power of any qualified entity is not pledged to the payment of the bond or note.

(b) The state pledges to and agrees with the holders of the bonds or notes issued under this article that the state will not:

(1) limit or restrict the rights vested in the bank to fulfill the terms of any agreement made with the holders of its bonds or notes; or

(2) in any way impair the rights or remedies of the holders of the bonds or notes;

until the bonds or notes, together with the interest on the bonds or notes and interest on unpaid installments of interest and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.
As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.11.

IC 5-1.4-4-3
Negotiability of bonds and notes

Sec. 3. The bonds and notes of the bank are negotiable instruments for all purposes of the Uniform Commercial Code (IC 26-1), subject only to the provisions of the bonds and notes for registration.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-4-4
Authorization; issuance in series; requirements; consent of city or state agency

Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

(1) bear the date;
(2) mature at the time or times;
(3) bear interest at the rate or rates of interest or within a maximum rate or specify the method by which the interest rate or rates may be determined;
(4) be in the denomination;
(5) be in the form;
(6) carry the conversion or registration privileges;
(7) have the rank or priority;
(8) be executed in the manner;
(9) be payable from the sources in the medium of payment at the place inside or outside the state; and
(10) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Bonds or notes may be issued under this article without obtaining the consent of any agency of the state or city and without any other proceeding or condition other than the proceedings or conditions specified in this article.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-4-5
Resolution authorizing issuance; adoption; action to set aside resolution

Sec. 5. Upon the adoption of a resolution authorizing the issuance of bonds or notes, any action or proceeding in any court to set aside the resolution authorizing the issuance of bonds or notes of the bank under this article or to obtain any relief upon the ground that the

resolution is invalid must be filed within fifteen (15) days following the adoption of the resolution. After the expiration of this fifteen (15) day period, no right of action shall be asserted nor shall the validity of the resolution or any of its provisions be open to question in any court or agency upon any grounds whatsoever.
As added by P.L.42-1985, SEC.1. Amended by P.L.2-1989, SEC.12.

IC 5-1.4-4-6
Public or private sale; notice

Sec. 6. Bonds or notes of the bank may be sold at public or private sale at the price the board determines. If bonds or notes of the bank are to be sold at public sale, the bank shall follow IC 5-1-11 and shall publish notice of the sale as required by IC 5-3-1 for the sale of bonds or notes of the city.
As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.12.

IC 5-1.4-4-7
Issuance of notes; payment of principal or interest

Sec. 7. The bank may from time to time issue its notes under this article and pay and retire the principal of the notes or pay the interest due thereon or fund or refund the notes from proceeds of bonds or of other notes or from other funds or money of the bank available for that purpose in accordance with a contract between the bank and the holders of the notes.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-4-8
Trust agreement as security; provisions of trust agreement or resolution; expenses

Sec. 8. (a) Any bonds or notes issued under this chapter may be secured by the board 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 or outside the 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 holders of any such bonds or notes as may be reasonable and proper and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by the holders.

(d) In addition to subsections (a), (b), and (c), any trust agreement or resolution may contain other provisions that the board considers reasonable and proper for the security of the holders of any bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from revenues or assets pledged or assigned to the payment of the principal of and the

interest on bonds and notes or from any other funds available to the bank.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-4-9
Purchase of bonds or notes of bank; disposition

Sec. 9. The bank may purchase bonds or notes of the bank out of its funds or money available for the purchase of its own bonds and notes. The bank may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with holders of its bonds or notes. Unless cancelled, bonds or notes so held shall be deemed to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be deemed to be extinguished.
As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.13.

IC 5-1.4-4-10
Purchase of securities; documentation

Sec. 10. All securities purchased, held, or owned by the bank, upon delivery to the bank, must be accompanied by all documentation required by the board.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-5

Chapter 5. Reserve Fund

IC 5-1.4-5-1

Establishment and maintenance of reserve fund; application of funds; required debt service reserve; excess money

Sec. 1. (a) The board may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:

(1) all proceeds of bonds or notes required to be deposited in the fund by terms of a contract between the bank and its holders or a resolution of the bank with respect to the proceeds of bonds or notes;

(2) all other money appropriated to the reserve fund; and

(3) any other money or funds of the bank that it decides to deposit in the fund.

(b) Subject to subsection (c) and section 4(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the bank as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this subsection, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the bank. As used in this subsection, "interest" includes any payments so designated in any contract or agreement between the bank and, or for the benefit of, any holder.

(c) Money in any reserve fund in excess of the required debt service reserve as defined in subsection (b), whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to another fund or account of the bank, subject to the provisions of any agreement with the holders of any bonds or notes.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.14.

IC 5-1.4-5-2

Investment of funds

Sec. 2. Money in any reserve fund may be invested in the manner provided by IC 5-1.4-3-3.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.15.

IC 5-1.4-5-3

Valuation of investments

Sec. 3. For purposes of valuation, investments in the reserve fund shall be valued at par or, if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the bank. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-5-4
Required debt service reserve; appropriation to assure maintenance; application of funds; excess money

Sec. 4. (a) In order to assure the maintenance of the required debt service reserve in any reserve fund, the legislative body of the city may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the legislative body, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve. The chairman annually, before December 1, shall make and deliver to the legislative body a certificate stating the sum required to restore the funds to that amount. Nothing in this subsection creates a debt or liability of the city to make any appropriation.

(b) All amounts received on account of money appropriated by the legislative body of the city to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the city.
As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.16.

IC 5-1.4-5-5
Combining reserve funds

Sec. 5. Subject to the provisions of any agreement with its holders, the bank may combine the reserve fund established for each issue of bonds or notes into one (1) or more reserve funds.
As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.17.

IC 5-1.4-6

Chapter 6. Other Funds and Accounts

IC 5-1.4-6-1

General fund; establishment; use; creation of subaccounts or special accounts

Sec. 1. (a) The bank shall establish and maintain a fund called the general fund into which there shall be deposited all money received by the bank, unless otherwise provided by resolution or trust agreement of the bank, and any money that the bank shall transfer to the fund from any reserve fund under IC 5-1.4-5-1(c). Money in the general fund shall be used for operating expenses of the bank and, subject to any contract between the bank and its holders, may be:

(1) used to pay principal of or interest on bonds or notes of the bank to prevent a default;

(2) transferred to any reserve fund to prevent a default or to make up any deficiency in that reserve fund;

(3) used to purchase securities; and

(4) used to purchase or redeem the bank's bonds or notes.

(b) No amount shall be paid or expended out of the general fund, or from any account therein established by the bank for the purpose of paying operating expenses, for the payment of operating expenses of the bank in any year in excess of the amount provided for operating expenses in the annual budget then in effect for that year or any amendment thereof in effect at the time of the payment or expenditure.

(c) The bank is authorized and empowered to create and establish in the general fund accounts, subaccounts, or special accounts that in the opinion of the board are necessary, desirable, or convenient for the purposes of the bank under this chapter.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.18.

IC 5-1.4-6-2

Additional reserves; other funds or accounts

Sec. 2. The board may establish additional reserves or other funds or accounts as may be necessary, desirable, or convenient to further the accomplishment of its purposes or to comply with the provisions of any of its agreements or resolutions.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-6-3

Money or investments held for payment of bonds or notes; application

Sec. 3. Unless the resolution or trust agreement authorizing the bonds or notes provides otherwise, money or investments in a fund or account of the bank established or held for the payment of bonds or notes shall be applied to the payment or retirement of the bonds or notes, and to no other purpose.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-7

Chapter 7. Default of the Bank

IC 5-1.4-7-1

Achievement of purpose of article without jeopardizing holders of bonds or notes

Sec. 1. In order to:

(1) carry out its purpose under this article by purchasing securities of qualified entities and by receipt of its income from service charges and from payments of interest on and the maturing principal of securities purchased and held by it; and

(2) produce revenues or income to the bank sufficient at all times to meet its costs and expenses of operation under this article and to pay the principal of and interest on its outstanding bonds and notes when due;

the bank must at all times, and to the greatest extent possible, plan to issue its bonds and notes and purchase securities of qualified entities so that the purpose is achieved without in any way jeopardizing any rights of the holders of bonds or notes of the bank or adversely affecting other matters under this article.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.19.

IC 5-1.4-7-2

Default; appointment of trustee to represent holders of bonds or notes

Sec. 2. If the bank:

(1) defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption; or

(2) fails or refuses to comply with this article or defaults in an agreement made with the holders of an issue of notes or bonds;

and there is no trustee under a trust agreement, then the holders of twenty-five percent (25%) in the aggregate principal amount of the outstanding notes or bonds of that issue, by instrument filed in the office of the clerk of the county and executed in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those notes or bonds for the purposes provided in this article.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-7-3

Trustee; duties; powers; venue; notice

Sec. 3. (a) A trustee appointed under section 2 of this chapter shall, in the trustee's name, upon written request of the holders of twenty-five percent (25%) in principal amount of the outstanding notes or bonds:

(1) by civil action enforce all rights of the holders, including the right to require the bank to:

(A) collect rates, charges, and other fees and to collect

interest and principal payments on securities held by it adequate to carry out an agreement as to, or pledge of, the rates, charges, and other fees and of the interest and principal payments; and

(B) carry out any other agreements with the holders of the notes or bonds and to perform its duties under this article;

(2) bring a civil action upon the notes or bonds;

(3) by civil action require the bank to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(4) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds; and

(5) declare all the notes or bonds due and payable, and if all defaults are made good, then with the consent of the holders of twenty-five percent (25%) of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences.

(b) The trustee also has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of holders in the enforcement and protection of their rights.

(c) The venue of any suit, action, or proceeding brought by the trustee on behalf of the holders shall be laid in the county in which the bank is located.

(d) Before declaring the principal of notes or bonds due and payable, the trustee must first give not less than thirty (30) days notice in writing to the chairman of the board and the board's attorney.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.20.

IC 5-1.4-8

Chapter 8. Purchase of Securities of Qualified Entities

IC 5-1.4-8-1

Purchase of securities offered by qualified entity; private sale; issuance of bonds or notes for purpose of purchase

Sec. 1. The bank, to carry out the purposes and policies of this article, may purchase securities offered by a qualified entity. Notwithstanding any law to the contrary, a qualified entity may sell its securities to the bank at a negotiated, private sale. The bank, for this purpose, may issue its bonds and notes payable solely from the revenues or funds available to the bank for such payment and may otherwise assist qualified entities as provided in this article.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-8-2

Securities to be purchased and held in name of bank; required documentation

Sec. 2. (a) All securities at any time purchased, held, or owned by the bank shall at all times be purchased and held in the name of the bank.

(b) All securities at any time purchased by the bank, upon delivery to the bank, shall be accompanied by all documentation required by the board. The documentation must include an approving opinion of recognized bond counsel, certification and guarantee of signatures, and certification as to no litigation pending as of the date of delivery of the securities challenging the validity or issuance of the securities.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-8-3

Contracts with bank for purchase of securities; terms and conditions; fees and charges; denomination; prices; private sale

Sec. 3. Every qualified entity is authorized and empowered to contract with the bank with respect to the purchase of its securities, and the contracts shall contain the terms and conditions of the purchase and may be in any form agreed to by the bank and the qualified entity, including a customary form of bond ordinance or resolution. Every qualified entity is authorized and empowered to pay fees and charges required to be paid to the bank for its services. Notwithstanding any statute applicable to or constituting any limitation on the sale of bonds or notes, any qualified entity may sell its securities to the bank, without limitation as to denomination, at a private sale at such price or prices as may be determined by the bank and the qualified entity.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-8-4

Agreement with bank; waiver of statutory defenses to

nonpayment; rights and remedies of bank

Sec. 4. Upon the sale and delivery by a qualified entity of any securities to the bank, the qualified entity shall be deemed to have agreed that upon its failure to pay interest or principal on the securities owned or held by the bank when payable, all statutory defenses to nonpayment are waived. Upon nonpayment and demand on the qualified entity for payment, if the securities are payable from property taxes and funds are not available in the treasury of the qualified entity to make payment, an action in mandamus for the levy of a tax to pay the interest and principal on the securities shall lie, and the bank shall be constituted a holder or owner of the securities as being in default. The bank may thereupon avail itself of all remedies, rights, and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies within a time or period provided by law may not be raised as a defense by the qualified entity. The bank may carry out this section and exercise all the rights, remedies, and provisions of law provided or referred to in this section.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-8-5

Bond anticipation notes of qualified entities; purchase by bank; renewal or extension; maturity; terms and conditions

Sec. 5. (a) Notwithstanding any law applicable to a qualified entity concerning the issuance of bonds, a qualified entity that has complied with all statutory requirements for the issuance of its bonds may (in lieu of issuing bonds at that time and without complying with any other law applicable to the issuance of bonds, notes, or other evidences of indebtedness) issue to the bank the qualified entity's notes in anticipation of the issuance of bonds, and the bank may purchase these bond anticipation notes. The bond anticipation notes may be issued on terms set forth in a resolution authorizing their issuance and in any amount equal to or less than the amount of bonds authorized to be issued.

(b) The qualified entity may renew or extend the bond anticipation notes from time to time on terms agreed to with the bank, and the bank may purchase these renewals or extensions. The amount of the accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended so long as the aggregate principal amount of bond anticipation notes outstanding at any time does not exceed the maximum principal amount permitted by this section.

(c) The bond anticipation notes of the qualified entity, including any renewals or extensions, must mature in the amounts and at the times (not exceeding five (5) years from the date of the original issuance of the bond anticipation notes) as are agreed to by the qualified entity and the bank. The bond anticipation notes shall be, and interest thereon may be, finally paid with the proceeds of the

bonds issued by the qualified entity. In connection with the issuance of bonds part or all of the proceeds of which shall be used to retire the bond anticipation notes, the qualified entity is not required to repeat the procedures for the issuance of bonds because the procedures followed before the issuance of the bond anticipation notes are for all purposes sufficient to authorize the issuance of such bonds.

(d) In connection with the purchase of bond anticipation notes, the bank may by agreement with the qualified entity impose any terms, conditions, and limitations as in its opinion are proper for the security of the bank and the holders of its bonds or notes. If the qualified entity fails to comply with the agreement or to issue its bonds to retire its bond anticipation notes, the bank may enforce all rights and remedies provided in the agreement or at law, including an action in mandamus to compel the issuance of bonds by the qualified entity.

As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.21.

IC 5-1.4-8-6

Notes of qualified entities; purchase by bank; renewal or extension; maturity; compliance with other laws; terms and conditions

Sec. 6. (a) Notwithstanding any other law applicable to a qualified entity as to borrowing money, a qualified entity may issue and sell its notes to the bank, and the bank may purchase these notes. The notes must be issued pursuant to a resolution of the qualified entity, and the proceeds must be applied to costs for which the qualified entity may issue bonds.

(b) The qualified entity may renew or extend the notes from time to time on terms agreed to with the bank, and the bank may purchase these renewals or extensions. The amount of accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(c) The notes of the qualified entity, including any renewals or extensions, must mature in the amounts and at the times (not exceeding two (2) years from the date of original issuance) as are agreed to by the qualified entity and the bank. However, the legislative body of the city in the case of a qualified entity defined in IC 5-1.4-1-10(1) through (3) or the governing body of the qualified entity in the case of a qualified entity defined in IC 5-1.4-1-10(4) through (6), by resolution, may authorize an extension of the maturity beyond two (2) years for an additional period of no more than three (3) years. Any such extension may be authorized in the resolution originally authorizing issuance of the notes. The notes of the qualified entity and accrued interest thereon shall be paid with proceeds from the issuance of its bonds, when and if the bonds are issued, or other money available to the qualified entity, which money the qualified entity may pledge to the payment of its notes.

(d) Compliance with this section constitutes full authority for a

qualified entity to issue its notes and sell them to the bank, and the qualified entity is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of bonds, notes, or other evidences of indebtedness. However, if the qualified entity decides to issue bonds, neither the provisions of this section nor the actual issuance by a qualified entity of its notes shall relieve the qualified entity of completing the requirements for the issuance of its bonds all or part of the proceeds of which will be used to retire the notes.

(e) In connection with the purchase of notes, the bank may by agreement with the qualified entity impose any terms, conditions, and limitations as in its opinion are proper for the security of the bank and the holders of its bonds or notes. If the qualified entity fails to comply with the agreement or to retire its notes, the bank may enforce all rights and remedies provided in the agreement or at law.
As added by P.L.42-1985, SEC.1. Amended by P.L.29-1986, SEC.22; P.L.46-1987, SEC.2.

IC 5-1.4-9

Chapter 9. Miscellaneous Provisions

IC 5-1.4-9-1

Limitation of actions

Sec. 1. (a) No action to contest the validity of any bonds or notes of the bank may be brought after the fifteenth day following the adoption of the resolution authorizing the sale of the bonds or notes. No action to contest the validity of any bond sale under this chapter may be brought after the fifth day following the bond sale.

(b) If an action challenging the bonds or notes of the bank is not brought within the time prescribed by subsection (a), all bonds or notes of the bank shall be conclusively presumed to be fully authorized and issued under the laws of Indiana, and a person or a qualified entity is estopped from questioning their authorization, sale, issuance, execution, or delivery by the bank.

(c) Insofar as this article is inconsistent with the provisions of any other law, general, special, or local, this article shall be controlling.

As added by P.L.42-1985, SEC.1. Amended by P.L.2-1989, SEC.13.

IC 5-1.4-9-2

Bank property exempt from levy and sale; judgment against bank not charge or lien on property; rights of holders of bonds or notes

Sec. 2. All property of the bank is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the bank may not be a charge or lien upon its property. However, nothing in this section applies to or limits the rights of the holder of bonds or notes to pursue a remedy for the enforcement of a pledge or lien given by the bank on its revenues or other money.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-3

Pledge of revenues or money

Sec. 3. A pledge of revenues or other money made by the bank is binding from the time the pledge is made. Revenues or other money pledged and thereafter received by the bank are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the bank, regardless of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created needs to be filed or recorded except in the records of the bank.

As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-4

Insurance or guaranty for payment

Sec. 4. The bank may obtain from a department or agency of the

United States or 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, on bonds or notes issued by the bank or on securities purchased or held by the bank.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-5
Authority to receive appropriations or grants from federal government; disposition

Sec. 5. The chairman of the board of the bank is authorized to receive from the United States or any department or agency thereof any amount of money as and when appropriated, allocated, granted, turned over, or in any way provided for the purposes of the bank or this article. Those amounts shall, unless otherwise directed by the federal authority, be credited to and deposited in the general fund and be available to the bank.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-6
Undertaking by financial institution to keep and pay over funds deposited with it

Sec. 6. (a) A financial institution may give to the bank a good and sufficient undertaking, with such sureties as are approved by the bank, to the effect that the financial institution shall faithfully keep and pay over to the order of or upon the warrant of the bank or its authorized agent all those funds deposited with it by the bank and agreed interest, at such times or upon such demands as may be agreed with the bank. However, in lieu of these sureties, the financial institution may deposit with the bank or its authorized agent or a trustee for the holders of bonds, as collateral, those securities as the board may approve.

(b) The deposits of the bank may be evidenced by an agreement in the form and upon the terms and conditions that may be agreed upon by the bank and the financial institution.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-7
Agreements with financial institutions; care and custody of securities or other investments

Sec. 7. The board may enter into agreements or contracts with a financial institution inside or outside the state as may be necessary, desirable, or convenient in the opinion of the board for rendering services in connection with the care, custody, or safekeeping of securities or other investments held or owned by the bank, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering services in connection with the delivery to the bank of securities or other investments purchased by it or sold by it and to pay the cost of

those services. The board may also, in connection with any of the services to be rendered by a financial institution as to the custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, in the opinion of the board, is necessary or desirable.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-8
Financial institutions and fiduciaries; investment in bonds or notes

Sec. 8. Notwithstanding the restrictions of 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 article.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-9
Nature of bank property; bonds and notes; exemption from taxation

Sec. 9. All property of the bank 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 a political subdivision of the state. All bonds or notes issued under this article are issued by a body corporate and public of this state, but not a state, city, or county agency, and for an essential public and governmental purpose. The bonds and notes, the interest thereon, the proceeds received by a holder from the sale of the bonds or notes 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 shall be exempt from taxation in the state 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.42-1985, SEC.1. Amended by P.L.21-1990, SEC.5; P.L.254-1997(ss), SEC.5.

IC 5-1.4-9-10
Officers and departments of state; rendering of services to bank; costs and expenses

Sec. 10. All officers, departments, boards, agencies, divisions, and commissions of the city shall render services to the bank that are within the area of their respective governmental functions and that may be requested by the board and must comply promptly with any reasonable request by the board relating to the making of a study or review as to desirability, need, cost, expense, or financial feasibility with respect to a public project, purpose, or improvement, or the financial or fiscal responsibility or ability of a qualified entity

making application for the purchase by the bank of securities to be issued by that qualified entity. The cost and expense of a service requested by the board, at the request of the officer, department, board, agency, division, or commission rendering the service, shall be paid by the bank.
As added by P.L.42-1985, SEC.1.

IC 5-1.4-9-11
Dissolution of bank; assets and property of bank

Sec. 11. Upon the dissolution of the bank, all interest in the assets and property of the bank reverts to the city.
As added by P.L.42-1985, SEC.1.

IC 5-1.5

ARTICLE 1.5. INDIANA BOND BANK

IC 5-1.5-1

Chapter 1. Definitions

IC 5-1.5-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-2

"Bank"

Sec. 2. "Bank" refers to the Indiana bond bank established under IC 5-1.5-2-1.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-3

"Board"

Sec. 3. "Board" refers to the board of directors established under IC 5-1.5-2-2.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-4

"Bond"

Sec. 4. "Bond" means a bond of the bank issued under this article.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-5

"Financial institution"

Sec. 5. "Financial institution" means a financial institution as defined in IC 28-1-1.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-6

"Holder"

Sec. 6. "Holder" means a person who is:

(1) the bearer of any outstanding bond or note registered to bearer or not registered; or

(2) the registered owner of any outstanding bond or note that is registered other than to bearer.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-7

"Note"

Sec. 7. "Note" refers to a note of the bank issued under this article.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-1-8
"Qualified entity"

Sec. 8. "Qualified entity" means:

(1) a political subdivision (as defined in IC 36-1-2-13);
(2) a state educational institution;
(3) a leasing body (as defined in IC 5-1-1-1(a));
(4) a not-for-profit utility (as defined in IC 8-1-2-125);
(5) any rural electric membership corporation organized under IC 8-1-13;
(6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;
(7) any telephone cooperative corporation formed under IC 8-1-17;
(8) any commission, authority, or authorized body of any qualified entity;
(9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;
(10) any commission, authority, or instrumentality of the state;
(11) any other participant (as defined in IC 13-11-2-151.1);
(12) a charter school established under IC 20-5.5 (before its repeal) or IC 20-24 that is not a qualified entity under IC 5-1.4-1-10;
(13) a volunteer fire department (as defined in IC 36-8-12-2); or
(14) a development authority (as defined in IC 36-7.6-1-8).

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.1; P.L.46-1987, SEC.3; P.L.48-1989, SEC.1; P.L.37-1991, SEC.1; P.L.132-1999, SEC.1; P.L.179-2002, SEC.2; P.L.50-2003, SEC.1; P.L.2-2007, SEC.70; P.L.232-2007, SEC.1.

IC 5-1.5-1-9
"Reserve fund"

Sec. 9. "Reserve fund" means a reserve fund established under IC 5-1.5-5-1.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.2.

IC 5-1.5-1-10
"Security"

Sec. 10. "Security" means:

(1) a bond, note, or evidence of indebtedness issued by a qualified entity;
(2) a lease or certificate or other evidence of participation in the lessor's interest in and rights under a lease with a qualified entity;
(3) an obligation of a qualified entity under an agreement

between the qualified entity and the bank; or

(4) an agreement executed by a qualified entity under IC 20-49-4.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.3; P.L.30-1986, SEC.1; P.L.46-1987, SEC.4; P.L.28-1992, SEC.1; P.L.2-2006, SEC.9.

IC 5-1.5-2

Chapter 2. Establishment and Organization

IC 5-1.5-2-1

Indiana bond bank; establishment; nature; purpose

Sec. 1. There is established the Indiana bond bank, a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this article, but not a state agency. The bank is separate from the state in its corporate and sovereign capacity. The purpose of the bank as described in IC 5-1.5-4 is to buy and sell securities and to make loans to qualified entities.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.4.

IC 5-1.5-2-2

Board of directors; establishment; powers; membership; appointment; vacancy

Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio;

(2) the public finance director appointed under IC 4-4-11-9, who shall be the director ex officio; and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until his successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing the director's duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with the director's duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the budget agency; and

(6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.5; P.L.235-2005, SEC.75.

IC 5-1.5-2-2.5

Repealed

(As added by P.L.38-1988, SEC.2. Repealed by P.L.134-2012, SEC.5.)

IC 5-1.5-2-3

Duties of board

Sec. 3. The board shall:

(1) elect one (1) of its members vice chairman;

(2) appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer; and

(3) establish and maintain the office of the bank in Indianapolis.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-2-4

Quorum

Sec. 4. Four (4) directors constitute a quorum at any meeting of the board.

As added by P.L.25-1984, SEC.1. Amended by P.L.38-1988, SEC.3.

IC 5-1.5-2-5

Action by affirmative vote of three directors; effect of vacancy

Sec. 5. Action may be taken by the board at a meeting by the affirmative vote of at least four (4) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.

As added by P.L.25-1984, SEC.1. Amended by P.L.38-1988, SEC.4.

IC 5-1.5-2-6

Surety bonds; issuer; cost

Sec. 6. (a) Each director and the executive director must execute a surety bond in an amount specified by the treasurer of state. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. In lieu of these surety bonds, the bank may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the bank.

(b) The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

(c) The cost of the surety bonds required by this section shall be paid by the bank.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.5.

IC 5-1.5-2-7

Disclosure of interest in contracts; abstention with respect to contract; validity of contract

Sec. 7. (a) Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if he:

(1) has, or to his knowledge, may have or may later acquire a

direct or indirect pecuniary interest in a contract with the bank; or

(2) is an officer, member, manager, director, or employee of or has an ownership interest in any firm, limited liability company, or corporation that is or may be a party to the contract;

if he discloses in writing to the bank the nature and extent of his interest as soon as he has knowledge of the interest and abstains from discussion, deliberation, action, and voting with respect to the contract.

(b) Notwithstanding any provision of this article or any other law, a contract or transaction shall not be void or voidable because of the existence of an interest described in subsection (a), if the provisions of subsection (a) have been satisfied.

As added by P.L.25-1984, SEC.1. Amended by P.L.8-1993, SEC.51.

IC 5-1.5-2-8

Liability on bonds or notes

Sec. 8. Neither a director nor a person executing bonds or notes issued under this article is liable personally on the bonds or notes.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-2-9

Executive director; duties

Sec. 9. The executive director appointed under section 3 of this chapter shall, in addition to other duties fixed by the directors, administer, manage, and direct the employees of the bank. The executive director shall approve all amounts for salaries, allowable expenses of the bank or of any employee or consultant of the bank, and expenses incidental to the operation of the bank. The executive director shall attend the meetings of the board, keep a record of the proceedings of the board, and maintain all books, documents, and papers filed with the bank, the minutes of the board, and the bank's official seal. The executive director may cause copies to be made of all minutes and other records and documents of the bank and may give certificates under seal of the bank to the effect that those copies are true copies, and all persons dealing with the bank may rely upon those certificates.

As added by P.L.25-1984, SEC.1. Amended by P.L.1-2010, SEC.10.

IC 5-1.5-2-10

Repealed

(As added by P.L.5-1996, SEC.5. Repealed by P.L.177-2011, SEC.5.)

IC 5-1.5-3

Chapter 3. Powers and Duties

IC 5-1.5-3-1

Powers

Sec. 1. The bank is granted all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

(1) Have a perpetual existence as a body politic and corporate, and an independent instrumentality, but not a state agency, exercising essential public functions.

(2) Sue and be sued.

(3) Adopt and alter an official seal.

(4) Make and enforce bylaws and rules for the conduct of its business and for the use of its services and facilities, which bylaws and rules may be adopted by the bank without complying with IC 4-22-2.

(5) Acquire, hold, use, and dispose of its income, revenues, funds, and money.

(6) Acquire, rent, lease, hold, use, and dispose of property for its purposes.

(7) Make contracts and incur liabilities, borrow money, issue its negotiable bonds or notes, subject to provisions for registration of negotiable bonds and notes, and provide for and secure their payment and provide for the rights of their holders, and purchase and hold and dispose of any of its bonds or notes.

(8) Fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities.

(9) Accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants.

(10) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.

(11) Procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.

(12) Cooperate with and exchange services, personnel, and information with any federal, state, or local government agency.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.6; P.L.46-1987, SEC.6.

IC 5-1.5-3-2

Duties

Sec. 2. The bank may:

(1) make, enter into, and enforce all contracts necessary, convenient, or desirable for the purposes of the bank or pertaining to:

(A) a loan to or a lease or an agreement with a qualified entity;

(B) a purchase, acquisition, or sale of securities or other investments; or

(C) the performance of its duties and execution of any of its powers under this article;

(2) purchase, acquire, or hold securities or other investments for the bank's own account or for a qualified entity at prices and in a manner the bank considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the bank considers advisable;

(3) prescribe the form of application or procedure required of a qualified entity for a loan or purchase of its securities, fix the terms and conditions of the loan or purchase, and enter into agreements with qualified entities with respect to loans or purchases;

(4) render services to a qualified entity in connection with a public or private sale of its securities, including advisory and other services, and charge for services rendered;

(5) charge for its costs and services in review or consideration of a proposed loan to a qualified entity or purchase by the bank of securities, whether the loan is made or the securities purchased;

(6) fix and establish terms and provisions with respect to:

(A) a purchase of securities by the bank, including date and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the bank;

(7) to the extent permitted under its contracts with the holders of bonds or notes of the bank, consent to modification of the rate of interest, time, and payment of installment of principal or interest, security, or any other term of a bond or note, contract, or agreement of any kind to which the bank is a party;

(8) appoint and employ general or special counsel, accountants, financial advisors or experts, and all such other or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article;

(9) in connection with the purchase of any securities, consider the need, desirability, or eligibility of the securities, the ability of the qualified entity to secure financing from other sources and the costs thereof, and the particular public improvement or purpose to be financed or refinanced with the proceeds of the

securities to be purchased by the bank; and

(10) acquire, hold, and lease or sell property to a qualified entity. The lease or sale under this subdivision may be made under a financing lease, lease with option to purchase, conditional sales contract, or any other form of agreement, upon the terms and conditions that the board considers advisable in order to promote the purpose of this article.

The bank shall not be considered to have engaged in any acts prohibited by this chapter in performing any duty or exercising any power described in this section.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.7; P.L.46-1987, SEC.7; P.L.29-1992, SEC.1.

IC 5-1.5-3-3

Investments

Sec. 3. Money not being used to purchase securities may be temporarily invested and reinvested pending the disbursements of that money as provided in a resolution of the bank or in a trust agreement entered into by the bank under IC 5-1.5-4-8.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.8.

IC 5-1.5-3-4

Prohibited acts

Sec. 4. The bank may not:

(1) lend money other than to a qualified entity;

(2) purchase securities other than:

(A) a security to which a qualified entity is a party as issuer, borrower, or lessee; or

(B) an investment under section 3 of this chapter;

(3) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States of America or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in this article;

(4) emit bills of credit, or accept deposits of money for time or demand deposit, or administer trusts, or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings association, or any other kind of financial institution; or

(5) engage in any form of private or commercial banking business.

As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.8; P.L.79-1998, SEC.6.

IC 5-1.5-3-5

Audit of books and accounts; costs; copy; annual report to governor

Sec. 5. (a) The bank shall have an audit of its books and accounts

made at least once in each year by a certified public accounting firm or the state board of accounts. If the audit is to be conducted by a certified public accounting firm, the firm may not be selected without a review of the firm's proposal and approval of the firm by the state board of accounts. The cost of the audit shall be considered an expense of the bank, and a copy of the audit shall be made available to the public.

(b) The bank shall submit a report of its activities for each fiscal year to the governor before November 1 of the calendar year in which the bank's fiscal year ends. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.9; P.L.46-1987, SEC.9.

IC 5-1.5-3-6
Annual budget

Sec. 6. The board shall adopt, on either a calendar or fiscal year basis, an annual budget, which may be amended from time to time during the year.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.10.

IC 5-1.5-3-7
Expenses

Sec. 7. All expenses incurred in carrying out this article are payable solely from revenues of the bank or funds appropriated under this article and nothing in this article authorizes the bank to incur an indebtedness or liability on behalf of or payable by the state.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.11.

IC 5-1.5-3-8
Public meetings; records

Sec. 8. All meetings of the bank shall be open to the public in accordance with and subject to the limitations of IC 5-14-1.5. All records of the bank shall be subject to the requirements of IC 5-14-3.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-4
Chapter 4. Issuance of Obligations

IC 5-1.5-4-1
Purposes; bonds to be general obligations of bank payable out of revenues or funds of bank; limitation on amount outstanding; exception to limitation

Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

(1) the purchase or acquisition of securities;

(2) the making of loans to or agreements with qualified entities through the purchase of securities;

(3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due;

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers; and

(5) the acquisition of school buses to be leased or sold to school corporations (as defined in IC 36-1-2-17).

(b) Except as otherwise provided in this article or by the board, every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

(1) bonds or notes issued to fund or refund bonds or notes; and

(2) bonds or notes issued for the purpose of purchasing an agreement executed by a qualified entity under IC 20-49-4;

may not exceed one billion dollars ($1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4), IC 5-1.5-1-8(8) through IC 5-1.5-1-8(11), and IC 5-1.5-1-8(14).

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars ($200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty million dollars ($30,000,000) for qualified entities described

in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

(1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or

(2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.12; P.L.30-1986, SEC.2; P.L.46-1987, SEC.10; P.L.37-1991, SEC.2; P.L.29-1992, SEC.2; P.L.28-1992, SEC.2; P.L.1-1993, SEC.22; P.L.132-1999, SEC.2; P.L.192-2006, SEC.1; P.L.2-2006, SEC.10; P.L.1-2007, SEC.21; P.L.232-2007, SEC.2.

IC 5-1.5-4-2

Nature of bond or note; state pledge and agreement

Sec. 2. (a) A bond or note of the bank:

(1) is not a debt, liability, loan of the credit, or pledge of the faith and credit of the state or of any qualified entity;

(2) is payable solely from the money pledged or available for its payment under this article, unless funded or refunded by bonds or notes of the bank; and

(3) must contain on its face a statement that the bank is obligated to pay principal and interest, and redemption premiums if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond or note.

(b) The state pledges to and agrees with the holders of the bonds or notes issued under this article that the state will not:

(1) limit or restrict the rights vested in the bank to fulfill the terms of any agreement made with the holders of its bonds or notes; or

(2) in any way impair the rights or remedies of the holders of the bonds or notes;

until the bonds or notes, together with the interest on the bonds or notes, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.13; P.L.46-1987, SEC.11.

IC 5-1.5-4-3

Negotiability of bonds and notes

Sec. 3. The bonds and notes of the bank are negotiable instruments for all purposes of the Uniform Commercial Code, IC 26-1, subject only to the provisions of the bonds and notes for registration.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-4-4
Issuance; resolution; consent, proceedings, or conditions; rates of interest; redemption; prior approval

Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

(1) bear the date;
(2) mature at the time or times;
(3) be in the denomination;
(4) be in the form;
(5) carry the conversion or registration privileges;
(6) have the rank or priority;
(7) be executed in the manner;
(8) be payable from the sources in the medium of payment at the place inside or outside the state; and
(9) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) or IC 5-1.5-1-8(11) that are subject to the volume cap (as defined in IC 4-4-11.5-14) without obtaining the prior approval of the Indiana finance authority.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.14; P.L.46-1987, SEC.12; P.L.37-1991, SEC.3; P.L.10-1996, SEC.16; P.L.132-1999, SEC.3; P.L.235-2005, SEC.76.

IC 5-1.5-4-5
Resolution authorizing issuance; adoption; publication of notice; action to set aside resolution

Sec. 5. (a) Upon the adoption of a resolution authorizing the issuance of bonds or notes, the bank may publish notice of the adoption once each week for two (2) weeks in two (2) newspapers published and of general circulation in the city of Indianapolis.

(b) If notice is published as provided in subsection (a), any action or proceeding in any court to set aside the resolution authorizing the issuance of bonds or notes of the bank under this article or to obtain any relief upon the ground that the resolution is invalid must be filed within thirty (30) days following the first publication of notice of the adoption of the resolution. After the expiration of this thirty (30) day period, no right of action shall be asserted nor shall the validity of the resolution or any of its provisions be open to question in any court or agency upon any grounds whatsoever.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-4-6
Public or private sale; notice

Sec. 6. Bonds or notes of the bank may be sold at public or private sale at the price the board determines. If bonds or notes of the bank are to be sold at public sale, the bank shall follow the provisions of IC 5-1-11 and shall publish notice of the sale in accordance with IC 5-3-1-2 in two (2) newspapers published and of general circulation in the city of Indianapolis.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.15.

IC 5-1.5-4-7
Issuance of notes; payment of principal or interest thereon; funding or refunding

Sec. 7. The bank may from time to time issue its notes under this article and pay and retire the principal of the notes or pay the interest due thereon or fund or refund the notes from proceeds of bonds or of other notes, or from other funds or money of the bank available for that purpose in accordance with a contract between the bank and the holders of the notes.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-4-8
Trust agreement or resolution; provisions; expenses

Sec. 8. (a) In the discretion of the board, any bonds or notes issued under 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 or outside the 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 holders of any such bonds or notes as may be reasonable and proper and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by the holders.

(d) In addition to the provisions of subsections (a), (b), and (c), any trust agreement or resolution may contain such other provisions as the board may deem reasonable and proper for the security of the holders of any bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds and notes or from any other funds available to the board.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-4-9

Purchase of bonds or notes of bank; disposition; bonds or notes held considered held for resale or transfer

Sec. 9. The bank may purchase bonds or notes of the bank out of its funds or money available for the purchase of its own bonds and notes. The bank may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with holders of its bonds or notes. Unless cancelled, bonds or notes so held shall be deemed to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be deemed to be extinguished.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.16.

IC 5-1.5-4-10

Purchase of securities; documentation

Sec. 10. Subject to IC 5-1.5-8-2, all securities purchased, held, or owned by the bank, upon delivery to the bank, must be accompanied by all documentation required by the board.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.17.

IC 5-1.5-5

Chapter 5. Reserve Fund

IC 5-1.5-5-1

Establishment; application of funds; required debt service reserve; excess money

Sec. 1. (a) The board may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:

(1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 4(a) of this chapter;

(2) all proceeds of bonds or notes required to be deposited in the fund by terms of a contract between the bank and its holders or a resolution of the bank with respect to the proceeds of bonds or notes;

(3) all other money appropriated by the general assembly to a reserve fund; and

(4) any other money or funds of the bank that it decides to deposit in the fund.

(b) Subject to section 4(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the bank as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the bank.

(c) Money in any reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to another fund or account of the bank, subject to the provisions of any agreement with the holders of any bonds or notes.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.18; P.L.46-1987, SEC.13.

IC 5-1.5-5-2

Investment of funds

Sec. 2. Money in any reserve fund may be invested in the manner provided in IC 5-1.5-3-3.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.19.

IC 5-1.5-5-3
Valuation of investments

Sec. 3. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the bank. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.20.

IC 5-1.5-5-4
Required debt service reserve; resolution concerning appropriations; excess funds; budget committee review

Sec. 4. (a) Except as provided in subsection (c), and in order to assure the maintenance of the required debt service reserve in any reserve fund, a resolution authorizing the bank to issue bonds or notes may include a provision stating that:

(1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; and

(2) the chairman annually, before December 1, shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) to pay all or part of any indebtedness issued by the bank;

is subject to the conditions set forth in subsection (e) and review by the budget committee and approval by the budget director as required

by subsection (f).

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

(e) Issuance by the bank of any indebtedness that establishes a reserve fund under subsection (a), the establishment of a procedure for certification, or the execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) may be extended only for a project or a purpose that:

(1) can be financed by a qualified entity under the law applying to financing by the qualified entity; or

(2) is specifically authorized by the general assembly.

A reserve fund established under subsection (a) may be used only to finance the purchase of securities (as defined in IC 5-1.5-1-10) issued by entities described in IC 5-1.5-1-8.

(f) The budget director may approve establishing a reserve fund under subsection (a) only if the following conditions are satisfied:

(1) The project or purpose qualifies under subsection (e).

(2) The documentation required by subsection (g) has been provided by the bank.

(3) The bank has provided the budget agency with a written finding that revenues available to the qualified entity to pay annual debt service exceed the annual debt service requirements by at least twenty percent (20%).

(4) If the financing is for a project or purpose that will produce ongoing revenue from fees or user charges, the qualified entity agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will first increase the rate of the fees or user charges, or both, by an amount sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.

(5) A qualified entity seeking the benefit of a reserve fund established under subsection (a) agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will pledge sufficient property taxes, user fees, hook up fees, connection fees, or any other available local revenues or any combination of those revenues that will be sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.

(6) The instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) will include, to the extent the budget director determines is possible, a

provision that money payable to the qualified entity by the state may be withheld by the auditor of state to recover any funds provided by the state, if subsection (a) is applied in connection with the qualified entity's securities.

(g) If the bank proposes that a reserve fund be established under subsection (a) for a project or purpose, the bank shall provide to the budget committee and the budget agency at or before the time of the bank's request, the following information in writing:

(1) A description of the project or purpose.

(2) How the project or purpose satisfies the requirements of subsection (e).

(3) The qualified entity's application for financing that was filed with the bank.

(4) The estimated relative savings that can be achieved by establishing a reserve fund under subsection (a).

(5) The finding required by subsection (f)(3) and proposed language for those instrument provisions required by subsection (f)(4) through (f)(6), if applicable.

(6) Any other information required by the budget committee or budget agency.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.21; P.L.235-2005, SEC.77; P.L.229-2011, SEC.67.

IC 5-1.5-5-5

Combining reserve funds

Sec. 5. Subject to the provisions of any agreement with its holders, the bank may combine a reserve fund established for an issue of bonds or notes into one (1) or more reserve funds.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.22.

IC 5-1.5-5-6

Certain qualified entities; debt service reserve appropriations not available

Sec. 6. The provisions of section 4(a) of this chapter are not available to any bonds or notes issued by the bank to purchase securities of, or fund loans to, any qualified entity described in IC 5-1.5-1-8(5) or IC 5-1.5-1-8(6).

As added by P.L.37-1991, SEC.4.

IC 5-1.5-6

Chapter 6. Other Funds and Accounts

IC 5-1.5-6-1

General fund; establishment; use; creation of subaccounts or special accounts

Sec. 1. (a) The bank shall establish and maintain a fund called the general fund into which there shall be deposited all money received by the bank and any money that the bank shall transfer to the fund from any reserve fund under IC 5-1.5-5-1(c). Money in the general fund shall be used for operating expenses of the bank and, subject to any contract between the bank and its holders, may be:

(1) used to pay principal of or interest on bonds or notes of the bank to prevent a default;

(2) transferred to any reserve fund to prevent a default or to make up any deficiency in that reserve fund;

(3) used to purchase securities; and

(4) used to purchase or redeem the bank's bonds or notes.

(b) No amount shall be paid or expended out of the general fund, or from any account therein established by the bank for the purpose of paying operating expenses, for the payment of operating expenses of the bank in any year in excess of the amount provided for operating expenses in the annual budget then in effect for that year or any amendment thereof in effect at the time of the payment or expenditure.

(c) The bank is authorized and empowered to create and establish in the general fund accounts, subaccounts, or special accounts that in the opinion of the board are necessary, desirable, or convenient for the purposes of the bank under this chapter.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.23.

IC 5-1.5-6-2

Additional reserves; other funds or accounts

Sec. 2. The board may establish additional reserves or other funds or accounts as may be in its discretion necessary, desirable, or convenient to further the accomplishment of its purposes or to comply with the provisions of any of its agreements or resolutions.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-6-3

Money or investments in fund or account established for specific purpose; application

Sec. 3. Unless the resolution or trust agreement authorizing the bonds or notes provides otherwise, money or investments in a fund or account of the bank established or held for the payment of bonds or notes shall be applied to the payment or retirement of the bonds or notes, and to no other purpose.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-6.5

Chapter 6.5. Capital Funds

IC 5-1.5-6.5-1

Capital principal fund and capital interest fund; programs for qualified entities

Sec. 1. (a) The bank shall establish and maintain:

(1) a capital principal fund, to be funded from appropriations made to the fund by the general assembly and any other money that the bank transfers to the fund; and

(2) a capital interest fund, to be funded from investment earnings on the capital principal fund.

(b) The bank may use the funds only for programs for qualified entities issuing securities for any of the following purposes:

(1) Sewage works.

(2) Waterworks.

(3) Parking facilities.

(4) Redevelopment projects financed with allocated property tax proceeds under IC 36-7-14-39 or IC 36-7-15.1-26.

As added by P.L.38-1988, SEC.5.

IC 5-1.5-6.5-2

Investments; credit of earnings

Sec. 2. Money in the funds may be invested in the manner provided in IC 5-1.5-3-3. However, all earnings on the funds shall be credited to the capital interest fund.

As added by P.L.38-1988, SEC.5.

IC 5-1.5-6.5-3

Capital principal fund; debt service; agreement; recovery

Sec. 3. (a) The capital principal fund may be used only to guarantee payment of debt service on:

(1) securities issued by a qualified entity for a purpose specified in section 1(b) of this chapter; or

(2) bonds or notes issued to purchase securities issued for a purpose specified in section 1(b) of this chapter.

(b) The bank and the qualified entity must enter into an agreement before a guarantee under subsection (a)(1) is effective. This agreement may contain any provisions the bank considers appropriate and may specify which funds held by a state agency are subject to recovery under subsection (c).

(c) If debt service on securities of a qualified entity is paid by the bank to a qualified entity or owners of its securities under a guarantee under subsection (a)(1), the amount paid from the capital principal fund may be recovered from funds held by a state agency or department that are payable to the qualified entity as set forth in subsection (b).

As added by P.L.38-1988, SEC.5.

IC 5-1.5-6.5-4

Required debt service reserves; budget committee review

Sec. 4. (a) Except as provided in subsection (d), whenever a reserve fund for an issue of bonds or notes issued to purchase securities specified in section 1(b) of this chapter does not contain the required debt service reserve (as defined in IC 5-1.5-5-1(b)), the chairman of the board shall immediately:

(1) transfer to the reserve fund the amount needed to restore the required debt service reserve first from the capital interest fund and, to the extent necessary, from the capital principal fund; and

(2) certify the amounts transferred to the general assembly.

(b) The general assembly may appropriate to the bank for deposit in the capital principal fund the amount transferred from the fund to restore required debt service reserves. Nothing in this subsection creates a debt or a liability of the state to make any appropriation.

(c) Appropriations made to the capital principal fund do not revert to the state general fund at the end of any fiscal year.

(d) Notwithstanding any other law, and except as provided by subsection (e), after June 30, 2005, the:

(1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or

(2) execution by the bank of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the bank;

is subject to review by the budget committee and approval by the budget director.

(e) If the budget committee does not conduct a review of a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

As added by P.L.38-1988, SEC.5. Amended by P.L.235-2005, SEC.78.

IC 5-1.5-6.5-5

Capital interest fund; purposes for use

Sec. 5. With respect to the programs specified in section 1(b) of this chapter, the capital interest fund may be used for the following purposes in addition to the purpose specified in section 4 of this chapter:

(1) To guarantee payment of debt service on bonds or notes.

(2) To pay premiums for bond insurance or debt service reserve

insurance for bonds or notes.

(3) To pay credit enhancement, liquidity support, remarketing, or conversion fees for bonds or notes.

(4) To pay other costs of issuance of a bank transaction.

As added by P.L.38-1988, SEC.5.

IC 5-1.5-7

Chapter 7. Default by the Bond Bank

IC 5-1.5-7-1

Achievement of purpose of article

Sec. 1. In order to:

(1) carry out its purpose under this article of making loans to qualified entities by purchase of the securities and by receipt of its income from service charges and from payments of interest on and the maturing principal of securities purchased and held by it; and

(2) produce revenues or income to the bank sufficient at all times to meet its costs and expenses of operation under this article and to pay the principal of and interest on its outstanding bonds and notes when due;

the bank must at all times, and to the greatest extent possible, plan to issue its bonds and notes and lend money to qualified entities so that the purpose is achieved without in any way jeopardizing any rights of the holders of bonds or notes of the bank or adversely affecting other matters under this article.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.24.

IC 5-1.5-7-2

Default; appointment of trustee to represent holders of notes or bonds

Sec. 2. If the bank:

(1) defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption, and the default continues for thirty (30) days; or

(2) fails or refuses to comply with this article or defaults in an agreement made with the holders of an issue of notes or bonds;

and there is no trustee under a trust agreement, then the holders of twenty-five percent (25%) in the aggregate principal amount of the outstanding notes or bonds of that issue, by instrument filed in the office of the clerk of Marion County and executed in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those notes or bonds for the purposes provided in this article.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-7-3

Trustees; duties; powers; venue; notice

Sec. 3. (a) A trustee appointed under section 2 of this chapter shall, in his name, upon written request of the holders of twenty-five percent (25%) in principal amount of the outstanding notes or bonds:

(1) by civil action enforce all rights of the holders, including the right to require the bank to:

(A) collect rates, charges, and other fees and to collect interest and principal payments on securities held by it adequate to carry out an agreement as to, or pledge of, the rates, charges, and other fees and of the interest and principal payments; and

(B) carry out any other agreements with the holders of the notes or bonds and to perform its duties under this article;

(2) bring a civil action upon the notes or bonds;

(3) by civil action require the bank to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(4) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds; and

(5) declare all the notes or bonds due and payable, and if all defaults are made good, then with the consent of the holders of twenty-five percent (25%) of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences.

(b) The trustee also has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of holders in the enforcement and protection of their rights.

(c) The venue of any suit, action, or proceeding brought by the trustee on behalf of the holders shall be laid in Marion County, Indiana.

(d) Before declaring the principal of notes or bonds due and payable, the trustee must first give not less than thirty (30) days notice in writing to the chairman of the board and the attorney general.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.25.

IC 5-1.5-8
Chapter 8. Loans to Qualified Entities

IC 5-1.5-8-1
Purchase of securities offered by qualified entity; private sale; issuance of bonds and notes for purpose of purchase

Sec. 1. The bank, to carry out the purposes and policies of this article, may purchase securities of the qualified entity, including any securities issued by a school corporation to refund bonds or other obligations that were issued or entered into by a school corporation before that school corporation completed a consolidation or merger under IC 20-23 or any other law. Notwithstanding any law to the contrary, a qualified entity may sell its securities to the bank at a negotiated, private sale. The bank, for this purpose, may issue its bonds and notes payable solely from the revenues or funds available to the bank for such payment and may otherwise assist qualified entities as provided in this article.

As added by P.L.25-1984, SEC.1. Amended by P.L.28-1992, SEC.3; P.L.140-2014, SEC.1.

IC 5-1.5-8-2
Securities to be purchased and held in name of bank; required documentation

Sec. 2. (a) All securities at any time purchased, held, or owned by the bank shall at all times be purchased and held in the name of the bank.

(b) Except for agreements described in IC 5-1.5-1-10(4), all securities at any time purchased by the bank, upon delivery to the bank, shall, unless waived by the board, be accompanied by all documentation required by the board that shall include an approving opinion of recognized bond counsel, certification and guarantee of signatures, and certification as to no litigation pending as of the date of delivery of the securities challenging the validity or issuance of such securities.

As added by P.L.25-1984, SEC.1. Amended by P.L.44-1990, SEC.3; P.L.28-1992, SEC.4.

IC 5-1.5-8-3
Contracts with bank; terms and conditions; fees and charges; denomination and prices

Sec. 3. (a) Every qualified entity is authorized and empowered to contract with the bank with respect to the loan or purchase of its securities, and the contracts shall contain the terms and conditions of the loan or purchase and may be in any form agreed to by the bank and the qualified entity, including a customary form of bond ordinance or resolution. Every qualified entity is authorized and empowered to pay fees and charges required to be paid to the bank for its services.

(b) Notwithstanding any statute applicable to or constituting any limitation on the sale of bonds or notes or on entry into an agreement, any qualified entity may sell its securities to the bank, without limitation as to denomination, at a private sale at such price or prices as may be determined by the bank and the qualified entity.

(c) Notwithstanding any law that applies to or constitutes a limitation on the leasing or disposition of materials or other property, and subject to subsection (d), any qualified entity, or any purchasing agency (as defined in IC 5-22-2-25) of a qualified entity, may:

(1) assign or sell a lease or purchase contract for property to the bank;

(2) enter into a lease or purchase contract for property with the bank; or

(3) buy property from or sell property to the bank;

at any price and under any other terms and conditions as may be determined by the bank and the qualified entity.

(d) This subsection does not apply to a school corporation that buys or leases a school bus from the bank under IC 5-1.5-4-1(a)(5). Before taking an action described under subsection (c)(1) through (c)(3) that would otherwise be subject to IC 5-22, a qualified entity or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the sale, purchase contract, or lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.14; P.L.48-1989, SEC.2; P.L.49-1997, SEC.25; P.L.192-2006, SEC.2.

IC 5-1.5-8-4

Agreement with bank; waiver of statutory defenses to nonpayment; rights and remedies of bank

Sec. 4. Upon the sale and delivery by a qualified entity of any securities to the bank, the qualified entity shall be deemed to have agreed that upon its failure to pay interest or principal on the securities owned or held by or arising from an agreement with the bank when payable, all statutory defenses to nonpayment are waived. Upon nonpayment and demand on the qualified entity for payment, if the securities are payable from property taxes and funds are not available in the treasury of the qualified entity to make payment, an action in mandamus for the levy of a tax to pay the interest and principal on the securities shall lie, and the bank shall be constituted a holder or owner of the securities as being in default. The bank may thereupon avail itself of all remedies, rights, and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies within a time or period provided by law may not be raised as a defense by the qualified entity. The bank may carry out this section and exercise all the rights, remedies, and provisions of law provided or referred to in this section.

As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.15.

IC 5-1.5-8-5

Department or agency of state as custodian of money payable to qualified entity; duty on default on payment of principal or interest by qualified entity

Sec. 5. (a) Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the qualified entity (other than for goods or services provided by the qualified entity), at any time after written notice to the department or agency head from the bank that the qualified entity is in default on the payment of principal or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank, the department or agency shall withhold the payment of that money from that qualified entity and pay over the money to the bank for the purpose of paying principal of and interest on bonds of the bank. However, the withholding of payment from the qualified entity and payment to the bank under this section must not adversely affect the validity of the security in default.

(b) This subsection applies to securities of a qualified entity acquired by the bank, or arising from an agreement entered into with the bank, on or after March 1, 2016. Upon receiving notice from the bank that a qualified entity has failed to pay when due the principal or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank, the fiscal officer (as defined in IC 36-1-2-7) of the county, for any county in which the qualified entity is wholly or partially located, shall do the following:

(1) Reduce the amount of any revenues or other money or property that:

(A) is held, possessed, maintained, controlled, or otherwise in the custody of the county or a department, an agency, or an instrumentality of the county; and

(B) would otherwise be available for distribution to the qualified entity under any other law;

by an amount equal to the amount of the qualified entity's unpaid securities.

(2) Pay the amount by which the revenues or other money or property is reduced under subdivision (1) to the bank to pay the principal of and interest on bonds or other obligations of the bank.

(3) Notify the qualified entity that the revenues or other money or property, which would otherwise be available for distribution to the qualified entity, has been reduced by an amount necessary to satisfy all or part of the qualified entity's unpaid securities to the bank.

(c) This subsection applies to securities of a qualified entity acquired by the bank, or arising from an agreement with the bank,

that is covered by subsection (b). A reduction under subsection (b) must be made as follows:

(1) First, from local income tax distributions under IC 6-3.6-9 that would otherwise be distributed to the qualified entity under the schedules in IC 6-3.6-9-12 and IC 6-3.6-9-16.

(2) Second, from any other revenues or other money or property that:

(A) is held, possessed, maintained, or controlled by, or otherwise in the custody of, the county or a department, an agency, or an instrumentality of the county; and

(B) would otherwise be available for distribution to the qualified entity under any other law.

As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.26; P.L.46-1987, SEC.16; P.L.47-2016, SEC.1.

IC 5-1.5-8-6
Repealed

(Repealed by P.L.43-1985, SEC.28.)

IC 5-1.5-8-6.1
Anticipation notes; issuance and purchase

Sec. 6.1. (a) Notwithstanding any law applicable to a qualified entity concerning the issuance of bonds, a qualified entity that has complied with all statutory requirements for the issuance of its bonds may, in lieu of issuing bonds at that time and without the need for complying with any other law applicable to the issuance of bonds, notes, or other evidences of indebtedness, issue its notes in anticipation of the issuance of bonds to the bank, and the bank may purchase the bond anticipation notes. The bond anticipation notes may be issued on terms set forth in a resolution authorizing their issuance and in any amount equal to or less than the amount of bonds authorized to be issued. The qualified entity may renew or extend the bond anticipation notes from time to time on terms agreed to with the bank, and the bank may purchase the renewals or extensions. The amount of the accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended so long as the aggregate principal amount of bond anticipation notes outstanding at any time does not exceed the maximum principal amount permitted by this section. The bond anticipation notes of the qualified entity, including any renewals or extensions, must mature in the amounts and at the times (not exceeding five (5) years from the date of the original issuance of the bond anticipation notes) agreed to by the qualified entity and the bank. The bond anticipation notes must be finally paid, and interest on the bond anticipation notes may be finally paid, with the proceeds of the bonds issued by the qualified entity. In connection with the issuance of bonds part or all of the proceeds of which will be used to retire the bond anticipation notes, it is not necessary for the qualified

entity to repeat the procedures for the issuance of bonds, as the procedures followed before the issuance of the bond anticipation notes are for all purposes sufficient to authorize the issuance of the bonds.

(b) In connection with the purchase of bond anticipation notes, the bank may by agreement with the qualified entity impose any terms, conditions, and limitations as in its opinion are proper for the security of the bank and the holders of its bonds or notes. If the qualified entity fails to comply with the agreement or to issue its bonds to retire its bond anticipation notes, the bank may enforce all rights and remedies provided in the agreement or at law, including an action in mandamus to compel the issuance of bonds by the qualified entity.

As added by P.L.43-1985, SEC.27.

IC 5-1.5-8-7

Investment and reinvestment; securities sold to bank

Sec. 7. Notwithstanding any statute applicable to or constituting any limitation on the investment or reinvestment of funds by or on behalf of political subdivisions, a qualified entity selling securities to the bank in connection with a program established by the bank may invest and reinvest funds that constitute, replace, or substitute for the proceeds of securities sold to the bank under an established bank program in any instrument or other investment authorized under a resolution of the bank.

As added by P.L.29-1992, SEC.3.

IC 5-1.5-9

Chapter 9. Miscellaneous Provisions

IC 5-1.5-9-1

Limitation of actions

Sec. 1. (a) No action to contest the validity of any bonds or notes of the bank to be sold at public sale may be brought after the fifteenth day following the first publication of notice of the sale of the bonds or notes. No action to contest the validity of any bond sale under this chapter may be brought after the fifth day following the bond sale.

(b) If bonds or notes are sold at private sale, the bank may publish notice of the execution of the contract of sale of the bonds or notes one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis. If notice is published as permitted in this subsection, no action to contest the validity of such bonds or notes sold at private sale may be brought after the fifteenth day following the publication of notice of the execution of the contract of sale pertaining to the bonds or notes.

(c) If an action challenging the bonds or notes of the bank is not brought within the time prescribed by subsection (a) or (b), whichever is applicable, all bonds or notes of the bank shall be conclusively presumed to be fully authorized and issued under the laws of the state, and a person or a qualified entity is estopped from questioning their authorization, sale, issuance, execution, or delivery by the bank.

(d) Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special, or local, the provisions of this article shall be controlling.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-2

Property of bank exempt from levy and sale; judgment against bank not charge or lien on property; rights of holders of bonds or notes

Sec. 2. All property of the bank is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the bank may not be a charge or lien upon its property. However, nothing in this section applies to or limits the rights of the holder of bonds or notes to pursue a remedy for the enforcement of a pledge or lien given by the bank on its revenues or other money.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-3

Repealed

(Repealed by P.L.1-1990, SEC.46.)

IC 5-1.5-9-4

Insurance or guaranty for payment or repayment of interest or principal, or both

Sec. 4. The bank may obtain from a department or agency of the United States, or 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, on bonds or notes issued by the bank, or on securities purchased or held by the bank.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-5

Authority to receive money; disposition

Sec. 5. The treasurer of the state, as chairman of the board of the bank, is authorized to receive from the United States of America or any department or agency thereof any amount of money as and when appropriated, allocated, granted, turned over, or in any way provided for the purposes of the bank or this article, and those amounts shall, unless otherwise directed by the federal authority, be credited to and deposited in the general fund, and be available to the bank.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-6

Financial institution to keep and pay over funds deposited with it

Sec. 6. A financial institution may give to the bank a good and sufficient undertaking with such sureties as are approved by the bank to the effect that the financial institution shall faithfully keep and pay over to the order of or upon the warrant of the bank or its authorized agent all those funds deposited with it by the bank and agreed interest under or by reason of this article, at such times or upon such demands as may be agreed with the bank or in lieu of these sureties, deposit with the bank or its authorized agent or a trustee or for the holders of bonds, as collateral, those securities as the board may approve. The deposits of the bank may be evidenced by an agreement in the form and upon the terms and conditions that may be agreed upon by the bank and the financial institution.

As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-7

Contracts or agreements with financial institutions; care, custody, or safekeeping of securities; services connected with payment or collection of interest or principal

Sec. 7. The board may enter into agreements or contracts with a financial institution inside or outside the state as may be necessary, desirable, or convenient in the opinion of the board for rendering services in connection with the care, custody, or safekeeping of securities or other investments held or owned by the bank, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering

services in connection with the delivery to the bank of securities or other investments purchased by it or sold by it, and to pay the cost of those services. The board may also, in connection with any of the services to be rendered by a financial institution as to the custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, in the opinion of the board, is necessary or desirable.
As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-8
Financial institutions and fiduciaries; investment in bonds and notes

Sec. 8. Notwithstanding the restrictions of 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 article.
As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-9
Nature of bank property; bonds or notes issued; interest and proceeds received; tax exemption

Sec. 9. All property of the bank is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. All bonds or notes issued under this article are issued by a body corporate and public of this state, but not a state agency, and for an essential public and governmental purpose and the bonds and notes, the interest thereon, the proceeds received by a holder from the sale of the bonds or notes to the extent of the holder's cost of acquisition proceeds received upon redemption prior to maturity, and proceeds received at maturity and the receipt of the interest and proceeds shall be exempt from taxation in the state 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.25-1984, SEC.1. Amended by P.L.46-1987, SEC.17; P.L.21-1990, SEC.6; P.L.254-1997(ss), SEC.6.

IC 5-1.5-9-10
Officers, departments, etc., of the state to render services to bank; costs and expenses

Sec. 10. All officers, departments, boards, agencies, divisions, and commissions of the state shall render services to the bank that are within the area of their respective governmental functions and that may be requested by the board and must comply promptly with any

reasonable request by the board relating to the making of a study or review as to desirability, need, cost, or expense, or financial feasibility with respect to a public project, purpose, or improvement, or the financial or fiscal responsibility or ability of a qualified entity making application for loan to the bank and for the purchase by the bank of securities to be issued by that qualified entity. The cost and expense of a service requested by the board, at the request of the officer, department, board, agency, division, or commission rendering the service, shall be paid by the bank.
As added by P.L.25-1984, SEC.1.

IC 5-1.5-9-11
Pledges of revenues or other money

Sec. 11. A pledge of revenues or other money made by the bank is binding from the time the pledge is made. Revenues or other money so pledged and thereafter received by the bank are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the bank, regardless of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created needs to be filed or recorded except in the records of the bank.
As added by P.L.1-1990, SEC.47.

IC 5-1.5-9-12
Securities; registration requirements; exemption

Sec. 12. All securities issued under this article are exempt from the registration requirements of IC 23-19 and other securities registration statutes.
As added by P.L.1-1990, SEC.48. Amended by P.L.27-2007, SEC.4.

IC 5-2

ARTICLE 2. LAW ENFORCEMENT

IC 5-2-1

Chapter 1. Mandatory Training for Law Enforcement Officers

IC 5-2-1-1

Establishment; purposes

Sec. 1. (a) In order to ensure the public safety and general welfare of the people of the state of Indiana and to promote equity for all segments of society, a program of mandatory training for law enforcement officers is established.

(b) This chapter shall be interpreted to achieve said purposes through the establishment of minimum standards in law enforcement training.

(c) It is the intent of this chapter to encourage all law enforcement officers, departments, and agencies within this state to adopt standards which are higher than the minimum standards implemented under this chapter and such minimum standards shall in no way be deemed sufficient or adequate in those cases where higher standards have been adopted or proposed.

(d) The chief executive officer of a law enforcement department or agency in Indiana shall use all reasonable means to ensure that the law enforcement officers within the department or agency comply with this chapter. The chief executive officer shall submit to the executive director of the board, not later than March 31 of each year, a written report detailing the basic and inservice training status of each law enforcement officer on the payroll of the department or agency. The report must also include similarly detailed information pertaining to the training status of each police reserve officer.

(Formerly: Acts 1967, c.209, s.1.) As amended by P.L.16-1984, SEC.2; P.L.30-1992, SEC.1; P.L.52-2005, SEC.1.

IC 5-2-1-2

Definitions

Sec. 2. For the purposes of this chapter, and unless the context clearly denotes otherwise, the following definitions apply throughout this chapter:

(1) "Law enforcement officer" means an appointed officer or employee hired by and on the payroll of the state, any of the state's political subdivisions, or a public or private postsecondary educational institution whose board of trustees has established a police department under IC 21-17-5-2 or IC 21-39-4-2 who is granted lawful authority to enforce all or some of the penal laws of the state of Indiana and who possesses, with respect to those laws, the power to effect arrests for offenses committed in the officer's or employee's presence.

However, the following are expressly excluded from the term "law enforcement officer" for the purposes of this chapter:

(A) A constable.

(B) A special officer whose powers and duties are described in IC 36-8-3-7 or a special deputy whose powers and duties are described in IC 36-8-10-10.6.

(C) A county police reserve officer who receives compensation for lake patrol duties under IC 36-8-3-20(f)(4).

(D) A conservation reserve officer who receives compensation for lake patrol duties under IC 14-9-8-27.

(E) An employee of the gaming commission whose powers and duties are described in IC 4-32.2-9.

(F) A correctional police officer described in IC 11-8-9.

(2) "Board" means the law enforcement training board created by this chapter.

(3) "Executive training program" means the police chief executive training program developed by the board under section 9 of this chapter.

(4) "Law enforcement training council" means one (1) of the confederations of law enforcement agencies recognized by the board and organized for the sole purpose of sharing training, instructors, and related resources.

(5) "Training regarding the lawful use of force" includes classroom and skills training in the proper application of hand to hand defensive tactics, use of firearms, and other methods of:

(A) overcoming unlawful resistance; or

(B) countering other action that threatens the safety of the public or a law enforcement officer.

(6) "Hiring or appointing authority" means:

(A) the chief executive officer, board, or other entity of a police department or agency with authority to appoint and hire law enforcement officers; or

(B) the governor, mayor, board, or other entity with the authority to appoint a chief executive officer of a police department or agency.

(7) "Crisis intervention team" refers to a local coalition with a goal of improving the manner in which law enforcement and the community respond to crisis situations in which an individual is experiencing a mental health or addictive disorder crisis.

(Formerly: Acts 1967, c.209, s.2.) As amended by P.L.25-1986, SEC.2; P.L.57-1995, SEC.1; P.L.2-1997, SEC.15; P.L.52-2005, SEC.2; P.L.91-2006, SEC.7; P.L.2-2007, SEC.71; P.L.77-2009, SEC.1; P.L.197-2011, SEC.26; P.L.115-2015, SEC.1.

IC 5-2-1-3

Law enforcement training board created; membership; advisory council

Sec. 3. There is created, as a criminal justice agency of the state,

a law enforcement training board to carry out the provisions of this chapter. The board members are to be selected as provided by this chapter. The board is composed of the following members:

(1) The superintendent of the Indiana state police department, who shall serve as chairperson of the board.

(2) The deputy director of the division of preparedness and training of the department of homeland security. The deputy director shall serve as the vice chair of the board.

(3) The chief of police of a consolidated city.

(4) One (1) county sheriff from a county with a population of at least one hundred thousand (100,000).

(5) One (1) county sheriff from a county of at least fifty thousand (50,000) but less than one hundred thousand (100,000) population.

(6) One (1) county sheriff from a county of under fifty thousand (50,000) population.

(7) One (1) chief of police from a city of at least thirty-five thousand (35,000) population, who is not the chief of police of a consolidated city.

(8) One (1) chief of police from a city of at least ten thousand (10,000) but under thirty-five thousand (35,000) population.

(9) One (1) chief of police, police officer, or town marshal from a city or town of under ten thousand (10,000) population.

(10) One (1) prosecuting attorney.

(11) One (1) judge of a circuit or superior court exercising criminal jurisdiction.

(12) One (1) member representing professional journalism.

(13) One (1) member representing the medical profession.

(14) One (1) member representing education.

(15) One (1) member representing business and industry.

(16) One (1) member representing labor.

(17) One (1) member representing Indiana elected officials of counties, cities, and towns.

(Formerly: Acts 1967, c.209, s.3; Acts 1971, P.L.42, SEC.1.) As amended by Acts 1981, P.L.44, SEC.2; P.L.44-1985, SEC.1; P.L.47-1987, SEC.1; P.L.52-2005, SEC.3; P.L.22-2005, SEC.1; P.L.197-2011, SEC.27.

IC 5-2-1-4

Appointments; terms; vacancies; removal

Sec. 4. All members of the board shall be appointed to the board by the governor. The appointments shall be made on a bipartisan basis so that not more than one-half (1/2) of the members of the board shall at any time be members of either of the two (2) major political parties. All appointments shall be for terms of four (4) years or while maintaining the position held at the time of appointment to the board, whichever is the lesser period. Appointees to the board shall serve as members of the board only while holding the office or

position held at the time of appointment to the board in order that the representative nature of the board outlined in section 3 of this chapter may be maintained. However, each member of the board shall serve until the member's successor has been appointed and qualified, unless the member's services are terminated earlier for sufficient reason. Vacancies on the board caused by expiration of a term, termination of the office or position held at time of appointment, or for any other reason shall be filled in the same manner as original appointments. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member succeeded in the same manner as an original appointment. Members of the board may be reappointed for additional terms. All members of the board shall serve, unless their services are terminated earlier for sufficient reason, until their successors have been appointed and qualified. Members of the board may be removed by the governor for inefficiency, incompetence, neglect of duty, or other good cause after having been accorded a hearing by the governor upon reasonable notice of the charge being made against them.
(Formerly: Acts 1967, c.209, s.4.) As amended by P.L.25-1986, SEC.3; P.L.52-2005, SEC.4; P.L.197-2011, SEC.28.

IC 5-2-1-5
Membership on board not to constitute public office

Sec. 5. Membership on the law enforcement training board shall not constitute holding a public office and members of the board shall not be required to take and file oaths of office before serving in such capacities. The board shall exercise only the powers granted by this chapter. No member of the board shall be disqualified from holding any public office or position by reason of the member's appointment or membership on the board, nor shall any such person forfeit any office, position, or employment by reason of an appointment pursuant to this chapter, notwithstanding the provisions of any statute, ordinance, or city charter.
(Formerly: Acts 1967, c.209, s.5.) As amended by P.L.25-1986, SEC.4; P.L.197-2011, SEC.29.

IC 5-2-1-6
Meetings

Sec. 6. The board shall meet at least four (4) times in each year and shall hold special meetings when called by the chairperson. The presence of nine (9) members of the board constitutes a quorum for doing business. At least nine (9) affirmative votes are required for the passage of any matter put to a vote of the board. The board shall establish its own procedure and requirements with respect to place and conduct of its meetings.
(Formerly: Acts 1967, c.209, s.6.) As amended by P.L.52-2005, SEC.5; P.L.110-2009, SEC.1; P.L.197-2011, SEC.30.

IC 5-2-1-7
Repealed

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

IC 5-2-1-8
Compensation

Sec. 8. The members of the board shall serve without compensation except that a salary per diem and actual expenses incurred, in accordance with travel policies and procedures established by the department of administration and the state budget agency, shall be allowed to each member for attendance at regular or special meetings or otherwise engaging in official business of the board.

(Formerly: Acts 1967, c.209, s.8.) As amended by Acts 1976, P.L.9, SEC.1; P.L.197-2011, SEC.31.

IC 5-2-1-9
Rules; basic training; pre-basic training; inservice training; town marshal and executive training programs; fire investigators; handgun safety; refresher course; gaming agents; securities enforcement

Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness, including training on the U nonimmigrant visa created through the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) that must be required for each person accepted for training at a law enforcement training school or academy. Cultural diversity awareness study must include an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

(5) Minimum qualifications for instructors at approved law

enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with autism, mental illness, addictive disorders, intellectual disabilities, and developmental disabilities;

(B) missing endangered adults (as defined in IC 12-7-2-131.3); and

(C) persons with Alzheimer's disease or related senile dementia;

to be provided by persons approved by the secretary of family and social services and the board. The training must include an overview of the crisis intervention teams.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) A law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the

minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(k).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, interacting with individuals with autism, and the operation of an emergency vehicle. The pre-basic course must be offered on a

periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers and police reserve officers (as described in IC 36-8-3-20). After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, intellectual disabilities, autism, developmental disabilities, and Alzheimer's disease or related senile dementia, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking and high risk missing persons (as defined in IC 5-2-17-1). The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic

training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(6) The program must require training in interacting with individuals with autism.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A

gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(u) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

(Formerly: Acts 1967, c.209, s.9.) As amended by Acts 1982, P.L.31, SEC.1; P.L.48-1987, SEC.1; P.L.30-1992, SEC.2; P.L.58-1995, SEC.1; P.L.57-1995, SEC.2; P.L.2-1997, SEC.16; P.L.78-1998,

SEC.1; P.L.25-2000, SEC.1; P.L.45-2001, SEC.1; P.L.62-2004, SEC.1; P.L.85-2004, SEC.40; P.L.2-2005, SEC.12; P.L.170-2005, SEC.8; P.L.227-2005, SEC.2; P.L.52-2005, SEC.6; P.L.1-2006, SEC.88; P.L.173-2006, SEC.44; P.L.2-2007, SEC.72; P.L.230-2007, SEC.4; P.L.128-2008, SEC.1; P.L.1-2009, SEC.14; P.L.43-2009, SEC.1; P.L.77-2009, SEC.2; P.L.93-2009, SEC.1; P.L.1-2010, SEC.11; P.L.138-2013, SEC.1; P.L.205-2013, SEC.73; P.L.164-2014, SEC.1; P.L.100-2015, SEC.1; P.L.115-2015, SEC.2; P.L.117-2015, SEC.2.

IC 5-2-1-10
Authority to enter into agreements

Sec. 10. The board shall have the authority to enter into agreements with other agencies, colleges, and universities to carry out the intent of this chapter.

(Formerly: Acts 1967, c.209, s.10.) As amended by P.L.25-1986, SEC.5.

IC 5-2-1-10.5
Southwest Indiana law enforcement training academy

Sec. 10.5. (a) The board may adopt rules under IC 4-22-2 to establish a southwest Indiana law enforcement training academy.

(b) If the board adopts rules under subsection (a) to establish a southwest Indiana law enforcement training academy, the board shall in accordance with IC 4-22-2 adopt rules establishing minimum standards for the southwest Indiana law enforcement training academy.

(c) The southwest Indiana law enforcement training academy may provide:

(1) basic training to a law enforcement officer who is not accepted by the law enforcement academy for the next basic training course because the academy does not have a space for the officer in the next basic training course;

(2) pre-basic courses described in section 9(f) of this chapter;

(3) inservice training described in section 9(g) of this chapter; and

(4) other law enforcement training approved by the board;

if the training academy meets or exceeds the minimum standards established under subsection (b) by the board.

(d) The southwest Indiana law enforcement training academy established under this section may receive funding only from the following:

(1) A local unit of government (as defined in IC 14-22-31.5-1).

(2) A unit of a fraternal order or a similar association.

(3) Charitable contributions.

(4) Federal grants.

As added by P.L.62-2004, SEC.2. Amended by P.L.2-2005, SEC.13.

IC 5-2-1-11
Powers; establishing training programs

Sec. 11. (a) The board is further authorized and empowered, in accordance with the rule making power granted in section 9 of this chapter, to adopt all necessary rules to:

(1) establish inservice and advanced training programs, and minimum courses of study and attendance requirements for such programs, to ensure that all appointed and elected law enforcement officers may be offered training in current enforcement and related subjects;

(2) establish training programs for railroad police, prison and industrial guards, postsecondary educational institution safety and security personnel, whether public or private, and such other enforcement related groups as the board may deem necessary, on a voluntary enrollment basis;

(3) establish policies and procedures governing the use of state owned law enforcement training facilities constructed or established pursuant to this chapter; and

(4) give public notice of any other policies, procedures, functions, or requirements which the board may deem necessary and appropriate to carry out the provisions of this chapter.

(b) The board is further authorized and empowered to:

(1) recommend or conduct studies, make surveys, and require such reports to be made by the chief administrative officer of any law enforcement agency or department of the state or any of its political subdivisions as may be necessary to carry out the objectives and purposes of this chapter;

(2) originate, compile, and disseminate lecture outlines and other training material, and design and furnish forms and certificates necessary to carry out and certify compliance with the training program authorized or required by this chapter; and

(3) perform such other acts as may be necessary and appropriate to carry out the duties, responsibilities, and functions of the board as set forth in this chapter.

(Formerly: Acts 1967, c.209, s.11; Acts 1973, P.L.29, SEC.1.) As amended by P.L.25-1986, SEC.6; P.L.52-2005, SEC.7; P.L.2-2007, SEC.73.

IC 5-2-1-12
Further powers

Sec. 12. The board or any of its designated representatives are further authorized and empowered to:

(1) visit and inspect any law enforcement training school of the state or any of its political subdivisions for the purpose of determining whether or not the minimum standards established pursuant to this chapter are being complied with and to issue or revoke certificates indicating such compliance;

(2) issue and revoke certificates for instructors qualified or

unqualified to participate in law enforcement training under the provisions of this chapter;

(3) issue, authorize, or revoke the issuance of:

(A) diplomas;

(B) certificates;

(C) badges; and

(D) other documents showing compliance and qualification;

to law enforcement officers or other persons trained under the provisions of this chapter;

(4) consult with and cooperate with any law enforcement agency of the state or any of its political subdivisions for the development of inservice and advanced training programs for the fulfillment of specific needs in law enforcement;

(5) consult with and cooperate with universities, colleges, and institutes for the development of specialized courses of study in police science and administration;

(6) consult with and cooperate with other departments and agencies concerned with law enforcement training; and

(7) perform such other acts as may be necessary or appropriate to carry out the provisions of this chapter.

(Formerly: Acts 1967, c.209, s.12.) As amended by P.L.25-1986, SEC.7; P.L.52-2005, SEC.8.

IC 5-2-1-12.5

Revocation of diploma, certificate, or badge; immunity for report of cause for revocation; investigation of cause for revocation; hearing on cause for revocation; application for reinstatement

Sec. 12.5. (a) The board may revoke a diploma, certificate, badge, or other document showing compliance and qualification issued by the board for any of the following reasons:

(1) The officer has been convicted of:

(A) a felony; or

(B) two (2) or more misdemeanors that would cause a reasonable person to believe that the officer is potentially dangerous or violent or has a propensity to violate the law.

(2) The officer has been found not guilty of a felony by reason of mental disease or defect.

(3) The officer's diploma, certificate, badge, or other document showing compliance and qualification was issued in error or was issued on the basis of information later determined to be false.

(b) A person who knows of cause for the revocation of an officer's diploma, certificate, badge, or other document showing compliance and qualification shall inform the officer's hiring or appointing authority or the board. A person who makes a good faith report of cause for revocation of an officer's diploma, certificate, badge, or other document showing compliance and qualification is immune from civil liability.

(c) If the chief executive officer receives a report of cause for revocation concerning an officer within the chief executive officer's agency, the chief executive officer shall:

(1) cause the internal affairs division (or a similar unit) of the agency to investigate the report without unnecessary delay; or

(2) request that the investigation be conducted by a law enforcement agency other than the law enforcement agency to which the subject of the investigation belongs.

(d) If a hiring or appointing authority receives a report of cause for revocation concerning the chief executive officer, the hiring or appointing authority shall cause an appropriate investigative agency to investigate without unnecessary delay.

(e) If the board receives a report or otherwise learns of cause for revocation concerning a law enforcement officer or chief executive officer, the board shall consider the report and direct the executive director to notify the subject officer's hiring or appointing authority about the report and request an investigation. The hiring or appointing authority shall cause an investigation to be conducted by an appropriate investigative agency without unnecessary delay.

(f) When a hiring or appointing authority completes an investigation of cause for revocation, the hiring or appointing authority shall forward a complete report of its investigation, findings, and recommendations, if any, to the board. The hiring or appointing authority shall also forward to the board a description of any administrative or disciplinary action taken as a result of the investigation not later than sixty (60) days after the hiring or appointing authority takes administrative or disciplinary action.

(g) Except as provided in subsection (h), if the board receives the results of an investigation described in subsection (f), the board shall conduct a hearing on the report, considering the report, the recommendations, and any additional information. The board shall provide the officer who is the subject of the report with notice and an opportunity to be heard. The board may appoint the executive director or another qualified person to present the report and the results of the investigation to the board. In determining whether to revoke the subject officer's diploma, certificate, badge, or other document showing compliance and qualification, the board shall consider the opinion and testimony of the hiring or appointing authority. If the board determines that cause for revocation exists, the board may revoke the subject officer's diploma, certificate, badge, or other document showing compliance and qualification. The board shall send notice of revocation by certified mail to the subject officer's hiring or appointing authority. The subject officer may pursue judicial review of the board's action under IC 4-21.5-5-13.

(h) When the board receives the results of an investigation described in subsection (f), the board may, instead of conducting a hearing under subsection (g), direct the executive director or another qualified person to serve as an administrative law judge to conduct

the hearing described in subsection (g). If the administrative law judge determines that cause for revocation exists, the administrative law judge shall revoke the subject officer's diploma, certificate, badge, or other document showing compliance and qualification and notify the subject officer by certified mail of the decision, with notice of the subject officer's right to appeal to the board not later than fifteen (15) days after receipt of the notice. An appeal to the board must be in writing and may be decided by the board without a hearing. The board shall notify the subject officer of the board's appellate decision under this subsection by certified mail. The subject officer may pursue judicial review of the board's action under IC 4-21.5-5-13.

(i) An officer whose diploma, certificate, badge, or other document showing compliance and qualification has been revoked may apply to the board for reinstatement. The application for reinstatement:

(1) must be in writing; and

(2) must show:

(A) that the cause for revocation no longer exists legally; or

(B) that reinstatement is otherwise appropriate and that the applicant poses no danger to the public and can perform as a law enforcement officer according to the board's standards.

The board may direct the executive director to investigate the application for reinstatement and make a report to the board. The board shall consider the application and notify the applicant by certified mail of the board's decision.

As added by P.L.52-2005, SEC.9.

IC 5-2-1-13

Law enforcement academy building fund; law enforcement training fund; creation; deposits; disposition

Sec. 13. (a) There is created a continuing fund which shall be known as the law enforcement academy building fund. The fund consists of amounts deposited under IC 33-37-7-9. This fund may be used by the board to acquire for the state of Indiana land and interests in and to land, and to construct upon such land a fully equipped law enforcement academy to consist of classrooms, housing facilities, a cafeteria, firearms ranges, a driving course, and other physical facilities which are deemed necessary in the discretion of the board for the basic, inservice, and advanced training of law enforcement officers in the skills and techniques of law enforcement. Any balance of the fund that is unexpended at the end of any fiscal year shall not revert to the general fund but shall be carried forward as an appropriation for the next fiscal year. Expenditures may be made by the board for, among other things, all expenses required for land acquisition and transfer, including but not limited to personal services, appraisers fees, and the cost of acquiring any interest in land and the construction and maintenance of improvements thereon.

The budget agency may, with the approval of the board and the governor, make allocations and transfers of funds appropriated by the general assembly to state agencies having jurisdiction and control over land acquired by the board for the purposes stated herein, except that such allocations and transfers shall not be made in the acquisition of land which has been declared surplus land of the state pursuant to statute. The board is hereby further authorized to acquire said land and law enforcement academy buildings by gift, donation, bequest, devise, exchange, purchase, or eminent domain, or other means. However, any money or proceeds from gifts, bequests, grants, or other donations shall be deposited in a special donation fund which is hereby established for the purposes outlined in this section, for the use of the board to accomplish said purposes. No part of said special donation fund shall revert to the general fund of the state unless specified by the donor as a condition to his gift. All land and academy buildings, however acquired, shall become the property of the state.

(b) There is created a continuing fund which shall be known as the law enforcement training fund. The fund consists of amounts deposited under IC 33-37-7-9. The board is further authorized to accept gifts and grants of money, services, or property to supplement the law enforcement training fund and to use the same for any purpose consistent with the authorized uses of said fund. This fund may be used by the board for the following purposes:

(1) Building and grounds maintenance for the law enforcement academy.

(2) Training equipment and supplies necessary to operate the law enforcement academy.

(3) Aid to approved law enforcement training schools certified as having met or exceeded the minimum standards established by the board.

(4) Personal services, as authorized by the board with the approval of the governor.

(5) Any other purpose necessary to carry out the provisions of this chapter, as determined by the board.

(Formerly: Acts 1967, c.209, s.13; Acts 1973, P.L.30, SEC.1.) As amended by Acts 1976, P.L.9, SEC.2; Acts 1982, P.L.32, SEC.1; P.L.31-1986, SEC.1; P.L.32-1986, SEC.1; P.L.305-1987, SEC.4; P.L.30-1992, SEC.3; P.L.98-2004, SEC.48.

IC 5-2-1-14
Executive director

Sec. 14. There is hereby created the position of executive director of the law enforcement training board. The executive director shall be selected by the board and the executive director's tenure of office shall be protected by a four (4) year, renewable contract of employment which may be terminated earlier by the board only for inefficiency, incompetence, neglect of duty, or other good cause after

having been accorded a hearing by the board upon reasonable notice of the charge being made against the executive director. A vote of at least eleven (11) members of the board shall be necessary for the early termination of said contract of employment. The executive director shall be selected on the basis of education, training, and experience and shall have at least ten (10) years experience as an active law enforcement officer, at least five (5) years of which shall have been in an executive or administrative capacity. The executive director shall perform such duties as may be assigned by the board and shall be the chief administrative officer of the law enforcement academy. The salary and compensation for the executive director, the training staff, and employees shall be fixed by the board with the approval of the governor. The executive director shall establish a table of organization to be supplemented with job descriptions for each position subordinate to that of the executive director, all of which shall be subject to the approval of the board. All persons hired to fill such approved vacancies shall be selected on the basis of qualifications and merit based on training, education, and experience. Employees and members of the training staff shall not be subject to discharge, demotion, or suspension because of political affiliation, but may be discharged, demoted, or suspended only for cause after charges preferred in writing by the executive director. Any person so discharged or disciplined shall have a right to a hearing before the board if such person requests a hearing by giving notice to the executive director within fifteen (15) days after receiving written notice of discharge or disciplinary action. Procedures shall be consistent with IC 4-21.5.

(Formerly: Acts 1967, c.209, s.14; Acts 1973, P.L.30, SEC.2.) As amended by P.L.5-1988, SEC.29; P.L.52-2005, SEC.10; P.L.1-2006, SEC.89; P.L.100-2012, SEC.13.

IC 5-2-1-15

Facilities of law enforcement academy; availability; cost schedule

Sec. 15. (a) The facilities of the law enforcement academy shall be available to any law enforcement agency of the state, or any of its political subdivisions, subject to the rules of the board.

(b) Any law enforcement agency of the state, any of its political subdivisions, or any board certified training center may conduct training:

(1) for the law enforcement agency of any political subdivision in Indiana; and

(2) in facilities other than those of the law enforcement academy;

if the minimum standards established by the board are met or exceeded.

(c) A law enforcement agency or a board certified training center conducting approved local training under subsection (b) shall be entitled to a per capita allowance from the law enforcement training

fund to defray such portions of the cost of basic training as shall be approved by the board. Such per capita allowance shall be earmarked and expended only for law enforcement training.

(d) The facilities of the law enforcement academy shall be available for the training of railroad police, prison and industrial plant guards, postsecondary educational institution safety and security personnel, whether public or private, and such other enforcement related groups as shall be approved by the board, upon terms and conditions established by the board. Railroad police and nongovernmental enforcement related groups qualifying to use the facilities of the academy under the rules of the board shall be required to reimburse the law enforcement training fund for the cost of such training.

(e) The facilities of the law enforcement academy may be used for the training of firefighting personnel where the subject matter of the training relates to duties which involve law enforcement related conduct. Such training shall be conducted upon terms and conditions established by the board. However, no volunteer firefighter is required to attend training at the academy.

(f) The cost of the mandatory basic training conducted by the board at the facilities of the law enforcement academy shall be paid out of the law enforcement training fund, if the trainees have been previously appointed and are on the payroll of a law enforcement department or agency. All other training programs authorized by this chapter and conducted at the law enforcement training academy, including the mandatory basic training course when attended by trainees who have been investigated and approved but not yet hired by a law enforcement agency, are subject to fee schedules and charges for tuition, lodging, meals, instructors, training materials, and any other items or services established by the board.

(Formerly: Acts 1967, c.209, s.15; Acts 1973, P.L.29, SEC.2.) As amended by Acts 1982, P.L.31, SEC.2; P.L.8-1984, SEC.6; P.L.30-1992, SEC.4; P.L.44-1993, SEC.1; P.L.78-1998, SEC.2; P.L.52-2005, SEC.11; P.L.2-2007, SEC.74.

IC 5-2-1-15.1

Medicaid fraud control unit investigator training

Sec. 15.1. (a) The facilities of the law enforcement academy may be used for the training of investigators of the Medicaid fraud control unit. The training shall be conducted upon the terms and conditions established by the board.

(b) An investigator of the Medicaid fraud control unit employed as an investigator after June 30, 1994, may not enforce Medicaid fraud statutes, rules, or regulations unless the investigator has, within one (1) year of the date of employment as an investigator, successfully completed the minimum basic training requirements established under this chapter.

As added by P.L.10-1994, SEC.2.

IC 5-2-1-15.2
Board certified training center

Sec. 15.2. A board certified training center may provide basic training to a law enforcement officer who is:

(1) employed by a law enforcement agency that is a member agency of the law enforcement training center; and

(2) not accepted by the law enforcement academy for the next basic training course because the academy does not have a space for the officer in the next basic training course.

As added by P.L.78-1998, SEC.3. Amended by P.L.27-2000, SEC.1; P.L.52-2005, SEC.12.

IC 5-2-1-16
Powers and duties of board as criminal justice agency

Sec. 16. As a designated criminal justice agency, the board:

(1) has all the duties and privileges of a police agency;

(2) may appoint, through its executive director, police officers for the Indiana law enforcement academy;

(3) shall establish all rules, policies, and procedures concerning the internal organization, duties, and responsibilities of the police agency, to include:

(A) prescribing a distinctive uniform;

(B) designating and operating emergency vehicles; and

(4) may undertake investigations according to the purposes of this chapter.

As added by P.L.44-1985, SEC.2.

IC 5-2-1-17
Police officers; enforcement powers; duties; oath; training

Sec. 17. (a) Police officers appointed under this chapter have all necessary law enforcement powers, including:

(1) the power to arrest, without process, all persons who within the police officer's view commit any felony or misdemeanor;

(2) all common law and statutory powers, privileges, and immunities of sheriffs, except those specifically forbidden by the board; and

(3) the power to serve civil process to the extent authorized by the board.

(b) Police officers appointed under this chapter shall:

(1) preserve the peace, maintain order, and prevent the unlawful use of force or violence or other unlawful conduct on property owned or operated by the board;

(2) protect all persons and property located on property owned or operated by the board from injury, harm, or damage;

(3) assist the executive director to enforce the rules of the board or the Indiana law enforcement academy;

(4) assist and cooperate with other law enforcement agencies and officers; and

(5) enforce the state motor vehicle laws and motor vehicle rules established by the board on property owned or operated by the board.

(c) Police officers appointed by the board:

(1) must take an appropriate oath of office in a form and manner prescribed by the board;

(2) serve at the pleasure of the board; and

(3) must comply with the training requirements prescribed under section 9 of this chapter.

As added by P.L.44-1985, SEC.3.

IC 5-2-1-18

Assistance to law enforcement officers or agencies; powers; supervision; compensation

Sec. 18. (a) The executive director or a member of the training staff of the board, when assisting a law enforcement officer or agency in either an advisory or active capacity, has the same powers as the officer or agency receiving the assistance.

(b) When the executive director or a member of the training staff of the board is assisting a law enforcement officer or agency, the executive director or member of the training staff:

(1) shall serve under the supervision of the chief official of the agency being assisted; and

(2) is not entitled to receive any compensation other than that provided by the board.

As added by P.L.44-1985, SEC.4.

IC 5-2-1-19

Northwest Indiana Law Enforcement Academy; criminal justice agency; board certified training center

Sec. 19. (a) The Northwest Indiana Law Enforcement Academy, including the academy's board of directors, is designated as a criminal justice agency.

(b) The Northwest Indiana Law Enforcement Academy is a board certified training center.

(c) As a designated criminal justice agency, the board of directors of the Northwest Indiana Law Enforcement Academy:

(1) has all the duties and privileges of a police agency;

(2) may appoint, through its executive director, police officers for the Northwest Indiana Law Enforcement Academy;

(3) shall establish all rules, policies, and procedures concerning the internal organization, duties, and responsibilities of the police agency, to include:

(A) prescribing a distinctive uniform; and

(B) designating and operating emergency vehicles; and

(4) may undertake investigations according to the purposes of this chapter.

As added by P.L.75-2015, SEC.1.

IC 5-2-2

Chapter 2. Law Enforcement Academy Building Commission

IC 5-2-2-1

Creation; powers

Sec. 1. There is hereby created as a public body corporate and politic a Law Enforcement Academy Building Commission. Said commission shall have power to sue and be sued, plead and be impleaded, adopt and have a corporate seal, make rules and by-laws for the management and regulation of its affairs, and to do all things necessary or convenient to carry out the powers given in this chapter.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-2

Membership

Sec. 2. The commission shall consist of six (6) members appointed by the governor. Such appointments shall be made by May 7, 1971, and shall be made on a bipartisan basis so that not more than one-half (1/2) of the members of the commission shall at any time be members of either of the two (2) major political parties. In the first instance, two (2) members shall be appointed for a term of two (2) years, two (2) for three (3) years, and two (2) for four (4) years, and the members of said commission shall be appointed for a term of four (4) years, excepting when appointed to fill a vacancy, in which case such appointment shall be only for such unexpired term. All members of said commission shall serve as such until their successors are duly appointed and qualified and shall be subject to removal only for good cause.
(Formerly: Acts 1971, P.L.43, SEC.1.) As amended by P.L.25-1986, SEC.8.

IC 5-2-2-3

Meetings; officers and employees

Sec. 3. The commission shall meet immediately after its appointment in accordance with section 2 of this chapter. It shall elect a chairman, vice chairman, and secretary-treasurer and is authorized to employ an executive director who shall be the executive head and shall be responsible to the commission in carrying out the instructions of the commission as it fulfills the assigned statutory duties. The commission shall be empowered to employ all other necessary assistants, counsel, and consultants to carry out the provisions of this chapter. The commission shall meet at least once each year and shall hold upon the call of the chairman, or a majority of the members, such special meetings as are necessary. The presence of four (4) members shall constitute a quorum for doing business. At least four affirmative votes shall be required for the passage of any matter put to vote of the commission.
(Formerly: Acts 1971, P.L.43, SEC.1.) As amended by Acts 1979,

P.L.32, SEC.1.

IC 5-2-2-4
Compensation

Sec. 4. Members of the commission shall be allowed and paid per diem and travel expenses incurred in connection with the affairs of the commission but shall receive no further or additional compensation. Membership on the commission shall not constitute holding of a public office.
(Formerly: Acts 1971, P.L.43, SEC.1; Acts 1973, P.L.31, SEC.1.)

IC 5-2-2-5
Site acquisition or selection

Sec. 5. The commission is hereby authorized to acquire or select a site located in the State of Indiana and construct and erect thereon a building or buildings to be used by the Law Enforcement Training Board created by IC 1971, 5-2-1, for a Law Enforcement Academy. The site so selected may be on land already owned by the state, or if no such site is deemed by the commission suitable or available, the commission may acquire a site either by purchase, gift or condemnation as hereinafter provided. If a site of land already owned by the state is selected, the commission shall have authority, if necessary, to clear and prepare such site for the construction and erection thereon of such building or buildings. In addition to constructing such building or buildings, the commission shall also install therein any and all equipment, appurtenances and paraphernalia which may be necessary to constitute a fully equipped and modern law enforcement academy. If found necessary, the commission shall also improve, landscape, embellish and beautify such grounds, and lay out and install such walks, drives, fences and other necessary appurtenances as may be deemed essential to produce an integrated and artistic setting. Except as herein otherwise provided, the location and area of the lands acquired and the character of the buildings, structures, embellishments, ornamentation, equipment and other appurtenances therein or thereon shall be determined by the commission.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-6
Eminent domain

Sec. 6. The law enforcement academy building commission is hereby endowed with the right and power of eminent domain insofar as such right or power may be necessary or proper to carry out the provisions of section 5 of this chapter. If the commission shall be unable to agree with the owner of the land or right or with the guardian of such owner as to the damages sustained by such owner or as to the purchase price of the land or right, the commission may proceed in the name of the state of Indiana in the exercise of the right

of eminent domain, with which it is under this chapter endowed, to condemn the land or right necessary or proper to carry out the provisions of this chapter under the laws of this state. Whenever the commission shall deem it necessary to acquire any real estate or right for any purpose contemplated in this chapter, it may adopt an appropriate resolution setting forth the description of the real estate or right sought to be acquired by it, the purpose for which the real estate is to be used, and such other facts as the commission may deem necessary or pertinent, and shall refer such resolution to the attorney general. Thereupon the attorney general shall commence an action in the name of the state of Indiana in the circuit or superior court of the county in which such real estate or right described in such resolution is situated and shall take all necessary and proper steps to secure the condemnation of such real estate or right. Any employee of the commission engaged in the execution of any survey authorized by the commission may enter any lands or waters within this state for the purpose of inspecting, leveling, or doing any other work deemed necessary to carry out any of the provisions of this chapter; provided, however, that by such entry and in doing such work no injury is done to the real estate or waters entered upon and that no damages result from such entry or work.
(Formerly: Acts 1971, P.L.43, SEC.1.) As amended by P.L.25-1986, SEC.9.

IC 5-2-2-7
Design adoption
Sec. 7. The commission shall procure and adopt a design for the erection and construction of such building or buildings. For the purpose of securing designs, the commission shall employ an architect of known skill and ability in his profession as its architect.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-8
Competitive bids
Sec. 8. Upon completion by the architect, or architects, and the approval by the commission of these plans and specifications, the commission shall at one time or from time to time advertise for and receive competitive bids for the construction and equipment of the building or buildings. Upon receipt of such bids, the commission shall then proceed to award a contract, or contracts, to the lowest and best bidder, or bidders. The procedure for advertising, receiving bids, and awarding contracts shall conform to all state laws applicable thereto.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-9
Donations and gifts; authority to receive
Sec. 9. The commission is hereby authorized to receive donations,

gifts, devises and bequests and to use the same for the purpose of carrying out the provisions of this chapter.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-10
Title to real estate

Sec. 10. The title to all real estate donated, given, devised or bequeathed to all real estate purchased or otherwise acquired by the commission shall be good and sufficient, shall be approved by the attorney general, and shall be taken in the name of the State of Indiana.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-11
Conflict of interest

Sec. 11. A member of the commission, the architect, or any other person employed by the commission who knowingly is interested in, or knowingly derives any profit from, any contract, employment, or purchase connected with the building or buildings, or with any action of the commission, commits a Level 6 felony. A member of the commission, the architect, or any person employed by the commission who knowingly is interested in any claim against the commission or the state growing out of the construction of the building or buildings, other than for compensation for services or their expenses as provided in this chapter, commits a Level 6 felony.
(Formerly: Acts 1971, P.L.43, SEC.1.) As amended by Acts 1978, P.L.2, SEC.502; P.L.158-2013, SEC.77.

IC 5-2-2-12
Contracts; form; publication

Sec. 12. The commission shall not enter into any contract for the purchase or sale of any material or supplies or for the performance of any work or labor other than the salaries of employees, when such material, supplies, work or labor costs are more than ten thousand dollars ($10,000), without first giving notice of its intention to purchase or sell such material or supplies, or to contract for such work or labor, by publication in some newspaper of general circulation printed and published in the City of Indianapolis, for two (2) successive weeks prior to the time fixed for the letting of any such contract or the purchase or sale of such material or supplies. All such contracts shall be in writing and the other contracting party shall be required to furnish bond for the faithful performance of the terms of such contract, in such amount as may be fixed by the commission and with surety to its approval, and conditioned upon the faithful performance of such contract.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-13

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-2-2-14

Revenue debentures; sale

Sec. 14. (a) For the purpose of providing funds to carry out the provisions of this chapter with respect to the construction and equipment of a building or buildings for use as a law enforcement academy and acquiring or providing a site therefor, the commission is authorized pursuant to resolution or resolutions to issue and sell interest bearing law enforcement academy revenue debentures in any amount not to exceed three million two hundred thousand dollars ($3,200,000) and bearing such date or dates, and maturing at such time or times not exceeding forty (40) years from their respective dates, bearing interest at such rate or rates payable semiannually, in such form, carrying such registration privileges payable at such place or places, and may be made subject to redemption prior to maturity in such manner, at such time, and upon such terms with or without premium, all as may be provided by the pertinent resolution and expressed on the face of the respective debentures. Such debentures shall be signed by the chairman of the commission, attested by the secretary, and with the seal of said commission affixed, provided, that the signature of the chairman may be a facsimile thereof imprinted thereon. Interest on said debentures when issued shall be evidenced by attached interest coupons bearing the facsimile of the signatures of said chairman and secretary. Such debentures and the interest coupons thereto attached when issued shall have all the qualities of negotiable instruments under the law merchant and shall be incontestable in the hands of a bona fide purchaser or holder thereof for value, and such debentures and interest thereon shall be exempt from all taxation except the financial institutions tax and estate, inheritance, or gift taxes imposed by law. Such debentures shall be sold at public sale in accordance with the provisions of IC 21-32-3. In determining the amount of such debentures to be issued and sold there may be included the cost of construction, the cost of all land and clearings thereof and improvements thereto, including walks, drives, and other appurtenances, material and labor which are deemed necessary, cost of equipment, financing charges, interest accruing on the debentures prior to and during the construction period, and all other expenses, including legal fees, engineers' and architects' fees, and all other expenses necessary or incident to the construction and equipment of the building or buildings and the acquisition and providing a site therefor. The proceeds of such debentures are hereby appropriated for the purpose for which the debentures may be issued under this chapter and such proceeds shall be deposited and disbursed in accordance with such provisions and restrictions as the commission may provide in the resolution authorizing the issuance thereof. Any debentures issued

under the provisions of this chapter may be thereafter refinanced through the issuance of refunding debentures subject to such restrictions or conditions as may be provided in the resolution authorizing the issuance of such debentures in the first instance and in the issuance of such refunding debentures, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the commission in all respects thereto shall be governed by the provisions of this chapter insofar as the same may be applicable.

(b) The debentures issued under the provisions of this chapter shall constitute only the corporate obligations of said commission payable solely and only from and secured exclusively by pledge of the income and revenue of such building or buildings remaining after payment or provisions for payment of the expenses of operation, maintenance, and repair of said building or buildings to the extent such expenses of operation, maintenance, and repair are not otherwise provided, and it shall be plainly stated on the face of each such debenture that same does not constitute an indebtedness of the state of Indiana within the meaning or application of any constitutional provision or limitation but that it is payable solely and only as to both principal and interest from the net revenues of such building or buildings. The provisions of this chapter and the covenants and undertakings of the commission as expressed in any proceedings preliminary to or in connection with the issuance of the debentures may be enforced by any debenture holder by suit for injunction or mandamus against the commission or any officer, agent, or employee thereof, but in no event can any suit for monetary judgement be brought against the state of Indiana for any violations under the provisions of this chapter.

(Formerly: Acts 1971, P.L.43, SEC.1.) As amended by P.L.25-1986, SEC.11; P.L.21-1990, SEC.7; P.L.2-2007, SEC.75.

IC 5-2-2-15

Construction of buildings; occupancy

Sec. 15. When any such debentures shall have been issued, the commission shall proceed with the construction and equipment of the building or buildings as promptly as may be, and from and after the date of completion of such building or buildings it shall be available for use and occupancy by the Law Enforcement Training Board. It is hereby represented that the State of Indiana will have a continuing need for use and occupancy of the facilities to be afforded by said building or buildings. The commission and the Law Enforcement Training Board shall enter into appropriate agreements setting forth the terms and conditions of such use and occupancy and the sums agreed to be paid at stated intervals for such use and occupancy. The Law Enforcement Training Board shall not be obligated to continue such use and occupancy and make payments therefor pursuant to any such agreement but shall be entitled and required to vacate the

building or buildings if it is shown that the terms and conditions of such use and occupancy and the amount to be paid therefor is unjust and unreasonable considering the value of the services and facilities thereby afforded: Provided, that in determining just and reasonable amounts to be paid for the use and occupancy of the building or buildings, the commission shall be required to impose and collect amounts which in the aggregate will be sufficient to pay the expenses of operation, maintenance and repair of said building or buildings to the extent that such expenses are not otherwise provided and leave a balance of net income and revenues from the building or buildings to pay the interest on the debentures as the same become due and accomplish retirement thereof at or before maturity.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-2-16
Compensation for employees and agents

Sec. 16. The compensation of all employees and agents of the commission shall be affixed by the Law Enforcement Academy Building Commission and approved by the Governor.
(Formerly: Acts 1971, P.L.43, SEC.1.)

IC 5-2-3
Repealed

(Repealed by P.L.245-1987, SEC.22.)

IC 5-2-4

Chapter 4. Criminal Intelligence Information

IC 5-2-4-1

Definitions

Sec. 1. As used in this chapter, unless the context otherwise requires:

(1) "Criminal history information" means information collected by criminal justice agencies or individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release.

(2) "Criminal intelligence information" means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity, including terrorist activity. "Criminal intelligence information" does not include criminal investigative information, which is information on identifiable individuals compiled in the course of the investigation of specific criminal acts.

(3) "Criminal justice agency" means any agency or department of any level of government which performs as its principal function the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders, or location of parents with child support obligations under 42 U.S.C. 653. The term includes:

(A) a nongovernmental entity that performs as its principal function the:

(i) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or

(ii) location of parents with child support obligations under 42 U.S.C. 653;

under a contract with an agency or department of any level of government;

(B) the department of homeland security; and

(C) the Indiana intelligence fusion center established by IC 10-11-9-2.

As added by Acts 1977, P.L.50, SEC.1. Amended by P.L.45-1993, SEC.1; P.L.56-1998, SEC.1; P.L.101-2006, SEC.2; P.L.1-2007, SEC.22; P.L.27-2010, SEC.1.

IC 5-2-4-2

Files restricted

Sec. 2. Criminal intelligence information shall not be placed in a criminal history file, nor shall a criminal history file indicate or suggest that a criminal intelligence file exists on the individual to whom the information relates. Criminal history information may, however, be included in criminal intelligence files.

As added by Acts 1977, P.L.50, SEC.1.

IC 5-2-4-3
Criminal activity; relevancy; restriction

Sec. 3. Criminal intelligence information concerning a particular individual shall be collected and maintained by a state or local criminal justice agency only if grounds exist connecting the individual with known or suspected criminal activity and if the information is relevant to that activity.
As added by Acts 1977, P.L.50, SEC.1.

IC 5-2-4-4
Retention; destruction

Sec. 4. Criminal intelligence information shall be reviewed by the chief executive officer of the criminal justice agency at regular intervals to determine whether the grounds for retaining the information still exist and if not, it shall be destroyed.
As added by Acts 1977, P.L.50, SEC.1.

IC 5-2-4-5
Political, religious, or social views; associations or activities restricted

Sec. 5. No criminal justice agency shall collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, corporation, limited liability company, business, or partnership unless such information directly relates to an investigation of past or threatened criminal acts or activities and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal acts or activities.
As added by Acts 1977, P.L.50, SEC.1. Amended by P.L.8-1993, SEC.52.

IC 5-2-4-6
Confidentiality; authorized disclosure

Sec. 6. Criminal intelligence information is hereby declared confidential and may be disseminated only in accordance with section 7 of this chapter, and only if the agency making the dissemination is satisfied that the need to know and intended uses of the information are reasonable and that the confidentiality of the information will be maintained.
As added by Acts 1977, P.L.50, SEC.1. Amended by P.L.186-2007, SEC.1.

IC 5-2-4-7
Unlawful disclosure; disclosure to certain persons permitted to avoid imminent danger to life or property

Sec. 7. (a) Except as provided in subsection (b), a person who

knowingly releases criminal intelligence information to an agency or person other than a criminal justice agency commits a Class A misdemeanor.

(b) When necessary to avoid imminent danger to life or property, a criminal justice agency may disseminate an assessment of criminal intelligence information to:

(1) a government official; or

(2) another individual:

(A) whose life or property is in imminent danger;

(B) who is responsible for protecting the life or property of another person; or

(C) who may be in a position to reduce or mitigate the imminent danger to life or property.

As added by Acts 1977, P.L.50, SEC.1. Amended by Acts 1978, P.L.2, SEC.503; P.L.186-2007, SEC.2.

IC 5-2-5
Repealed
(Repealed by P.L.2-2003, SEC.102.)

IC 5-2-5.1
Repealed
(Repealed by P.L.2-2003, SEC.102.)

IC 5-2-6

Chapter 6. Indiana Criminal Justice Institute

IC 5-2-6-0.3

Certain rules considered rules of criminal justice institute; validation of other rules; criminal justice institute may adopt rules to supersede

Sec. 0.3. (a) The rules of the Indiana department of transportation filed with the secretary of state before July 1, 1993, regarding the administration of the office of traffic safety are considered, after June 30, 1993, rules adopted by the Indiana criminal justice institute.

(b) A rule adopted by the family protection bureau concerning the violent crime victims compensation fund under IC 12-18-6 (before its repeal by P.L.47-1993) is valid and effective until the Indiana criminal justice institute adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the family protection bureau rule; or

(2) repeals the family protection bureau rule.

(c) A rule adopted by the family protection bureau concerning the broadcast or publication of crime stories of accused or convicted felons under IC 12-8-7 (before its repeal by P.L.47-1993) is valid and effective until the criminal justice institute adopts a rule under IC 4-22-2 that:

(1) supersedes in whole or in part the family protection bureau rule; or

(2) repeals the family protection bureau rule.

As added by P.L.220-2011, SEC.59.

IC 5-2-6-1

Definitions

Sec. 1. As used in this chapter:

"Criminal justice" includes activities concerning:

(1) the prevention or reduction of criminal offenses;

(2) the enforcement of criminal law;

(3) the apprehension, prosecution, and defense of persons accused of crimes;

(4) the disposition of convicted persons, including corrections, rehabilitation, probation, and parole; and

(5) the participation of members of the community in corrections.

"Entitlement jurisdictions" include the state and certain local governmental units as defined in Section 402(a) of the Omnibus Act.

"Institute" means the Indiana criminal justice institute.

"Juvenile justice" includes activities concerning:

(1) the prevention or reduction of juvenile delinquency;

(2) the apprehension and adjudication of juvenile offenders;

(3) the disposition of juvenile offenders including protective techniques and practices;

(4) the prevention of child abuse and neglect; and
(5) the discovery, protection, and disposition of children in need of services.

"Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974 and any amendments made to that act.

"Local governmental entities" include:
(1) trial courts; and
(2) political subdivisions (as defined in IC 36-1-2-13).

"Omnibus Act" means the Omnibus Crime Control and Safe Streets Act of 1968 and any amendments made to that act.

"Trustees" refers to the board of trustees of the institute.

As added by P.L.46-1983, SEC.1. Amended by P.L.116-2002, SEC.3; P.L.140-2006, SEC.1 and P.L.173-2006, SEC.1.

IC 5-2-6-2
Acceptance of federal act

Sec. 2. The state accepts the provisions and benefits of the Omnibus Act. The governor may administer and coordinate the activities of state departments, state agencies, and local governmental entities with respect to the Omnibus Act.

As added by P.L.46-1983, SEC.1.

IC 5-2-6-3
Duties of institute

Sec. 3. The institute is established to do the following:
(1) Evaluate state and local programs associated with:
(A) the prevention, detection, and solution of criminal offenses;
(B) law enforcement; and
(C) the administration of criminal and juvenile justice.
(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.
(3) Stimulate criminal and juvenile justice research.
(4) Develop new methods for the prevention and reduction of crime.
(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.
(6) Administer victim and witness assistance funds.
(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.
(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.
(9) Serve as the criminal justice statistical analysis center for this state.
(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities

concerning sex or violent offender registration under IC 11-8-8.

(11) Administer the application and approval process for designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Develop and manage the gang crime witness protection program established by section 21 of this chapter.

(14) Identify grants and other funds that can be used to fund the gang crime witness protection program.

(15) Administer any sexual offense services.

(16) Administer domestic violence programs.

(17) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

(18) Administer the domestic violence prevention and treatment fund under IC 5-2-6.7.

(19) Administer the family violence and victim assistance fund under IC 5-2-6.8.

(20) In conjunction with the division of mental health and addiction, establish the Indiana technical assistance center for crisis intervention teams under IC 5-2-21.2.

(21) Monitor and evaluate criminal code reform under IC 5-2-6-24.

(22) Administer the enhanced enforcement drug mitigation area fund and pilot program established under IC 5-2-11.5.

(23) Administer the ignition interlock inspection account established under IC 9-30-8-7.

As added by P.L.46-1983, SEC.1. Amended by P.L.33-1985, SEC.3; P.L.39-1993, SEC.2; P.L.46-1993, SEC.1; P.L.11-1994, SEC.5; P.L.21-1994, SEC.1; P.L.36-1997, SEC.1; P.L.56-1998, SEC.4; P.L.238-2001, SEC.3; P.L.116-2002, SEC.4; P.L.192-2005, SEC.1; P.L.140-2006, SEC.2 and P.L.173-2006, SEC.2; P.L.186-2007, SEC.3; P.L.192-2007, SEC.1; P.L.216-2007, SEC.1; P.L.3-2008, SEC.18; P.L.107-2008, SEC.1; P.L.130-2009, SEC.1; P.L.74-2010, SEC.1; P.L.133-2012, SEC.31; P.L.85-2013, SEC.2; P.L.180-2014, SEC.1; P.L.168-2014, SEC.7; P.L.115-2015, SEC.3; P.L.213-2015, SEC.57; P.L.71-2016, SEC.1.

IC 5-2-6-3.5
Repealed

(As added by P.L.116-2002, SEC.5. Amended by P.L.1-2005, SEC.72; P.L.64-2005, SEC.1; P.L.177-2005, SEC.12. Repealed by P.L.140-2006, SEC.41 and P.L.173-2006, SEC.55.)

IC 5-2-6-4
Board of trustees; membership; terms

Sec. 4. (a) The board of trustees is composed of:

(1) the governor, or his designee, who shall act as chairman;
(2) the attorney general, or his designee;
(3) the superintendent of state police, or his designee;
(4) the commissioner of the department of correction, or his designee;
(5) the executive director of the prosecuting attorneys council;
(6) the executive director of the judicial center;
(7) the executive director of the public defenders council;
(8) the state public defender;
(9) eight (8) persons who are appointed by and who serve at the pleasure of the governor, including:
(A) one (1) sheriff;
(B) one (1) chief of police;
(C) one (1) judge of a court with both juvenile jurisdiction and general criminal jurisdiction; and
(D) five (5) citizens who have manifested an interest in criminal or juvenile justice, one (1) of whom shall be a member of the state advisory group under the Juvenile Justice Act.

(b) The president pro tempore of the senate, or a senator appointed by him, and the speaker of the house of representatives, or a representative appointed by him, may serve as nonvoting advisors to the trustees.

(c) Trustees appointed by the governor serve an initial three (3) year term and may be reappointed for additional terms. The additional terms may be four (4) years in length.

(d) Membership on the board of trustees does not constitute holding a public office.

As added by P.L.46-1983, SEC.1.

IC 5-2-6-5

Board of trustees; duties; meetings; compensation; research and information consortium

Sec. 5. (a) The institute is composed of:
(1) the trustees; and
(2) a research and information consortium.

(b) The trustees shall:
(1) evaluate and disseminate to the public information concerning the cost and effectiveness of the criminal and juvenile justice systems;
(2) promote coordination and cooperation for the effective administration of the criminal and juvenile justice systems;
(3) establish plans for the criminal and juvenile justice systems and make recommendations concerning the implementation of these plans;
(4) encourage and assist in the organization of an academic consortium for the purpose of engaging in research;
(5) receive, expend, and account for state funds made available

for the purposes of this chapter;

(6) apply for and accept gifts and grants (which must be administered as public funds) made for the purposes of this chapter;

(7) enter into lawful agreements as required as a condition for receiving gifts, grants, or other funds for the purposes of this chapter;

(8) employ a director;

(9) adopt rules, under IC 4-22-2, necessary to carry out the purposes of this chapter; and

(10) promulgate guidelines concerning participation in the research and information consortium.

(c) The research and information consortium is composed of state educational institutions that are engaged in criminal or juvenile justice research under the direction of the trustees. A state or local governmental entity may participate in the consortium. The consortium shall act as an advisory body to the institute and perform other related functions as requested by the trustees.

(d) The trustees shall meet quarterly and at such times as called by the chairman. A majority of the trustees constitutes a quorum for doing business. A majority vote of the trustees is required for passage of any matter put to a vote. The trustees shall establish procedures and requirements with respect to the place and conduct of their meetings.

(e) A trustee is not entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing the trustee's duties. A trustee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the trustee's 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.46-1983, SEC.1. Amended by P.L.46-1993, SEC.2; P.L.2-2007, SEC.76; P.L.3-2008, SEC.19; P.L.100-2012, SEC.14.

IC 5-2-6-6

Board of trustees; controversies between institute and local entities; determination

Sec. 6. The trustees shall make the final determination on any controversy between the institute and any local governmental entity or entitlement jurisdiction on local program priorities and grants, subject to the procedures and applications for review as required by the Omnibus Act and the Juvenile Justice Act.

As added by P.L.46-1983, SEC.1.

IC 5-2-6-7

Assistance; requests by governor

Sec. 7. The governor may request the assistance of any person, agency, entitlement jurisdiction, local governmental entity, or any

state or federal department in order to carry out the purposes of this chapter.
As added by P.L.46-1983, SEC.1.

IC 5-2-6-8
Criminal, juvenile justice, and research divisions; administration; approval of official actions

Sec. 8. (a) The institute has the following four (4) divisions:

(1) The criminal justice division.
(2) The juvenile justice division.
(3) The research division, which may be referred to as the center for criminal justice research and information.
(4) The victim services division.

(b) The chairman of the trustees shall assign each of the trustees to participate in the administration of at least one (1) of the divisions. The chairman shall annually appoint four (4) vice chairmen, each of whom shall preside over a division of the institute.

(c) Each division shall primarily concern itself with:

(1) the operation of the criminal justice system, the juvenile justice system, or criminal justice system related research; or
(2) the provision of victim services.

However, the trustees must approve any official action of the institute unless the trustees authorize a division to act with respect to specific decisions.
As added by P.L.46-1983, SEC.1. Amended by P.L.46-1993, SEC.3; P.L.47-1993, SEC.1; P.L.2-1995, SEC.14.

IC 5-2-6-9
Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-2-6-10
Funds; disbursement

Sec. 10. The institute may disburse federal and state funds available for the purposes of this chapter to entitlement jurisdictions or local governmental entities if the jurisdiction or entity:

(1) makes proper application for the funds;
(2) agrees to provide the required matching funds; and
(3) is in compliance with section 10.5 of this chapter.

As added by P.L.46-1983, SEC.1. Amended by P.L.44-2006, SEC.1.

IC 5-2-6-10.5
Deobligation of funds; reinstatement or reallocation of deobligated funds; deobligation for failure to report criminal data

Sec. 10.5. (a) If an entitlement jurisdiction or a local government entity:

(1) accepts funds under section 10 of this chapter that the institute has designated as public funds; and

(2) fails to comply with any requirement of the grant or funding;

the institute shall deobligate funds to the entitlement jurisdiction or local government entity.

(b) If a public official or public agency dealing with crime or criminals or with delinquency or delinquents:

(1) accepts funds under section 10 of this chapter that the institute has designated as public funds; and

(2) fails to comply with its duties under IC 10-13-2-6(a) (data reporting);

the institute may deobligate funds to the public official or public agency.

(c) The institute may reinstate funds under:

(1) subsection (a) if the entitlement jurisdiction or local government entity complies with the requirements of the grant or funding within six (6) months of the deobligation of funds; or

(2) subsection (b) if the public official or public agency complies with its duties under IC 10-13-2-6(a) within six (6) months of the deobligation of funds.

(d) If:

(1) an entitlement jurisdiction or a local government entity does not comply with the requirements of the grant or funding within six (6) months of the deobligation of funds; or

(2) a public official or public agency does not comply with its duties under IC 10-13-2-6(a) within six (6) months of the deobligation of funds;

the institute may reallocate the funds.

As added by P.L.44-2006, SEC.2. Amended by P.L.35-2013, SEC.1.

IC 5-2-6-11

Funds; joint or cooperative applications; agreements

Sec. 11. Any two (2) or more local governmental entities or entitlement jurisdictions may enter into agreements with one another for joint or cooperative action for the purposes of applying for, receiving, disbursing, allocating, and accounting for grants of funds made available by the United States government under Section 402(a)(5) of the Justice System Improvement Act of 1979, and for any state funds made available for that purpose. Such agreements must include the proportion of the amount of required local funds that shall be supplied by each such local governmental entity or entitlement jurisdiction. Such agreements may include provisions for the appointment of any officer or employee of one (1) of the units or jurisdictions to serve as the collection and disbursement officer for all of the units.

As added by P.L.46-1983, SEC.1.

IC 5-2-6-12

Funds; actions by state for recovery

Sec. 12. If any local governmental entity or entitlement jurisdiction fails to appropriate or pay the funds that it agrees to provide in its application for federal or state funds under this chapter, if any person fails to legally disburse or account for funds received under this chapter, or if any person embezzles, misappropriates, conceals, or obtains by fraud funds under this chapter, the institute shall refer the matter to the attorney general. The attorney general may bring suit in the name of the state to recover these funds for the benefit of the state or a local governmental entity or entitlement jurisdiction.

As added by P.L.46-1983, SEC.1. Amended by P.L.33-1985, SEC.4.

IC 5-2-6-13

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-2-6-14

Victim and witness assistance fund; establishment; source; use

Sec. 14. (a) The victim and witness assistance fund is established. The institute shall administer the fund. Except as provided in subsection (e), expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The source of the victim and witness assistance fund is the family violence and victim assistance fund established by IC 5-2-6.8-3.

(c) The institute may use money from the victim and witness assistance fund when awarding a grant or entering into a contract under this chapter, if the money is used for the support of a program in the office of a prosecuting attorney or in a state or local law enforcement agency designed to:

(1) help evaluate the physical, emotional, and personal needs of a victim resulting from a crime, and counsel or refer the victim to those agencies or persons in the community that can provide the services needed;

(2) provide transportation for victims and witnesses of crime to attend proceedings in the case when necessary; or

(3) provide other services to victims or witnesses of crime when necessary to enable them to participate in criminal proceedings without undue hardship or trauma.

(d) Money in the victim and witness assistance fund at the end of a particular fiscal year does not revert to the general fund.

(e) The institute may use money in the fund to:

(1) pay the costs of administering the fund, including expenditures for personnel and data;

(2) support the registration of sex or violent offenders under IC 11-8-8 and the Indiana sex and violent offender registry established under IC 36-2-13-5.5;

(3) provide training for persons to assist victims; and

(4) establish and maintain a victim notification system under IC 11-8-7 if the department of correction establishes the system.

As added by P.L.33-1985, SEC.5. Amended by P.L.36-1990, SEC.1; P.L.1-1994, SEC.15; P.L.11-1994, SEC.6; P.L.56-1998, SEC.5; P.L.116-2002, SEC.6; P.L.64-2005, SEC.2; P.L.140-2006, SEC.3 and P.L.173-2006, SEC.3; P.L.216-2007, SEC.2; P.L.130-2009, SEC.2.

IC 5-2-6-15
Repealed

(Repealed by P.L.12-1990, SEC.10.)

IC 5-2-6-16
Repealed

(As added by P.L.39-1991, SEC.1. Amended by P.L.44-2006, SEC.3; P.L.134-2012, SEC.6; P.L.87-2013, SEC.1. Repealed by P.L.7-2016, SEC.2.)

IC 5-2-6-17
Meth watch program

Sec. 17. In consultation with the state police department and other law enforcement agencies, the institute shall operate and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

As added by P.L.192-2005, SEC.2.

IC 5-2-6-18
Reporting of methamphetamine abuse

Sec. 18. (a) As used in this section, "institute" means the Indiana criminal justice institute established by section 3 of this chapter.

(b) The institute shall adopt:

(1) guidelines; and

(2) a reporting form or a specified electronic format, or both;

for the report of methamphetamine abuse by a law enforcement agency under IC 5-2-16.

(c) The guidelines adopted under this section must require a law enforcement agency to report the existence of methamphetamine abuse to the institute on the form or in the specified electronic format adopted by the institute.

(d) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14, expired June 30, 2007, and repealed) that the institute determines to be relevant;

(2) may require the institute to report the information concerning methamphetamine abuse to one (1) or more additional agencies or organizations;

(3) must require the institute to maintain reports filed under

IC 5-2-16 in a manner that permits an accurate assessment of methamphetamine abuse in Indiana; and

(4) must require a law enforcement agency to report any other information that the institute determines to be relevant.

As added by P.L.151-2006, SEC.1. Amended by P.L.3-2008, SEC.20.

IC 5-2-6-19

Methamphetamine registry web site; listing contaminated property; removing decontaminated properties from web site

Sec. 19. (a) As used in this section, "department" refers to the state police department.

(b) As used in this section, "property" refers to a structure or part of a structure that is used as a home, residence, or sleeping unit.

(c) Subject to specific appropriation by the general assembly, the department shall establish, maintain, and operate a web site containing a list of properties that have been used as the site of a methamphetamine laboratory. The list of properties shall be based on information received from a law enforcement agency under IC 5-2-15-3.

(d) Subject to specific appropriation by the general assembly, and in accordance with subsection (g), the department shall publish the list of properties that have been used as the site of a methamphetamine laboratory on a web site maintained by the department. If methamphetamine is manufactured in an apartment that is a unit of a multi-unit apartment complex, the department shall publish only the address, including the apartment number, of the particular apartment in which the methamphetamine was manufactured. The department shall design the web site to enable a user to easily determine whether a particular property has been used as the site of a methamphetamine laboratory.

(e) The department shall remove a listed property from the web site not later than ninety (90) days after the property has been certified as decontaminated by an inspector approved under IC 13-14-1-15.

(f) If property has been certified as decontaminated by an inspector approved under IC 13-14-1-15 before it is placed on the list required under subsection (c), the department may not place the property on the list.

(g) The department may not list a property that has been used as the site of a methamphetamine laboratory on the web site until one hundred eighty (180) days after the date on which the department receives information from a law enforcement agency that the property has been the site of a methamphetamine laboratory.

As added by P.L.186-2007, SEC.4. Amended by P.L.180-2014, SEC.2.

IC 5-2-6-20

Expired

(As added by P.L.186-2007, SEC.5. Expired 6-30-2012 by P.L.186-2007, SEC.5.)

IC 5-2-6-21
Gang crime witness protection program

Sec. 21. (a) The gang crime witness protection program is established.

(b) The gang crime witness protection program shall be developed and maintained to assist witnesses of gang crimes with:

(1) temporary living costs;
(2) moving expenses;
(3) rent;
(4) security deposits; and
(5) other appropriate expenses of relocation or transitional housing.

(c) The institute shall develop and maintain procedures to award funds for the purposes described in subsection (b) to an individual who witnesses a gang crime.

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

(e) The director of the Indiana criminal justice institute may delay the implementation of this section until the earlier of the following:

(1) A date set by the director.
(2) The date funding becomes available by a grant through the criminal justice institute or by an appropriation from the general assembly.

If the director of the criminal justice institute delays implementation of this section, the director shall notify each prosecuting attorney of the director's action.

As added by P.L.192-2007, SEC.2.

IC 5-2-6-22
Gang crime witness protection fund

Sec. 22. (a) The gang crime witness protection fund is established. The institute shall administer the fund.

(b) The fund consists of:

(1) money identified and obtained by the institute under subsection (d);
(2) appropriations made to the fund by the general assembly; and
(3) grants, gifts, and donations to the fund.

(c) The institute shall use money in the fund for costs described in section 21(b) of this chapter.

(d) The institute shall identify and obtain grants and other funds that can be used to fund the gang crime witness protection program under section 21 of this chapter.

(e) Money in the gang crime witness protection fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.192-2007, SEC.3.

IC 5-2-6-23
Sexual assault victim advocate standards and certification board; sexual assault victim assistance fund

Sec. 23. (a) As used in this section, "board" refers to the sexual assault victim advocate standards and certification board established by subsection (e).

(b) As used in this section, "division" refers to the victim services division of the Indiana criminal justice institute.

(c) As used in this section, "rape crisis center" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and support services from the onset of the need for services through the completion of healing, to victims of sexual assault.

(d) As used in this section, "trauma informed sexual assault services" refers to:

(1) victim centered care;
(2) acute medical care; or
(3) forensic medical services;

provided by advanced medical providers for trauma sustained as a result of sexual assault. Trauma informed sexual assault services address the physical, psychological, and emotional needs of sexual assault victims for the duration of their lifespan.

(e) The sexual assault victim advocate standards and certification board is established. The board consists of the following twelve (12) members appointed by the governor:

(1) A member recommended by the prosecuting attorneys council of Indiana.
(2) A member from law enforcement.
(3) A member representing a rape crisis center.
(4) A member recommended by a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq.
(5) A member representing mental health professionals.
(6) A member representing hospital administration.
(7) A member who is a health care professional (as defined in IC 16-27-1-1) qualified in forensic evidence collection and recommended by the Indiana chapter of the International Association of Forensic Nurses.
(8) A member who is an employee of the Indiana criminal justice institute.
(9) A member who is a survivor of sexual violence.
(10) A member who is a physician (as defined in IC 25-22.5-1-1.1) with experience in examining sexually abused children.
(11) A member who is an employee of the office of the secretary of family and social services.

(12) A member who is an employee of the state department of health, office of women's health.

(f) Members of the board serve a four (4) year term. Not more than seven (7) members appointed under subsection (e) may be of the same political party.

(g) The board shall meet at the call of the chairperson. Seven (7) members of the board constitute a quorum. The affirmative vote of at least seven (7) members of the board is required for the board to take any official action.

(h) The board shall:

(1) develop standards for certification as a sexual assault victim advocate;

(2) set fees that cover the costs for the certification process;

(3) adopt rules under IC 4-22-2 to implement this section; and

(4) certify sexual assault victim advocates to provide advocacy services.

(i) Members of the board may not receive a salary per diem. Members of the board are entitled to receive reimbursement for mileage for attendance at meetings. Any other funding for the board is paid at the discretion of the director of the office of management and budget.

(j) The sexual assault victims assistance fund is established within the state general fund. The division shall administer the fund to provide financial assistance for any of the following:

(1) To establish and maintain rape crisis centers.

(2) The enhancement of services provided by existing rape crisis centers.

(3) The development, implementation, and expansion of trauma informed sexual assault services.

(k) Money in the fund shall be distributed by the division. Before making a distribution, the division shall seek direction from a statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention under 42 U.S.C. 280 et seq. If no statewide nonprofit sexual assault coalition exists, the division may make distributions without seeking direction. The fund consists of:

(1) amounts transferred to the fund from sexual assault victims assistance fees collected under IC 33-37-5-23;

(2) appropriations to the fund from other sources;

(3) fees collected for certification by the board;

(4) grants, gifts, and donations intended for deposit in the fund; and

(5) interest accruing from the money in the fund.

(l) The expenses of administering the fund shall be paid from money in the fund. The division may designate ten percent (10%) of the appropriation made each year to the statewide nonprofit sexual assault coalition as designated by the federal Centers for Disease Control and Prevention for program administration. The division

may not use more than ten percent (10%) of the money collected from certification fees to administer the certification program.

(m) 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.

(n) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(o) The governor shall appoint a member of the commission each year to serve a one (1) year term as chairperson of the board.

As added by P.L.104-2008, SEC.4. Amended by P.L.1-2009, SEC.15; P.L.7-2015, SEC.4; P.L.77-2016, SEC.1.

IC 5-2-6-24

Duty of institute to monitor criminal code reform

Sec. 24. (a) As used in this section, "criminal code reform" refers to statutory provisions relating to criminal law enacted by P.L.158-2013 and HEA 1006-2014.

(b) The institute shall monitor and evaluate criminal code reform as described in this section.

(c) The institute shall annually gather data and analyze the impact of criminal code reform on:

(1) local units of government;

(2) the department of correction; and

(3) the judicial center.

(d) The institute shall prepare an annual report containing the results of its analysis before July 1 of each year. The report shall be provided to the governor and the legislative council. The report provided to the legislative council must be in an electronic format under IC 5-14-6.

(e) The report required under this section must:

(1) include an analysis of:

(A) the effect of criminal code reform on:

(i) county jails;

(ii) community corrections programs;

(iii) probation departments; and

(iv) courts;

(B) recidivism rates;

(C) reentry court programs; and

(D) data relevant to the availability and effectiveness of mental health and addiction programs for persons who are at risk of entering the criminal justice system, who are in the criminal justice system, and who have left the criminal justice system;

(2) track the number of requests for sentence modification that are set for hearing by the court, including the relief granted by the court, if any. The report must include whether the grant or denial of a request for sentence modification was discretionary or mandatory, and whether the prosecuting attorney opposed the

request for sentence modification, agreed to the request for sentence modification, or took no position on the request for sentence modification; and

(3) track, by age and offense, the number of juveniles under the jurisdiction of an adult court due to:

(A) lack of jurisdiction under IC 31-30-1-4; or

(B) waiver of jurisdiction under IC 31-30-3-2 through IC 31-30-3-6.

(f) All local units of government and local elected officials, including sheriffs, prosecuting attorneys, judges, and county fiscal bodies, shall cooperate with the institute by providing data as requested by the institute.

(g) State agencies, including the department of correction, the Indiana prosecuting attorneys council, the Indiana public defender council, and the judicial center, shall assist the institute by providing requested data in a timely manner.

(h) Based on its analysis, the institute shall include recommendations to improve the criminal justice system in Indiana, with particular emphasis being placed on recommendations that relate to sentencing policies and reform.

(i) The institute shall include research data relevant to its analysis and recommendations in the report.

As added by P.L.168-2014, SEC.8. Amended by P.L.187-2015, SEC.1.

IC 5-2-6-25

Human trafficking prevention and victim assistance fund

Sec. 25. (a) The human trafficking prevention and victim assistance fund is established for the purpose of providing funds for:

(1) human trafficking victim services; and

(2) human trafficking prevention programs provided by community based organizations.

Money in the fund may be used only to carry out the purposes of the fund.

(b) The fund shall be administered by the institute.

(c) The fund consists of:

(1) money deposited in the fund under IC 32-30-7-24.5;

(2) grants; and

(3) donations.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) 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 that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The state is subrogated to the rights of a victim to whom

services are provided, to the extent of the services. The subrogation rights are against the perpetrator of the crime or a person otherwise liable for the loss. If the victim brings a civil action against the perpetrator of the crime or against the person otherwise liable for the loss, the victim shall promptly notify the institute of the filing of the civil action.

(h) In addition to the subrogation rights under subsection (g), the state is entitled to a lien in the amount of the services provided on a recovery made by or on behalf of the victim. The state may:

(1) recover the amount of services in a separate action; or

(2) intervene in an action brought by or on behalf of the victim.

As added by P.L.237-2015, SEC.1.

IC 5-2-6.1

Chapter 6.1. Compensation for Victims of Violent Crimes

IC 5-2-6.1-0.2

Application of certain amendments to predecessor statute

Sec. 0.2. The amendments made to IC 16-7-3.6-5 (before its repeal, now codified in this chapter) and IC 16-7-3.6-8 (before its repeal, now codified in this chapter) by P.L.351-1989 do not apply to the reimbursement of a claim that arises from a violent crime that occurs before July 1, 1989.

As added by P.L.220-2011, SEC.60. Amended by P.L.63-2012, SEC.5.

IC 5-2-6.1-0.5

"Bodily injury"

Sec. 0.5. As used in section 7 of this chapter, "bodily injury" means:

(1) an impairment of a physical condition;
(2) a visible injury;
(3) physical pain; or
(4) emotional trauma that stems directly from the impairment of a physical condition, a visible injury, or physical pain.

As added by P.L.121-2006, SEC.1.

IC 5-2-6.1-1

Claimant

Sec. 1. As used in this chapter, "claimant" means a victim filing an application for assistance under this chapter. The term includes:

(1) a parent;
(2) a surviving spouse;
(3) a legal dependent; or
(4) a personal representative;

of the claimant.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-2

Division

Sec. 2. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-2.5

"Emergency shelter care"

Sec. 2.5. As used in this chapter, "emergency shelter care" means housing in a facility having the primary purpose of providing temporary or transitional shelter for the homeless or for a specific population of the homeless.

As added by P.L.121-2006, SEC.2.

IC 5-2-6.1-3
Fund

Sec. 3. As used in this chapter, "fund" refers to the violent crime victims compensation fund established by section 40 of this chapter.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-4
Institute

Sec. 4. As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-5
Intoxicated

Sec. 5. As used in this chapter, "intoxicated" has the meaning set forth in IC 9-13-2-86.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-5.5
"Motor vehicle"

Sec. 5.5. As used in this chapter, "motor vehicle" has the meaning set forth in IC 7.1-1-3-26.3.
As added by P.L.121-2006, SEC.3.

IC 5-2-6.1-5.7
Out-of-pocket loss

Sec. 5.7. As used in this chapter, "out-of-pocket loss" means an amount equal to the amount of reimbursement payable under IC 27-8-10-3 for each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based.
As added by P.L.129-2009, SEC.1.

IC 5-2-6.1-6
Person

Sec. 6. As used in this chapter, "person" includes a sole proprietorship, a partnership, a corporation, an association, a fiduciary, and an individual.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-6.7
Terrorist act

Sec. 6.7. As used in this chapter, "terrorist act" means an act that:

(1) involves a violent act that is dangerous to human life;

(2) violates a criminal law of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or of any state;

(3) appears to be intended to:

(A) intimidate or coerce a civilian population;
(B) influence the policy of a government by intimidation or coercion; or
(C) affect the conduct of a government by assassination or kidnapping; and
(4) occurs primarily outside the territorial jurisdiction of the United States or transcends national boundaries because of the:
(A) means by which the act is accomplished;
(B) persons intended to be intimidated or coerced; or
(C) place in which the person that commits the act operates or seeks asylum.
As added by P.L.36-1997, SEC.2.

IC 5-2-6.1-7
Victim
Sec. 7. As used in this chapter, "victim" means an individual who suffers bodily injury or death as a result of a violent crime.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-7.5
Victim of a child sex crime
Sec. 7.5. As used in this chapter, "victim of a child sex crime" means an individual who was the victim of:
(1) child molesting (IC 35-42-4-3(a));
(2) vicarious sexual gratification (IC 35-42-4-5);
(3) child solicitation (IC 35-42-4-6);
(4) child seduction (IC 35-42-4-7); or
(5) incest (IC 35-46-1-3);
and was less than eighteen (18) years of age at the time the crime occurred.
As added by P.L.48-2012, SEC.3.

IC 5-2-6.1-8
Violent crime
Sec. 8. As used in this chapter, "violent crime" means the following:
(1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:
(A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.
(B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).
(C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).
(D) Criminal recklessness involving the use of a motor

vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(F) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.

(G) Child molesting (IC 35-42-4-3).

(H) Child seduction (IC 35-42-4-7).

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana. However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.3; P.L.129-2009, SEC.2; P.L.48-2012, SEC.4; P.L.238-2015, SEC.1; P.L.65-2016, SEC.1.

IC 5-2-6.1-9

Violent crime compensation unit

Sec. 9. The violent crime compensation unit is established as a unit of the victim services division of the institute.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-10

Duties of division

Sec. 10. The division shall do the following:

(1) Maintain an office and staff in Indianapolis.

(2) Prescribe forms for processing applications for assistance.

(3) Determine claims for assistance filed under this chapter and

investigate or reopen cases as necessary.

(4) Prepare a report of the division's activities each year for the governor and the legislative council. A report prepared under this subdivision for the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.47-1993, SEC.2. Amended by P.L.28-2004, SEC.55.

IC 5-2-6.1-11
Powers of division

Sec. 11. The division may do the following:

(1) Require from the attorney general, the state police department, local law enforcement personnel, a county department of public welfare, or a prosecuting attorney copies of investigations and data to assist the division in determining the validity of a claimant's application for assistance under this chapter.

(2) Require medical examination of victims.

(3) Hold hearings, administer oaths, examine any person under oath, issue subpoenas requiring the attendance and giving of testimony of witnesses, and require the production of books, papers, and documentary or other evidence. The subpoena powers provided in this subdivision may be exercised only by the director of the division or the director's designated representative.

(4) Take or cause to be taken affidavits or depositions.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-11.5
Confidentiality

Sec. 11.5. A claimant's:

(1) personal information (as defined in IC 9-14-6-6); and

(2) medical records;

are confidential.

As added by P.L.121-2006, SEC.4. Amended by P.L.198-2016, SEC.9.

IC 5-2-6.1-12
Persons eligible for assistance

Sec. 12. Except as provided in sections 13 through 15 of this chapter, the following persons are eligible for assistance under this chapter:

(1) A resident of Indiana who is a victim of a violent crime committed:

(A) in Indiana; or

(B) in a jurisdiction other than Indiana, including a foreign country, if the jurisdiction in which the violent crime occurs does not offer assistance to a victim of a violent crime that is substantially similar to the assistance offered under this

chapter.

(2) A nonresident of Indiana who is a victim of a violent crime committed in Indiana.

(3) A surviving spouse or dependent child of a victim of a violent crime who died as a result of that crime.

(4) Any other person legally dependent for principal support upon a victim of a violent crime who died as a result of that crime.

(5) A person who is injured or killed while trying to prevent a violent crime or an attempted violent crime from occurring in the person's presence or while trying to apprehend a person who had committed a violent crime.

(6) A surviving spouse or dependent child of a person who dies as a result of:

(A) trying to prevent a violent crime or an attempted violent crime from occurring in the presence of the deceased person; or

(B) trying to apprehend a person who had committed a violent crime.

(7) A person legally dependent for principal support upon a person who dies as a result of:

(A) trying to prevent a violent crime or an attempted violent crime from occurring in the presence of the deceased person; or

(B) trying to apprehend a person who had committed a violent crime.

(8) A person who is injured or killed while giving aid and assistance to:

(A) a law enforcement officer in the performance of the officer's lawful duties; or

(B) a member of a fire department who is being obstructed from performing lawful duties.

As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.4; P.L.161-2013, SEC.1; P.L.113-2014, SEC.6.

IC 5-2-6.1-13

Participants in criminal acts and prisoners not eligible for benefits; exceptions; award of compensation to dependents of violent criminals

Sec. 13. (a) Subject to subsection (b) and except as provided in subsection (c), benefits may not be awarded:

(1) if the victim sustained the injury as a result of participating or assisting in, or attempting to commit or committing a criminal act;

(2) if the injury occurred while the victim was a resident in a county, city, or federal jail or prison or in an institution operated by the department of correction;

(3) if the victim profited or would have profited from the

criminal act; or

(4) if, at the time the injury occurred, the victim was intoxicated and contributed to the commission of an unrelated felony.

(b) If the victim is a dependent child or dependent parent of the person who commits a violent crime, compensation may be awarded where justice requires.

(c) Benefits may be awarded to a person described in subsection (a)(4) who is the victim of a sex crime under IC 35-42-4, a crime involving domestic or family violence (as defined in IC 35-31.5-2-76), or a crime of domestic violence (as defined in IC 35-31.5-2-78).

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.5; P.L.114-2012, SEC.11.

IC 5-2-6.1-13.5

Only one claimant per victim eligible for a benefit

Sec. 13.5. The division may not award a benefit to more than one (1) claimant per victim.

As added by P.L.121-2006, SEC.6.

IC 5-2-6.1-14

Persons worth more than $200,000 not eligible for benefits

Sec. 14. (a) Benefits may not be awarded to a claimant under section 12(1), 12(2), 12(3), 12(4), or 15 of this chapter if the victim or claimant had a net worth of greater than two hundred thousand dollars ($200,000) at the time of suffering bodily injury.

(b) Benefits may not be awarded to a claimant under section 12(5), 12(6), 12(7), or 12(8) of this chapter if the victim or claimant had a net worth of greater than two hundred thousand dollars ($200,000) at the time of suffering bodily injury.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.7.

IC 5-2-6.1-15

Payment of funeral, burial, or cremation expenses of victim

Sec. 15. (a) If a victim of a violent crime dies as a result of the crime, the division may pay the reasonable expenses incurred for funeral, burial, or cremation.

(b) The division shall adopt guidelines to determine when the payment of expenses under subsection (a) is appropriate. In adopting guidelines under this subsection, the division shall consider the availability of other sources of compensation, including township assistance and federal programs.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.8; P.L.129-2009, SEC.3.

IC 5-2-6.1-16

Applications for assistance

Sec. 16. (a) A person eligible for assistance under section 12 of

this chapter may file an application for assistance with the division if the violent crime was committed in Indiana.

(b) Except as provided in subsection (e), the application must be received by the division not more than one hundred eighty (180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in subsection (e), the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in person, through the division's Internet web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age.

(f) An alleged victim of a battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age may submit an application to the division not later than five (5) years after the commission of the offense.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.9; P.L.48-2012, SEC.5; P.L.238-2015, SEC.2; P.L.65-2016, SEC.2.

IC 5-2-6.1-17

Requirements for compensation

Sec. 17. (a) Except for an alleged victim of a child sex crime, the division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than seventy-two (72) hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

(1) law enforcement and other records concerning the circumstances of the crime are available; and

(2) any criminal investigation directly related to the crime has been substantially completed.

(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.10; P.L.129-2009, SEC.4; P.L.48-2012, SEC.6.

IC 5-2-6.1-18

Denial of awards for failure of claimants to cooperate with law

enforcement officials

Sec. 18. The division shall deny an award of compensation under this chapter if the claimant fails to fully cooperate with law enforcement personnel in the investigation, apprehension, and prosecution of the offender before the date the award is paid.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-19

Forfeit of awards for failure of claimants to cooperate with law enforcement officials

Sec. 19. A claimant who fails to fully cooperate with law enforcement personnel in the investigation, apprehension, and prosecution of the offender after an award is paid forfeits the award.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-20

Suspension of reporting and cooperation requirements

Sec. 20. If:

(1) the division finds a compelling reason for failure to report to or cooperate with law enforcement officials; and

(2) justice requires;

the division may suspend the requirements of section 17, 18, or 19 of this chapter.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-21

Compensable losses

Sec. 21. (a) This section applies to claims filed with the division after December 31, 2005, and before July 1, 2009.

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars ($100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income the:

(A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or

(B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars ($1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars ($4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars ($2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.11; P.L.129-2009, SEC.5.

IC 5-2-6.1-21.1

Compensable losses; health care provider compensation

Sec. 21.1. (a) This section applies to claims filed with the division after June 30, 2009.

(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars ($100).

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:

(1) Reasonable expenses incurred within one hundred eighty (180) days after the date of the violent crime for necessary:

(A) medical, chiropractic, hospital, dental, optometric, and ambulance services;

(B) prescription drugs; and

(C) prosthetic devices;

that do not exceed the claimant's out-of-pocket loss.

(2) Loss of income:

(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; or

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) Reasonable emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars ($1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars ($5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars ($3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source.

(g) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for a period not to exceed two (2) years after the date of the violent crime if:

(1) the victim or the victim's representative requests the extension; and

(2) medical records and other documentation provided by the attending medical providers indicate that an extension is appropriate.

(h) The director may extend the one hundred eighty (180) day compensation period established by subsection (d)(1) for outpatient

mental health counseling, established by subsection (d)(7), if the victim:

(1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);

(2) was under eighteen (18) years of age at the time of the alleged crime; and

(3) did not reveal the crime within two (2) years after the date of the alleged crime.

As added by P.L.129-2009, SEC.6. Amended by P.L.161-2013, SEC.2; P.L.113-2014, SEC.7.

IC 5-2-6.1-22
Subrogation of rights; notice of civil actions

Sec. 22. (a) The state is subrogated to the rights of the claimant to whom an award is granted to the extent of the award.

(b) The subrogation rights are against the perpetrator of the crime or a person liable for the pecuniary loss.

(c) If the claimant initiates a civil action against the perpetrator of the crime or against the person liable for the pecuniary loss, the claimant shall promptly notify the division of the filing of the civil action.

As added by P.L.47-1993, SEC.2. Amended by P.L.161-2013, SEC.3; P.L.113-2014, SEC.8.

IC 5-2-6.1-23
Liens on civil awards; deductions; limits

Sec. 23. (a) In addition to the subrogation rights under section 22 of this chapter, the state is entitled to a lien in the amount of the award on a recovery made by or on behalf of the claimant.

(b) The state may:

(1) recover the amount under subsection (a) in a separate action; or

(2) intervene in an action brought by or on behalf of the claimant.

(c) If the claimant brings the action, the claimant may deduct from the money owed to the state under the lien the state's pro rata share of the reasonable expenses for the court suit, including attorney's fees of not more than fifteen percent (15%).

As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.12; P.L.161-2013, SEC.4; P.L.113-2014, SEC.9.

IC 5-2-6.1-24
Hearing officers

Sec. 24. The division shall employ sufficient hearing officers to review each application for an award to carry out this chapter.

As added by P.L.47-1993, SEC.2. Amended by P.L.100-2012, SEC.15.

IC 5-2-6.1-25
Review of applications; additional information

Sec. 25. (a) The division shall review all applications to ensure that the applications are complete.

(b) If an application is not complete, the application shall be returned to the applicant with a brief statement of the additional information required.

(c) The applicant may, not more than thirty (30) days after receipt of the request for additional information, either supply the information or appeal to the director.

(d) The decision of the director is final.

(e) If:

(1) the applicant does not furnish additional information;

(2) additional time is not granted by the director for good cause; or

(3) the applicant does not appeal the request not later than thirty (30) days after the request;

the application shall be denied.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-26
Investigations

Sec. 26. (a) If an application is complete, the division shall accept the application for filing and investigate the facts stated in the application.

(b) As part of the investigation, the division shall verify that:

(1) a violent crime was committed;

(2) the victim was killed or suffered bodily injury as a result of the crime;

(3) the requirements of sections 13, 16(a), 16(b), 17, 18, and 19 of this chapter are met; and

(4) out-of-pocket loss exceeded one hundred dollars ($100).

As added by P.L.47-1993, SEC.2. Amended by P.L.161-2013, SEC.5; P.L.113-2014, SEC.10.

IC 5-2-6.1-27
Hearings

Sec. 27. (a) A hearing officer may hold a hearing concerning the merits of the application to allow any interested person to appear to offer evidence and argument on any issue relevant to the application or to the facts surrounding the bodily injury or death upon which the application is based.

(b) If a hearing is held, the claimant shall be notified in writing by certified mail with return receipt requested fifteen (15) days in advance concerning the date, time, place, and scope of the hearing in accordance with IC 4-21.5-3.

(c) A hearing must be open to the public unless the hearing officer, in consultation with the director, determines that the hearing

or a part of the hearing should be held in private in the interest of the victim or society where justice requires.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-28
Decisions

Sec. 28. (a) Not more than ten (10) days after the hearing, the hearing officer shall issue a written decision supported by findings of fact and conclusions of law based on the record from the hearing, the investigation, and the application of the claimant.

(b) Copies of the decision shall be mailed to the claimant at the address given in the application and to the attorney general.
As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.13; P.L.1-2007, SEC.23.

IC 5-2-6.1-29
Appeals

Sec. 29. (a) The state or a claimant may appeal the findings of the hearing officer not more than twenty-one (21) days after the date of receipt of the findings by filing a written appeal with the director.

(b) If an appeal is filed, the director shall review the matter and place the appeal on the docket for review by the division.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-30
Procedures

Sec. 30. A proceeding under this chapter must be according to procedures adopted by the division.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-31
Denial of awards without opportunity for hearing prohibited

Sec. 31. The hearing officer may not deny an award without providing the claimant with an opportunity for a hearing.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-32
Reduction of awards; other conditions

Sec. 32. (a) The division shall reduce an award made under this chapter by the amount of benefits received or to be received from the following sources if those benefits result from or are in any manner attributable to the bodily injury or death upon which the award is based:

(1) Benefits from public or private pension programs, including Social Security benefits.
(2) Benefits from proceeds of an insurance policy.
(3) Benefits under IC 22-3-2 through IC 22-3-6.
(4) Unemployment compensation benefits.

(5) Benefits from other public funds, including Medicaid and Medicare.

Compensation must be further reduced or denied to the extent that the claimant's loss is recouped from other collateral sources.

(b) The division shall further reduce an award under this chapter by the following:

(1) The amount of court ordered restitution actually received by the claimant from the offender.

(2) Benefits actually received by the claimant from a third party on behalf of the offender.

(c) The division shall determine whether the claimant vigorously pursued recovery against available collateral sources described in this section.

(d) If the division finds that a claimant has failed to pursue an applicable collateral source of recovery, the division shall reduce or deny an award under this section by the amount that is available to the claimant through the collateral source.

(e) A claimant must exhaust any paid or otherwise compensated vacation leave, sick leave, personal leave, or other compensatory time accrued through an employer before applying for benefits. The division may not reimburse the claimant for the use of paid or otherwise compensated vacation leave, sick leave, personal leave, or other compensatory time.

As added by P.L.47-1993, SEC.2. Amended by P.L.7-2003, SEC.1; P.L.121-2006, SEC.14; P.L.161-2013, SEC.6; P.L.113-2014, SEC.11.

IC 5-2-6.1-33

Refund of award overpayments

Sec. 33. If:

(1) an award is made under this chapter; and

(2) the claimant receives a sum required to be deducted under section 32 of this chapter;

the claimant shall refund to the state the amount of overpayment.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-34

Denial of awards due to victim's contributory conduct

Sec. 34. (a) In determining the amount of the award, the division shall determine whether the victim contributed to the infliction of the victim's injury or death.

(b) If the division finds that the victim contributed to the infliction of the victim's injury or death, the division may deny an award.

(c) If the division further finds that the victim's contributory conduct was solely attributable to an effort to:

(1) prevent a crime from occurring; or

(2) apprehend a person who committed a crime;

in the victim's presence, the victim's contributory conduct does not

render the victim ineligible for compensation.
As added by P.L.47-1993, SEC.2. Amended by P.L.121-2006, SEC.15; P.L.161-2013, SEC.7; P.L.113-2014, SEC.12.

IC 5-2-6.1-35
Amount of awards; joint payments

Sec. 35. (a) An award to a claimant under this chapter:

(1) may not exceed fifteen thousand dollars ($15,000); and

(2) may not cover the first one hundred dollars ($100) of the claim.

(b) The part of an award covering an unpaid bill shall be made payable to the service provider.
As added by P.L.47-1993, SEC.2. Amended by P.L.55-2000, SEC.1; P.L.121-2006, SEC.16.

IC 5-2-6.1-36
Emergency awards

Sec. 36. (a) If:

(1) the division determines that a claimant will suffer severe financial hardship unless an emergency award is made; and

(2) it appears likely that a final award will be made;

an emergency award not to exceed five hundred dollars ($500) may be authorized by the director or the director's designated representative.

(b) The amount of an emergency award is:

(1) deducted from the final award made by the division; and

(2) recoverable from the claimant if no award is made by the division or to the extent that the emergency award exceeds the amount of the final award.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-37
Repealed

(As added by P.L.47-1993, SEC.2. Repealed by P.L.121-2006, SEC.30.)

IC 5-2-6.1-37.5
Contingency fee at hearing may not exceed 10%

Sec. 37.5. An attorney who represents a victim at a hearing conducted by the division related to a claim under this chapter may not:

(1) charge a claimant a contingency fee for the representation that exceeds ten percent (10%) of the value of the award; or

(2) receive a direct payment from the division.

As added by P.L.121-2006, SEC.17.

IC 5-2-6.1-38
Exemption of awards from process

Sec. 38. An award made by the division to a claimant is not subject to execution, attachment, garnishment, or other process, except the claim of a creditor to the extent that the costs were included in the award.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-39
Payment of forensic medical exams and additional forensic services

Sec. 39. (a) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital shall furnish the forensic medical exam described in IC 16-21-8-6 without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and shall adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter, despite delays in reimbursement from the victim services division of the Indiana criminal justice institute.

(b) When a hospital acting under IC 16-21-8 provides a forensic medical exam to an alleged sex crime victim, the hospital may also furnish additional forensic services to the alleged sex crime victim. However, the additional forensic services, if furnished, shall be furnished without charge. The victim services division of the Indiana criminal justice institute shall reimburse a hospital for its costs in providing these services and may adopt rules and procedures to provide for reasonable reimbursement. A hospital may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(c) Costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3), if the examination is performed for the purposes of gathering evidence for possible prosecution, may not be charged to the victim of the crime.

(d) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide a forensic medical exam to an alleged victim of one (1) or more of the sex crimes listed in IC 16-21-8-1(b), the medical service provider shall furnish the exam without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing forensic medical exams. A medical service provider may not charge the victim for a forensic medical exam required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(e) When a licensed medical service provider not covered by subsection (a) or (b) elects to provide additional forensic services to an alleged sex crime victim, the medical service provider shall

furnish the services without charge. The victim services division of the Indiana criminal justice institute shall reimburse a medical service provider for costs in providing the additional forensic services. A medical service provider may not charge the victim for services required under this chapter even if there is a delay in receiving reimbursement from the victim services division of the Indiana criminal justice institute.

(f) The victim services division of the Indiana criminal justice institute is not required to reimburse a medical service provider for costs in providing additional forensic services unless the following conditions are met:

(1) The victim is at least eighteen (18) years of age.

(2) If the victim is less than eighteen (18) years of age, a report of the sex crime must be made to child protective services or a law enforcement officer.

(3) The sex crime occurred in Indiana.

If the division finds a compelling reason for failure to comply with the requirements of this section, the division may suspend the requirements of this section.

(g) Costs incurred by a licensed medical service provider for the examination of the victim of a sex crime (under IC 35-42-4) not covered under IC 16-21-8 or incest (under IC 35-46-1-3) may not be charged to the victim of the crime if the examination is performed for the purposes of gathering evidence for possible prosecution.

As added by P.L.47-1993, SEC.2. Amended by P.L.36-1997, SEC.5; P.L.121-2006, SEC.18; P.L.41-2007, SEC.1; P.L.129-2009, SEC.7.

IC 5-2-6.1-40

Compensation fund; establishment

Sec. 40. The violent crime victims compensation fund is established as a dedicated fund to provide money for the awards provided under this chapter and for reimbursements under IC 16-21-8-6.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-41

Compensation fund; composition

Sec. 41. The fund consists of amounts deposited under IC 5-2-6.3-6(b)(3), IC 11-10-7-5, IC 11-10-8-6, IC 33-37-7-9, IC 34-51-3-6, and IC 35-50-5-3 and appropriations from the general assembly.

As added by P.L.47-1993, SEC.2. Amended by P.L.98-2004, SEC.49; P.L.121-2006, SEC.19; P.L.105-2006, SEC.1.

IC 5-2-6.1-42

Compensation fund; reversion of money and income

Sec. 42. Money in the fund and income derived from money in the fund do not revert to the state general fund at the end of a state fiscal

year.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-43
Computation and payment of awards

Sec. 43. (a) If the division determines that an award from the fund becomes final during a month, the division shall compute the award before the fifteenth day of the following month.

(b) Except as provided in section 44 of this chapter, an award must be paid not more than thirty (30) days after the date on which the award is computed.

(c) Awards must be paid in the order in which the awards become final.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-44
Suspension of payments; prorated payments

Sec. 44. (a) If the fund would be reduced below two hundred fifty thousand dollars ($250,000) by payment in full of all awards that become final in a month, the division shall suspend payment of the claims that become final during the month and the following two (2) months.

(b) At the end of the suspension period the division shall pay the suspended claims. If the fund would be exhausted by payment in full of the suspended claims, the amount paid to each claimant shall be prorated.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-45
Liability for determinations

Sec. 45. The state is not liable for a written determination made by the division under this chapter except to the extent that money is available in the fund on the date the award is computed by the division under this chapter.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-46
Rules

Sec. 46. The division shall adopt rules under IC 4-22-2 governing the computation and payment of awards under this chapter and the payment of reimbursements under IC 16-21-8-6.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-47
Forfeit of awards for forgery, fraud, or deception

Sec. 47. A claimant convicted of forgery, fraud, or deception in connection with a claim under this chapter forfeits an award paid to the claimant under this chapter.

As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-48
Expenses of administration

Sec. 48. The division may pay expenses incurred in administering this chapter only from money appropriated for that purpose from the violent crime victims compensation fund.
As added by P.L.47-1993, SEC.2.

IC 5-2-6.1-49
Secured storage fund

Sec. 49. (a) The secured storage fund is established as a dedicated fund to provide money to assist counties to pay expenses for the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(b) The division shall administer the secured storage fund.

(c) The institute shall identify grants and other funds that can be used to fund the secured storage of samples from forensic medical examinations of alleged sex crime victims.

(d) The division may accept any gifts or donations to the secured storage fund.

(e) Money in the secured storage fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.41-2007, SEC.2.

IC 5-2-6.2

Chapter 6.2. Project IMPACT

IC 5-2-6.2-1

"Project IMPACT"

Sec. 1. As used in this chapter, "Project IMPACT" refers to each of the affiliate organizations authorized under section 3(1) through 3(5) of this chapter.

As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-2

"Project IMPACT USA, Inc."

Sec. 2. As used in this chapter, "Project IMPACT USA, Inc." refers to the national, nonprofit organization known by that name that seeks to assist states in providing comprehensive family restoration programs in an effort to assist in reducing juvenile delinquency and violence among families through personal empowerment and community involvement.

As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-3

Development of affiliate organizations

Sec. 3. Project IMPACT USA, Inc., is authorized to develop and implement the following five (5) affiliate organizations to be administered at the following sites:

(1) Project IMPACT Allen in Fort Wayne.

(2) Project IMPACT Lake in Gary.

(3) Project IMPACT Marion in Indianapolis.

(4) Project IMPACT St. Joseph in South Bend.

(5) Project IMPACT Vanderburgh in Evansville.

As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-4

Project IMPACT mission

Sec. 4. Project IMPACT is a comprehensive family restoration program providing delinquency prevention services to problematic youth and their families.

As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-5

Project IMPACT objectives

Sec. 5. The objectives of Project IMPACT are the following:

(1) To reduce the number of arrests.

(2) To reduce the number of school suspensions.

(3) To reduce the number of youth referred to juvenile courts for delinquency and unruly behavior.

(4) To increase a troubled youth's ability to cope with daily problems.

(5) To improve relationships between problematic youth and parents.
(6) To change conventional methods of youth incarceration by providing positive alternatives to:
(A) drug abuse;
(B) gangs;
(C) school failure; and
(D) other difficult situations for youth.
(7) To assist problematic youth and their families to:
(A) focus on personal responsibility;
(B) experience achievement;
(C) learn discipline;
(D) develop confidence; and
(E) promote family reconciliation.
As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-6
Programs
Sec. 6. Project IMPACT may provide the following programs:
(1) A juvenile diversion program that consists of:
(A) individual and family counseling;
(B) personal development workshops;
(C) referral assistance; and
(D) case management.
(2) A school dropout prevention program that consists of:
(A) counseling and referrals;
(B) tutoring and mentoring;
(C) family forums; and
(D) career education.
(3) A job training and placement program that consists of:
(A) career planning;
(B) job readiness training;
(C) internships; and
(D) job placement services.
(4) A parent education program that consists of:
(A) teaching parenting skills;
(B) child and adolescent development;
(C) behavior modification;
(D) parental involvement;
(E) a fatherhood program; and
(F) a teen parent program.
(5) Family spirituality counseling to include mentoring and follow-up services sustained through the faith community.
As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-7
Services
Sec. 7. Project IMPACT may provide services to problematic

youth and their families, including persons referred to Project IMPACT from:

(1) juvenile courts;

(2) local schools; and

(3) community organizations.

As added by P.L.16-2009, SEC.11.

IC 5-2-6.2-8

Contracts with Indiana criminal justice institute

Sec. 8. In order to carry out this chapter, Project IMPACT may enter into a contract with the Indiana criminal justice institute established under IC 5-2-6.

As added by P.L.16-2009, SEC.11.

IC 5-2-6.3

Chapter 6.3. Broadcast or Publication of Crime Stories of Accused or Convicted Felons

IC 5-2-6.3-1

Division

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

As added by P.L.47-1993, SEC.3.

IC 5-2-6.3-2

Responsible party

Sec. 2. As used in this chapter, "responsible party" means an individual who has been formally charged with or convicted of a felony.

As added by P.L.47-1993, SEC.3.

IC 5-2-6.3-3

Payment of proceeds to division; notice to victims and escrow of money

Sec. 3. (a) If:

(1) a responsible party derives income or other proceeds directly or indirectly from a felony of which the responsible party has been accused or convicted:

(A) the responsible party; or

(B) any other person that possesses or controls the income or proceeds;

shall transfer ninety percent (90%) of the income or proceeds to the division; and

(2) a person contracts with a responsible party after August 31, 1982, for:

(A) the publication of;

(B) the broadcasting of; or

(C) a speaking engagement in which the responsible party speaks about;

the responsible party's thoughts, feelings, opinions, or emotions regarding a felony of which the responsible party has been accused or convicted, the person shall submit a copy of the contract to the division and shall pay to the division ninety percent (90%) of the money that would otherwise, by terms of the contract, be owed to the responsible party.

(b) The division shall do the following:

(1) Notify:

(A) all victims of the felony for which the responsible party has been accused or convicted; or

(B) if a victim is deceased, the victim's heirs;

that the responsible party has entered into a contract described in subsection (a).

(2) Deposit the money under subsection (a) in a separate interest bearing escrow account.

(3) Only make distributions from the account in accordance with this chapter.

As added by P.L.47-1993, SEC.3. Amended by P.L.60-1995, SEC.1.

IC 5-2-6.3-4

Distribution of escrowed money to indigent responsible parties

Sec. 4. (a) The responsible party may petition the court before which the responsible party is to be tried or in which the responsible party has been convicted for an order requiring the division to distribute money from the escrow account to the responsible party in an amount up to the total in the escrow account at the time the petition is filed.

(b) The court shall make an order under subsection (a) only upon a showing that:

(1) without use of the money held in the escrow account, the responsible party would be indigent; and

(2) the money will be used for the exclusive purpose of retaining legal counsel or for investigation during any stage of the felony proceedings against the responsible party, including the appeals process.

(c) Upon receipt of a court order issued under this section, the division shall distribute the required amount from the money in the escrow account.

As added by P.L.47-1993, SEC.3.

IC 5-2-6.3-5

Distribution of escrowed money to victims and victims' heirs receiving damage awards

Sec. 5. (a) Subject to subsection (b), if the victim or the victim's heirs receive a damage award as a result of a civil action arising from the felonious act that has been charged, the person awarded the damages may petition the court for an order requiring the division to distribute money to the person from the escrow account.

(b) The court may make an order under subsection (a) only for an amount equal to the amount by which the damage award exceeds the value of the defendant's assets that are in the defendant's possession and that can be taken by the plaintiff to satisfy the damage award.

As added by P.L.47-1993, SEC.3.

IC 5-2-6.3-6

Distribution of escrowed money to incarceration expenses and violent crime victims compensation fund

Sec. 6. (a) Subject to subsection (c), if:

(1) the responsible party has been found to be:

(A) guilty;

(B) guilty but mentally ill; or

(C) not responsible by reason of insanity;

for the act of which the party has been accused; and

(2) the responsible party has exhausted all appeals or if the time for appeals has expired;

the division may distribute all money remaining in the escrow account under subsection (b) after the money has been distributed to a victim or the victim's heirs under section 5 of this chapter.

(b) The division shall distribute money remaining in the escrow account in the following priority:

(1) The money shall be distributed to the state or local governmental entity that has incurred or will incur the greatest expense to incarcerate the responsible party in an amount equal to:

(A) the amount of money the entity spent to incarcerate the responsible party; or

(B) the estimated amount of money the entity will spend to incarcerate the responsible party.

(2) If there is any money remaining after the distribution under subdivision (1), the money shall be distributed to any other state or local governmental entity that incurred expenses to incarcerate the responsible party in an amount equal to the amount of money the entity spent to incarcerate the responsible party.

(3) If there is any money remaining after the distribution under subdivision (2), the money shall be distributed to the violent crime victims compensation fund established by IC 5-2-6.1-40.

To receive money distributed under this subsection, a state or local governmental entity must petition the court before which the responsible party is to be tried or in which the responsible party has been convicted for an order requiring the division to distribute money to the entity from the escrow account.

(c) The division may not make the payment under this section unless at least two (2) years have elapsed from the time the responsible party committed the act for which the responsible party has been charged. The division may not make the payment while a civil action arising from the felony is pending.

As added by P.L.47-1993, SEC.3. Amended by P.L.60-1995, SEC.2.

IC 5-2-6.3-7

Distribution of escrowed money to responsible parties not convicted of felonies

Sec. 7. (a) Except as provided in subsection (b), if:

(1) a responsible party is found to be not guilty or has had the case against the responsible party dismissed; and

(2) if all periods for appeal by the state have expired;

the division shall distribute all money remaining in the escrow account to the responsible party.

(b) If a responsible party is found to lack the competency

necessary to stand trial, the division shall distribute all money remaining in the escrow account to the responsible party if:

(1) the responsible party does not become competent to stand trial within five (5) years after the money is first placed in the escrow account; and

(2) a civil action arising from the felony of which the responsible party is accused is not pending.

As added by P.L.47-1993, SEC.3.

IC 5-2-6.5
Expired

(Expired 12-31-2011 by P.L.145-2011, SEC.1.)

IC 5-2-6.6

Chapter 6.6. Domestic Violence Prevention and Treatment Council

IC 5-2-6.6-1

"Council"

Sec. 1. As used in this chapter, "council" refers to the domestic violence prevention and treatment council established by section 3 of this chapter.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-2

"Division"

Sec. 2. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-3

Domestic violence prevention and treatment council established

Sec. 3. (a) The domestic violence prevention and treatment council is established within the division.

(b) The division shall provide staff support to the council.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-4

Council membership

Sec. 4. The council consists of thirteen (13) members appointed by the governor. Each member must have experience and knowledge with regard to the problems of domestic violence. The members must include the following:

(1) A domestic violence services provider.

(2) A survivor of domestic violence.

(3) A member recommended by the Indiana Coalition Against Domestic Violence.

(4) A member recommended by the Indiana Coalition Against Sexual Assault.

(5) A law enforcement officer.

(6) A member recommended by the prosecuting attorneys council of Indiana.

(7) A mental health professional.

(8) A medical professional.

(9) A provider of services to children who are victims of abuse or neglect.

(10) A representative of a certified batterers intervention program.

(11) A faculty member of an accredited college or university.

(12) A member recommended by the Latino Coalition Against Domestic and Sexual Violence.

(13) A member recommended by the public defender council of Indiana.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-5
Membership term

Sec. 5. A member serves a term of three (3) years, with each term beginning July 1 and ending June 30.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-6
Removal

Sec. 6. A member may be removed by the governor for cause.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-7
Vacancies

Sec. 7. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-8
Per diem; reimbursement of expenses

Sec. 8. Each member of the council is entitled to the following:

(1) The minimum salary per diem provided in IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-9
Presiding member

Sec. 9. The governor shall designate one (1) member to preside over the initial meeting of the council each year. At the first meeting of the council each year, members shall elect a chairperson for the subsequent twelve (12) month period.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.6-10
Council duties

Sec. 10. The council shall do the following:

(1) Coordinate and monitor programs for the domestic violence prevention and treatment fund under IC 5-2-6.7.

(2) Develop and implement a state plan to provide services for the prevention and treatment of domestic violence.

(3) Review and recommend to the division the approval or disapproval of grants or contracts in accordance with IC 5-2-6.7.

(4) Develop and recommend a plan to coordinate funding of domestic violence and sexual assault programs.

(5) Recommend to the division rules to be adopted by the division under IC 4-22-2 to carry out this chapter.

As added by P.L.130-2009, SEC.3.

IC 5-2-6.7

Chapter 6.7. Domestic Violence Prevention and Treatment Fund

IC 5-2-6.7-1

"Division"

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-2

"Domestic violence prevention and treatment center"

Sec. 2. As used in this chapter, "domestic violence prevention and treatment center" means an organized entity:

(1) established by:

(A) a city, town, county, or township; or

(B) an entity exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B); and

(2) created to provide services to prevent and treat domestic or family violence.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the domestic violence prevention and treatment fund established by this chapter.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-4

Domestic violence prevention and treatment fund established

Sec. 4. The domestic violence prevention and treatment fund is established.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-5

Administration of fund

Sec. 5. The division shall administer the fund.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-6

Sources of money for the fund

Sec. 6. Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Transfers from the family violence and victim assistance fund established by IC 5-2-6.8-3.

(3) Donations, gifts, and money received from any other source.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-7
Investment of money in fund

Sec. 7. 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.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-8
No reversion to state general fund

Sec. 8. 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.130-2009, SEC.4.

IC 5-2-6.7-9
Applications for grants

Sec. 9. A city, town, county, or township or an entity that is exempted from the gross retail tax under IC 6-2.5-5-21(b)(1)(B) that desires to receive a grant under this chapter or enter into a contract with the domestic violence prevention and treatment council established under IC 5-2-6.6 must apply in the manner prescribed by the rules of the division.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-10
Grants and contracts

Sec. 10. The division may make grants to and enter into contracts with entities eligible under section 9 of this chapter.

As added by P.L.130-2009, SEC.4. Amended by P.L.150-2014, SEC.1.

IC 5-2-6.7-11
Division's use of money from the fund

Sec. 11. The division may use money from the fund when awarding a grant or entering into a contract under this chapter if the money is used for the support of a program designed to do any of the following:

(1) Establish or maintain a domestic violence prevention and treatment center offering the services listed in section 12 of this chapter.

(2) Develop and establish a training program for professional, paraprofessional, and volunteer personnel who are engaged in areas related to the problems of domestic violence.

(3) Conduct research necessary to develop and implement programs for the prevention and treatment of domestic violence.

(4) Develop and implement other means for the prevention and treatment of domestic violence.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-12
Services required to be furnished to receive money from the fund

Sec. 12. An entity eligible under section 9 of this chapter may not receive money under this chapter for purposes of establishing and maintaining a domestic violence prevention and treatment center unless the center furnishes, agrees to furnish, or arranges with a third party to furnish all of the following services:

(1) Emergency shelter, provided either at the center or by arrangement at temporary residential facilities available in the community, that is available to a person who fears domestic or family violence.

(2) A twenty-four (24) hour telephone system to provide crisis assistance to a person threatened by domestic or family violence.

(3) Emergency transportation services if necessary to aid victims of domestic or family violence.

(4) Information, referral, and victim advocacy services in the areas of health care assistance, social and mental health services, family counseling, job training and employment opportunities, legal assistance, and counseling for dependent children.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-13
Staff

Sec. 13. The division may use money from the fund to hire the staff necessary to carry out this chapter.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.7-14
Receipt of money agreement

Sec. 14. The division may enter into an agreement with a person for the receipt of money consistent with this chapter.

As added by P.L.130-2009, SEC.4.

IC 5-2-6.8

Chapter 6.8. Family Violence and Victim Assistance Fund

IC 5-2-6.8-1

"Division"

Sec. 1. As used in this chapter, "division" refers to the victim services division of the Indiana criminal justice institute.

As added by P.L.130-2009, SEC.5.

IC 5-2-6.8-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the family violence and victim assistance fund established by this chapter.

As added by P.L.130-2009, SEC.5.

IC 5-2-6.8-3

Family violence and victim assistance fund established

Sec. 3. The family violence and victim assistance fund is established.

As added by P.L.130-2009, SEC.5.

IC 5-2-6.8-4

Fund purpose

Sec. 4. The purpose of the fund is to provide funding for domestic violence prevention and treatment, child abuse prevention, and victim and witness assistance programs.

As added by P.L.130-2009, SEC.5.

IC 5-2-6.8-5

Administration of fund

Sec. 5. The division shall administer the fund.

As added by P.L.130-2009, SEC.5.

IC 5-2-6.8-6

Sources of money for the fund

Sec. 6. The sources of the fund include the following:

(1) Amounts deposited under IC 33-37-7-9.

(2) Amounts distributed from the state user fee fund under IC 33-37-9-4(a)(7).

As added by P.L.130-2009, SEC.5.

IC 5-2-6.8-7

Transfers from fund

Sec. 7. On June 30 and December 31 of each year, the treasurer of state shall transfer money from the fund as follows:

(1) Fifty-five percent (55%) of the balance on deposit in the fund or two hundred forty-five thousand dollars ($245,000), whichever is greater, shall be deposited in the domestic

violence prevention and treatment fund established under IC 5-2-6.7.

(2) The balance in the fund after the transfer of money under subdivision (1) shall be deposited as follows:

(A) One-third (1/3) shall be deposited in the Indiana kids first trust fund established by IC 31-26-4-12.

(B) Two-thirds (2/3) shall be deposited in the victim and witness assistance fund established by IC 5-2-6-14.

As added by P.L.130-2009, SEC.5.

IC 5-2-6.9
Repealed

(Repealed by P.L.133-2012, SEC.32.)

IC 5-2-7

Chapter 7. Filing of Fingerprint Samples

IC 5-2-7-1

Fingerprint samples; when necessary; failure to file

Sec. 1. (a) For each person arrested and charged by information or indictment with a reportable offense (as defined in IC 10-13-3-18) there shall be filed with the court having jurisdiction over the case:

(1) a fingerprint sample taken from the arrested person; and

(2) an affidavit, attached to or as an integral part of the fingerprint sample, from an employee of the law enforcement agency effecting the arrest that identifies the sample as taken from the arrested person.

(b) The failure to file a fingerprint sample or an affidavit under subsection (a) is not a ground for the dismissal of a criminal action or the continuance of a criminal action.

As added by P.L.35-1986, SEC.1. Amended by P.L.156-2003, SEC.3.

IC 5-2-7-2

Contents

Sec. 2. A fingerprint sample filed under this chapter must contain an imprint of the defendant's right index finger, or a full set of the defendant's fingerprints.

As added by P.L.35-1986, SEC.1.

IC 5-2-7-3

Affidavit

Sec. 3. An affidavit filed under this chapter must:

(1) be sworn to and signed by the individual who obtained the fingerprint sample; and

(2) contain the following information identifying the defendant:

(A) On one (1) line, the defendant's last name, first name, and middle name.

(B) Any aliases the defendant may use or by which the defendant may be known.

(C) The defendant's date of birth.

(D) The date of defendant's arrest.

(E) The defendant's sex, race, height, weight, eye color, and hair color.

(F) The nature and cause number of the charge filed against the defendant.

As added by P.L.35-1986, SEC.1.

IC 5-2-8

Chapter 8. Law Enforcement Training and Continuing Education

IC 5-2-8-1

County law enforcement continuing education program

Sec. 1. (a) The following definitions apply in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-31.5-2-29) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-31.5-2-29) or damage to property.

(2) "County law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 or IC 33-37-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent

injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse, including the U nonimmigrant visa created under the federal Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386).

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.

(19) Cultural diversity awareness that includes an understanding of cultural issues related to race, religion, gender, age, domestic violence, national origin, and physical and mental disabilities.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

As added by P.L.31-1986, SEC.2. Amended by P.L.305-1987, SEC.5; P.L.40-1988, SEC.1; P.L.52-1989, SEC.1; P.L.26-1990, SEC.3; P.L.2-1992, SEC.49; P.L.22-1994, SEC.1; P.L.1-1998, SEC.63; P.L.20-2001, SEC.1; P.L.1-2003, SEC.13; P.L.98-2004, SEC.50; P.L.2-2007, SEC.77; P.L.132-2007, SEC.1; P.L.20-2009, SEC.1; P.L.34-2010, SEC.1; P.L.114-2012, SEC.12; P.L.164-2014, SEC.2.

IC 5-2-8-2
Local law enforcement continuing education program

Sec. 2. (a) The following definitions apply in this section:

(1) "Abuse" has the meaning set forth in section 1(a) of this chapter.

(2) "City or town law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and fees collected under IC 9-29-4-2, IC 9-29-11-1, and IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under IC 33-37-8-4, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.
(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
(13) Landlord-tenant concerns in abuse cases.
(14) The taking of an abused child into protective custody.
(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.
(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
(17) Response to a sudden, unexpected infant death.
(18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

As added by P.L.31-1986, SEC.2. Amended by P.L.305-1987, SEC.6; P.L.40-1988, SEC.2; P.L.52-1989, SEC.2; P.L.26-1990, SEC.4; P.L.2-1992, SEC.50; P.L.48-1993, SEC.1; P.L.1-1994, SEC.16; P.L.22-1994, SEC.2; P.L.1-1998, SEC.64; P.L.20-2001, SEC.2; P.L.1-2003, SEC.14; P.L.98-2004, SEC.51; P.L.2-2007, SEC.78; P.L.132-2007, SEC.2; P.L.20-2009, SEC.2.

IC 5-2-8-3
Repealed

(Repealed by P.L.305-1987, SEC.38.)

IC 5-2-8-4
Repealed

(Repealed by P.L.305-1987, SEC.38.)

IC 5-2-8-5
State police training fund; claims against fund

Sec. 5. (a) There is established the state police training fund. The fund consists of amounts collected under IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4) on behalf of the state police department.

(b) If the state police department files a claim under IC 33-37-8-4 or IC 33-37-8-6 against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the state police department into the state police training fund established under this section.

(c) Claims against the state police training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is unencumbered and remains in the state police training fund for at

least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

(e) As used in this subsection, "abuse" has the meaning set forth in section 1(a) of this chapter. As a part of the state police department's in-service training, the department shall provide to each law enforcement officer employed by the department continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of the abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

The cost of providing continuing education under this subsection shall be paid from money in the state police training fund.

As added by P.L.31-1986, SEC.2. Amended by P.L.305-1987, SEC.7; P.L.52-1989, SEC.3; P.L.26-1990, SEC.5; P.L.2-1992, SEC.51; P.L.22-1994, SEC.3; P.L.1-1998, SEC.65; P.L.1-2003, SEC.15; P.L.98-2004, SEC.52.

IC 5-2-8-6
Use of funds received by law enforcement agency

Sec. 6. Funds received by a law enforcement agency under this chapter shall be used for the continuing education and training of law enforcement officers employed by the agency and for equipment and supplies for law enforcement purposes.
As added by P.L.31-1986, SEC.2. Amended by P.L.48-1993, SEC.2.

IC 5-2-8-7
Conservation officers training fund; claims against fund

Sec. 7. (a) There is established the conservation officers training fund. The department of natural resources shall administer the fund. The fund consists of amounts collected under IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4) on behalf of the department of natural resources.

(b) If the department of natural resources files a claim under IC 33-37-8-4 or IC 33-37-8-6 against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the department of natural resources into the conservation officers training fund established under this section.

(c) Claims against the conservation officers training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is unencumbered and remains in the conservation officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).
As added by P.L.41-1988, SEC.1. Amended by P.L.52-1989, SEC.4; P.L.98-2004, SEC.53.

IC 5-2-8-8
Alcoholic beverage enforcement officers' training fund; administration; claims; deposit of funds

Sec. 8. (a) There is established the alcoholic beverage enforcement officers' training fund. The alcohol and tobacco commission shall administer the fund. The fund consists of amounts collected under IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4) on behalf of the alcohol and tobacco commission.

(b) If the alcohol and tobacco commission files a claim under IC 33-37-8-4 or IC 33-37-8-6 against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the alcohol and tobacco commission into the alcoholic beverage enforcement officers' training fund established under this section.

(c) Claims against the alcoholic beverage enforcement officers' training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars ($100) that is unencumbered and remains in the alcoholic beverage enforcement

officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

As added by P.L.40-1991, SEC.1. Amended by P.L.204-2001, SEC.9; P.L.98-2004, SEC.54.

IC 5-2-9

Chapter 9. Protective Order Depositories

IC 5-2-9-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 1.3 and sections 1.5, 1.6, and 6.3 of this chapter (before their repeal) by P.L.280-2001 applies to foreign protection orders issued before, on, or after July 1, 2001.

(2) The amendments made to sections 2.1, 5, 6, 7, and 8 of this chapter by P.L.280-2001 apply to foreign protection orders issued before, on, or after July 1, 2001.

As added by P.L.220-2011, SEC.62.

IC 5-2-9-1

"Law enforcement agency" defined

Sec. 1. As used in this chapter, "law enforcement agency" means the department or agency of a city or town whose principal function is the apprehension of criminal offenders.

As added by P.L.53-1989, SEC.1.

IC 5-2-9-1.2

"IDACS coordinator" defined

Sec. 1.2. As used in this chapter, "IDACS coordinator" means an individual who holds an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals and who is appointed by the director of the law enforcement agency.

As added by P.L.116-2009, SEC.1; P.L.130-2009, SEC.6. Amended by P.L.1-2010, SEC.12.

IC 5-2-9-1.3

"County clerk" defined

Sec. 1.3. As used in this chapter, "county clerk" refers to the clerk of the circuit court.

As added by P.L.280-2001, SEC.3.

IC 5-2-9-1.4

"Indiana protective order registry" or "registry" defined

Sec. 1.4. As used in this chapter, "Indiana protective order registry" or "registry" means the Internet based registry of protective orders established under section 5.5 of this chapter and developed and maintained by the division of state court administration.

As added by P.L.116-2009, SEC.2; P.L.130-2009, SEC.7. Amended by P.L.1-2010, SEC.13.

IC 5-2-9-1.5
Repealed

(As added by P.L.280-2001, SEC.4. Repealed by P.L.133-2002, SEC.69.)

IC 5-2-9-1.6
Repealed

(As added by P.L.280-2001, SEC.5. Repealed by P.L.133-2002, SEC.69.)

IC 5-2-9-1.7
"Protected person" defined

Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, as defined in section 2.1 of this chapter.

As added by P.L.221-2003, SEC.1. Amended by P.L.116-2009, SEC.3; P.L.130-2009, SEC.8; P.L.1-2010, SEC.14.

IC 5-2-9-2
Repealed

(Repealed by P.L.1-1991, SEC.26.)

IC 5-2-9-2.1
"Protective order" defined

Sec. 2.1. (a) As used in this chapter, "protective order" means:

(1) a protective order issued under IC 34-26-5 (or, if the order involved a family or household member, IC 34-26-2-12(1)(A), IC 34-26-2-12(1)(B), IC 34-26-2-12(1)(C), IC 34-4-5.1-5(a)(1)(A), IC 34-4-5.1-5(a)(1)(B), or IC 34-4-5.1-5(a)(1)(C) before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their repeal);

(3) a protective order issued under IC 31-15-4-1 (or IC 31-1-11.5-7(b)(2), IC 31-1-11.5-7(b)(3), IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3) before their repeal);

(4) a dispositional decree containing a no contact order issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order containing a no contact order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal);

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;

(6) a no contact order issued as a condition of probation;

(7) a protective order issued under IC 31-15-5-1 (or IC 31-1-11.5-8.2 or IC 31-16-5 before their repeal);
(8) a protective order issued under IC 31-14-16-1 in a paternity action;
(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
(10) a workplace violence restraining order issued under IC 34-26-6;
(11) a child protective order issued under IC 31-34-2.3; or
(12) a foreign protective order registered under IC 34-26-5-17.

(b) Whenever a protective order is issued by an Indiana court, the Indiana court must caption the order in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order. The Indiana court shall also place on the order the court's hours of operation and telephone number with area code.

As added by P.L.1-1991, SEC.27. Amended by P.L.49-1993, SEC.1; P.L.23-1994, SEC.1; P.L.1-1997, SEC.32; P.L.37-1997, SEC.1; P.L.2-1998, SEC.13; P.L.1-1998, SEC.66; P.L.1-2001, SEC.2; P.L.280-2001, SEC.6; P.L.1-2002, SEC.15; P.L.133-2002, SEC.3; P.L.52-2007, SEC.1; P.L.116-2009, SEC.4; P.L.130-2009, SEC.9.

IC 5-2-9-3
"Sheriff" defined

Sec. 3. As used in this chapter, "sheriff" refers to a county sheriff.

As added by P.L.53-1989, SEC.1.

IC 5-2-9-4
Repealed

(Repealed by P.L.1-1991, SEC.28.)

IC 5-2-9-5
Depository established

Sec. 5. A depository is established in the office of each sheriff and law enforcement agency in Indiana for the purpose of collecting, maintaining, and retaining the following:
(1) Protective orders.
(2) No contact orders.
(3) Workplace violence restraining orders.
(4) Child protective orders.

As added by P.L.1-1991, SEC.29. Amended by P.L.49-1993, SEC.2; P.L.1-1997, SEC.33; P.L.1-1998, SEC.67; P.L.1-2001, SEC.3; P.L.280-2001, SEC.7; P.L.133-2002, SEC.4; P.L.52-2007, SEC.2.

IC 5-2-9-5.5
Indiana protective order registry; duties of division of state court administration

Sec. 5.5. (a) The Indiana protective order registry is established.

(b) The registry is an Internet based, electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.

(c) The registry must contain confidential information about protected persons.

(d) The division of state court administration shall create, manage, and maintain the registry.

(e) A protective order retained under section 5 of this chapter may be entered in the registry.

(f) The division of state court administration shall make the protective order registry established by this section available so that county case management systems may interface with the protective order registry by not later than December 31, 2009.

(g) The division of state court administration shall submit information concerning a standard protocol for county case management systems to interface with the protective order registry to each:

(1) prosecuting attorney; and

(2) court.

As added by P.L.116-2009, SEC.5; P.L.130-2009, SEC.10. Amended by P.L.1-2010, SEC.15.

IC 5-2-9-6

Copies of orders issued; confidential file; confidential form; registry

Sec. 6. (a) The clerk of a court that issues a protective order shall:

(1) provide a copy of the order to the petitioner; and

(2) provide a copy of the order and service of process to the respondent or defendant in accordance with the rules of trial procedure.

(b) The clerk of a court that issues a protective order or the clerk of a court in which a petition is filed shall maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration.

(c) This subsection applies to a protective order that a sheriff or law enforcement agency received under subsection (a) before July 1, 2009, and a confidential form under subsection (b) that was not retained in the registry. The sheriff or law enforcement agency shall:

(1) maintain a copy of the protective order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order;

(B) the location of the person who is subject to the protective order, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order;
(D) the manner in which the protective order is served;
(E) the name of the petitioner and any other protected parties;
(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, if reasonably ascertainable from the information received;
(G) the date the protective order expires;
(H) a caution indicator stating whether a person who is the subject of the protective order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and
(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

on the copy of the protective order or the confidential form; and

(3) except for a protective order that is retained in the registry, establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) Except for a protective order that is retained in the registry, a protective order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;
(2) an order of the court; or
(3) a notice of termination and an order of the court.

(e) If a protective order in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall:

(1) enter the notice of termination into; or
(2) provide a copy of the notice of termination to;

the registry and provide a copy of the notice of termination to each of the depositories to which the protective order was sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order or form is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. Except for a protective order retained in the registry, the clerk of the court shall provide a copy of the notice of extension or modification of a protective order to each of the depositories to which the order

and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order in the court's file.

(g) The clerk of a court that issued an order terminating a protective order that is an ex parte order shall provide a copy of the order to the following:

(1) Each party.

(2) Except for a protective order retained in the registry, the law enforcement agency provided with a copy of a protective order under subsection (a).

As added by P.L.23-1994, SEC.2. Amended by P.L.31-1996, SEC.3; P.L.32-1996, SEC.3; P.L.280-2001, SEC.8; P.L.133-2002, SEC.5; P.L.221-2003, SEC.2; P.L.52-2007, SEC.3; P.L.116-2009, SEC.6; P.L.130-2009, SEC.11; P.L.109-2015, SEC.19.

IC 5-2-9-6.3
Repealed

(As added by P.L.280-2001, SEC.9. Repealed by P.L.133-2002, SEC.69.)

IC 5-2-9-6.5
Information placed in the registry; law enforcement agency duties

Sec. 6.5. (a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in the order, including:

(1) dates of birth;

(2) Social Security numbers;

(3) driver license numbers; and

(4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

(1) the date and time the law enforcement agency received the protective order;

(2) the location of the person who is the subject of the protective order, if this information is available;

(3) the name and identification number of the law enforcement officer who served the protective order; and

(4) the manner in which the protective order was served.

As added by P.L.116-2009, SEC.7; P.L.130-2009, SEC.12. Amended by P.L.1-2010, SEC.16.

IC 5-2-9-7
Confidentiality

Sec. 7. (a) Any information:

(1) in a uniform statewide confidential form or any part of a confidential form prescribed by the division of state court

administration that must be filed with a protective order; or

(2) otherwise acquired concerning a protected person;

is confidential and may not be divulged to any respondent or defendant.

(b) Information described in subsection (a) may only be used by:

(1) a court;

(2) a sheriff;

(3) another law enforcement agency;

(4) a prosecuting attorney; or

(5) a court clerk;

to comply with a law concerning the distribution of the information.

As added by P.L.23-1994, SEC.3. Amended by P.L.280-2001, SEC.10; P.L.133-2002, SEC.6; P.L.52-2007, SEC.4; P.L.116-2009, SEC.8; P.L.130-2009, SEC.13.

IC 5-2-9-8

Entry of information into IDACS

Sec. 8. Except for a protective order that is retained in the registry, a law enforcement agency that receives a copy of a protective order shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 10-13-3-35 upon receiving a copy of the order.

As added by P.L.31-1996, SEC.4 and P.L.32-1996, SEC.4. Amended by P.L.280-2001, SEC.11; P.L.133-2002, SEC.7; P.L.97-2004, SEC.18; P.L.52-2007, SEC.5; P.L.116-2009, SEC.9; P.L.130-2009, SEC.14; P.L.109-2015, SEC.20.

IC 5-2-10

Chapter 10. State Drug Free Communities Fund

IC 5-2-10-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the state drug free communities fund established by this chapter.

As added by P.L.12-1990, SEC.2.

IC 5-2-10-2

Purpose; composition of fund

Sec. 2. The state drug free communities fund is established to promote comprehensive alcohol and drug abuse prevention initiatives by supplementing state and federal funding for the coordination and provision of treatment, education, prevention, and criminal justice efforts. The fund consists of amounts deposited:

(1) under IC 33-37-9-4; and

(2) from any other public or private source.

As added by P.L.12-1990, SEC.2. Amended by P.L.50-1993, SEC.1; P.L.98-2004, SEC.55.

IC 5-2-10-3

Administration of fund; costs

Sec. 3. The treasurer of state shall administer the fund. Costs of administering the fund shall be paid from money in the fund.

As added by P.L.12-1990, SEC.2. Amended by P.L.50-1993, SEC.2.

IC 5-2-10-4

Investment of fund

Sec. 4. 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.12-1990, SEC.2.

IC 5-2-10-5

Surplus funds

Sec. 5. 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.12-1990, SEC.2.

IC 5-2-10-6

Applications for grants; comprehensive drug free communities plan

Sec. 6. A person, an organization, an entity, a political subdivision, or an agency may receive a grant from the fund for services or activities included in a comprehensive drug free communities plan approved by the criminal justice institute by applying to the criminal justice institute.

As added by P.L.12-1990, SEC.2. Amended by P.L.39-1991, SEC.2; P.L.7-2016, SEC.3.

IC 5-2-10-7
Coordination with other funding

Sec. 7. A drug free communities plan submitted under section 6 of this chapter must show how proposed services will be coordinated with, and not supplant, local, state, or federal funding.

As added by P.L.12-1990, SEC.2. Amended by P.L.50-1993, SEC.3.

IC 5-2-10-8
Approval of application; disbursements

Sec. 8. If the criminal justice institute approves an application submitted to the criminal justice institute under section 6 of this chapter, the treasurer of state shall disburse from the fund to the applicant the amount of the grant:

(1) approved; and

(2) certified to the treasurer of state;

by the criminal justice institute.

As added by P.L.12-1990, SEC.2. Amended by P.L.39-1991, SEC.3; P.L.7-2016, SEC.4.

IC 5-2-10.1

Chapter 10.1. Indiana Safe Schools Fund

IC 5-2-10.1-0.3

"Commission" defined

Sec. 0.3. As used in this chapter, "commission" refers to a county school safety commission established under section 10 of this chapter.

As added by P.L.273-1999, SEC.217.

IC 5-2-10.1-1

"Fund" defined

Sec. 1. As used in this chapter, "fund" refers to the Indiana safe schools fund established by this chapter.

As added by P.L.61-1995, SEC.1.

IC 5-2-10.1-1.5

"Institute" defined

Sec. 1.5. As used in this chapter, "institute" refers to the Indiana criminal justice institute established under IC 5-2-6.

As added by P.L.273-1999, SEC.218.

IC 5-2-10.1-1.7

"Safety plan" defined

Sec. 1.7. As used in this chapter, "safety plan" refers to any school safety plan required by the Indiana state board of education.

As added by P.L.273-1999, SEC.219.

IC 5-2-10.1-2

Purpose and composition of fund; grant priorities and amounts

Sec. 2. (a) The Indiana safe schools fund is established to do the following:

(1) Promote school safety through the:

(A) use of dogs trained to detect drugs and illegal substances; and

(B) purchase of other equipment and materials used to enhance the safety of schools.

(2) Combat truancy.

(3) Provide matching grants to schools for school safe haven programs.

(4) Provide grants for school safety and safety plans.

(5) Provide educational outreach and training to school personnel concerning:

(A) the identification of;

(B) the prevention of; and

(C) intervention in;

bullying.

(6) Provide educational outreach to school personnel and

training to school safety specialists and school resource officers concerning:

(A) the identification of;

(B) the prevention of; and

(C) intervention in;

criminal organization activities.

(7) Provide grants for school wide programs to improve school climate and professional development and training for school personnel concerning:

(A) alternatives to suspension and expulsion; and

(B) evidence based practices that contribute to a positive school environment, including classroom management skills, positive behavioral intervention and support, restorative practices, and social emotional learning.

(b) The fund consists of amounts deposited:

(1) under IC 33-37-9-4; and

(2) from any other public or private source.

(c) The institute shall determine grant recipients from the fund with a priority on awarding grants in the following order:

(1) A grant for a safety plan.

(2) A safe haven grant requested under section 10 of this chapter.

(3) A safe haven grant requested under section 7 of this chapter.

(d) Upon recommendation of the council, the institute shall establish a method for determining the maximum amount a grant recipient may receive under this section.

As added by P.L.61-1995, SEC.1. Amended by P.L.260-1997(ss), SEC.44; P.L.273-1999, SEC.220; P.L.98-2004, SEC.56; P.L.106-2005, SEC.1; P.L.172-2013, SEC.1; P.L.190-2013, SEC.1; P.L.172-2013, SEC.2; P.L.220-2015, SEC.1; P.L.25-2016, SEC.1.

IC 5-2-10.1-3

Administration of fund; costs

Sec. 3. The institute established by IC 5-2-6 shall administer the fund. Costs of administering the fund shall be paid from money in the fund.

As added by P.L.61-1995, SEC.1. Amended by P.L.273-1999, SEC.221.

IC 5-2-10.1-4

Investment of money

Sec. 4. 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.61-1995, SEC.1.

IC 5-2-10.1-5

Surplus money

Sec. 5. 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.61-1995, SEC.1.

IC 5-2-10.1-6
Application for grants; safety plan

Sec. 6. (a) A school corporation, school corporation career and technical education school described in IC 20-37-1-1, or charter school (as defined in IC 20-24-1-4) may receive a grant from the fund for programs, equipment, services, or activities included in a safety plan submitted with the application for funds to the institute.

(b) A safety plan submitted under this section must include provisions for zero (0) tolerance for alcohol, tobacco, drugs, and weapons on school property. If the institute approves the safety plan and application, the treasurer of state shall disburse from the fund to the applicant the amount of the grant certified to the treasurer of state by the institute.
As added by P.L.61-1995, SEC.1. Amended by P.L.273-1999, SEC.222; P.L.280-2013, SEC.1; P.L.40-2014, SEC.1.

IC 5-2-10.1-7
School safe haven programs

Sec. 7. (a) As used in this section, "program" refers to a school safe haven program.

(b) A school corporation, school corporation career and technical education school described in IC 20-37-1-1, or charter school (as defined in IC 20-24-1-4) may apply to the institute for a grant for matching funds under this chapter to establish and operate a school safe haven program.

(c) A program must include at least the following components:

(1) The school must be open to students of the school before and after normal operating hours, preferably from 7 a.m. to 9 p.m., on days determined by the school corporation.

(2) The program must operate according to a plan to do the following in the school:

(A) Reduce alcohol, tobacco, and drug abuse.

(B) Reduce violent behavior.

(C) Promote educational progress.

(d) The institute shall adopt rules to administer the program, including rules concerning evaluations by school corporations and school corporation career and technical education schools described in IC 20-37-1-1 on the use and impact of grant money received through the program.
As added by P.L.260-1997(ss), SEC.45. Amended by P.L.273-1999, SEC.223; P.L.280-2013, SEC.2; P.L.40-2014, SEC.2.

IC 5-2-10.1-9
School safety specialists; duties; school safety plan

Sec. 9. (a) Each school corporation shall designate an individual to serve as the school safety specialist for the school corporation.

(b) The school safety specialist shall be chosen by the superintendent of the school corporation with the approval of the governing body.

(c) The school safety specialist shall perform the following duties:

(1) Serve on the county school safety commission, if a county school safety commission is established under section 10 of this chapter.

(2) Participate each year in a number of days of school safety training that the council determines.

(3) With the assistance of the county school safety commission, if a county school safety commission is established under section 10 of this chapter, develop a safety plan for each school in the school corporation.

(4) Coordinate the safety plans of each school in the school corporation as required under rules adopted by the Indiana state board of education.

(5) Act as a resource for other individuals in the school corporation on issues related to school discipline, safety, and security.

(d) A school safety plan:

(1) developed by the school safety specialist must include the requirements set forth in IC 20-26-18.2-2(b);

(2) must be provided to a member of the secured school safety board (as established by IC 10-21-1-3) if a member requests the plan; and

(3) shall be filed with the county school safety commission under IC 5-2-10.1-10 if the county has established a county school safety commission.

As added by P.L.273-1999, SEC.224. Amended by P.L.172-2013, SEC.3.

IC 5-2-10.1-10

County school safety commissions; members; duties

Sec. 10. (a) A county may establish a county school safety commission.

(b) The members of the commission are as follows:

(1) The school safety specialist for each school corporation located in whole or in part in the county.

(2) The judge of the court having juvenile jurisdiction in the county or the judge's designee.

(3) The sheriff of the county or the sheriff's designee.

(4) The chief officer of every other law enforcement agency in the county, or the chief officer's designee.

(5) A representative of the juvenile probation system, appointed by the judge described under subdivision (2).

(6) Representatives of community agencies that work with

children within the county.

(7) A representative of the Indiana state police district that serves the county.

(8) A representative of the prosecuting attorneys council of Indiana who specializes in the prosecution of juveniles.

(9) Other appropriate individuals selected by the commission.

(c) If a commission is established, the school safety specialist of the school corporation having the largest ADM (as defined in IC 20-18-2-2), as determined in the fall count of ADM in the school year ending in the current calendar year, in the county shall convene the initial meeting of the commission.

(d) The members shall annually elect a chairperson.

(e) A commission shall perform the following duties:

(1) Perform a cumulative analysis of school safety needs within the county.

(2) Coordinate and make recommendations for the following:

(A) Prevention of juvenile offenses and improving the reporting of juvenile offenses within the schools.

(B) Proposals for identifying and assessing children who are at high risk of becoming juvenile offenders.

(C) Methods to meet the educational needs of children who have been detained as juvenile offenders.

(D) Methods to improve communications among agencies that work with children.

(E) Methods to improve security and emergency preparedness.

(F) Additional equipment or personnel that are necessary to carry out safety plans.

(G) Any other topic the commission considers necessary to improve school safety within the school corporations within the commission's jurisdiction.

(3) Provide assistance to the school safety specialists on the commission in developing and requesting grants for safety plans.

(4) Provide assistance to the school safety specialists on the commission and the participating school corporations and school corporation career and technical education schools described in IC 20-37-1-1 in developing and requesting grants for school safe haven programs under section 7 of this chapter.

(5) Assist each participating school corporation and each school corporation career and technical education schools described in IC 20-37-1-1 in carrying out the school corporation's or career and technical education school's safety plans.

(f) The affirmative votes of a majority of the voting members of the commission are required for the commission to take action on a measure.

(g) A commission shall receive the school safety plans described in IC 20-26-18.2-2 for the schools and school corporations located in

the county. The commission may share the school safety plans with law enforcement agencies.

As added by P.L.273-1999, SEC.225. Amended by P.L.2-2006, SEC.11; P.L.172-2013, SEC.4; P.L.205-2013, SEC.74; P.L.2-2014, SEC.11; P.L.40-2014, SEC.3.

IC 5-2-10.1-11

School safety specialist training and certification program

Sec. 11. (a) The school safety specialist training and certification program is established.

(b) The school safety specialist training program shall provide:

(1) annual training sessions, which may be conducted through distance learning or at regional centers; and

(2) information concerning best practices and available resources;

for school safety specialists and county school safety commissions.

(c) The department of education shall do the following:

(1) Assemble an advisory group of school safety specialists from around the state to make recommendations concerning the curriculum and standards for school safety specialist training.

(2) Develop an appropriate curriculum and the standards for the school safety specialist training and certification program. The department of education may consult with national school safety experts in developing the curriculum and standards. The curriculum developed under this subdivision must include training in:

(A) identifying, preventing, and intervening in bullying; and

(B) identifying, preventing, and intervening in criminal organization activity.

(3) Administer the school safety specialist training program and notify the institute of candidates for certification who have successfully completed the training program.

(d) The institute shall do the following:

(1) Establish a school safety specialist certificate.

(2) Review the qualifications of each candidate for certification named by the department of education.

(3) Present a certificate to each school safety specialist that the institute determines to be eligible for certification.

As added by P.L.273-1999, SEC.226. Amended by P.L.106-2005, SEC.2; P.L.190-2013, SEC.2; P.L.25-2016, SEC.2.

IC 5-2-10.1-12

Safe school committees; school plans; copies of floor plans to law enforcement agency and fire department

Sec. 12. (a) Each school corporation shall establish a safe school committee. The committee may be a subcommittee of the committee that develops the strategic and continuous school improvement and achievement plan under IC 20-31-5. Each committee may include at

least one (1) member who is a member of the support staff of the school or school corporation career and technical education school.

(b) The department of education, the school corporation's school safety specialist, and, upon request, a school resource officer (as described in IC 20-26-18.2-1) shall provide materials and guidelines to assist a safe school committee in developing a plan and policy for the school that addresses the following issues:

(1) Unsafe conditions, crime prevention, school violence, bullying, criminal organization activity, and other issues that prevent the maintenance of a safe school.

(2) Professional development needs for faculty and staff to implement methods that decrease problems identified under subdivision (1).

(3) Methods to encourage:

(A) involvement by the community and students;

(B) development of relationships between students and school faculty and staff; and

(C) use of problem solving teams.

(c) As a part of the plan developed under subsection (b), each safe school committee shall provide a copy of the floor plans for each building located on the school's property that clearly indicates each exit, the interior rooms and hallways, and the location of any hazardous materials located in the building to the law enforcement agency and the fire department that have jurisdiction over the school.

(d) The guidelines developed under subsection (b) must include age appropriate, research based information that assists school corporations and safe school committees in:

(1) developing and implementing bullying prevention programs;

(2) establishing investigation and reporting procedures related to bullying; and

(3) adopting discipline rules that comply with IC 20-33-8-13.5.

(e) In addition to developing guidelines under subsection (b), the department of education shall establish categories of types of bullying incidents to allow school corporations to use the categories in making reports under IC 20-20-8-8 and IC 20-34-6-1.

As added by P.L.106-2005, SEC.3. Amended by P.L.1-2006, SEC.90; P.L.132-2007, SEC.3; P.L.172-2013, SEC.5; P.L.190-2013, SEC.3; P.L.285-2013, SEC.1; P.L.2-2014, SEC.12; P.L.40-2014, SEC.4; P.L.233-2015, SEC.7; P.L.25-2016, SEC.3.

IC 5-2-10.5
Repealed
(Repealed by P.L.22-2005, SEC.52.)

IC 5-2-11

Chapter 11. County Drug Free Community Fund

IC 5-2-11-0.5

"Criminal justice services and activities"

Sec. 0.5. As used in this chapter, "criminal justice services and activities" means programs that assist:

(1) law enforcement agencies;
(2) courts;
(3) correctional facilities;
(4) programs that offer probation services; and
(5) community corrections programs;

with individuals who have alcohol or drug addictions and who are suspected of having committed a felony or misdemeanor, have been charged with a felony or misdemeanor, or have been convicted of a felony or misdemeanor.

As added by P.L.44-2006, SEC.4.

IC 5-2-11-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to a county drug free community fund established by this chapter.

As added by P.L.12-1990, SEC.3.

IC 5-2-11-1.3

"Intervention"

Sec. 1.3. As used in this chapter, "intervention" means:

(1) activities performed to identify persons in need of addiction treatment services; and
(2) referring persons to or enrolling persons in addiction treatment programs.

As added by P.L.62-1995, SEC.1.

IC 5-2-11-1.6

"Local coordinating council"

Sec. 1.6. As used in this chapter, "local coordinating council" means a countywide citizen body approved and appointed by the Indiana commission to combat drug abuse established by IC 4-3-25-3 to plan, monitor, and evaluate comprehensive local alcohol and drug abuse plans.

As added by P.L.44-2006, SEC.5. Amended by P.L.7-2016, SEC.5.

IC 5-2-11-1.8

"Prevention"

Sec. 1.8. As used in this chapter, "prevention" means the anticipatory process that prepares and supports an individual and programs with the creation and reinforcement of healthy behaviors and lifestyles.

As added by P.L.44-2006, SEC.6.

IC 5-2-11-1.9
"Prevention initiative"

Sec. 1.9. As used in this chapter, "prevention initiative" means a program that is designed to decrease alcohol or drug use.
As added by P.L.44-2006, SEC.7.

IC 5-2-11-2
Purpose; composition

Sec. 2. A county drug free community fund is established in each county to promote comprehensive local alcohol and drug abuse prevention initiatives by supplementing local funding for treatment, education, and criminal justice efforts. The fund consists of amounts deposited under IC 33-37-7-2(c) and IC 33-37-7-8(e).
As added by P.L.12-1990, SEC.3. Amended by P.L.98-2004, SEC.57; P.L.1-2006, SEC.91.

IC 5-2-11-3
Administration of fund

Sec. 3. The county auditor shall administer the fund. Expenditures from the fund shall be made in accordance with appropriations made under section 5 of this chapter.
As added by P.L.12-1990, SEC.3.

IC 5-2-11-4
Surplus funds

Sec. 4. Money in the fund at the end of a fiscal year does not revert to any other fund.
As added by P.L.12-1990, SEC.3.

IC 5-2-11-5
Allocation of funds; approval of plan by criminal justice institute

Sec. 5. (a) Subject to subsections (b) and (c), a county fiscal body shall annually appropriate from the fund amounts allocated by the county legislative body for the use of persons, organizations, agencies, and political subdivisions to carry out recommended actions contained in a comprehensive drug free communities plan submitted by the local coordinating council and approved by the criminal justice institute as follows:

(1) For persons, organizations, agencies, and political subdivisions to provide prevention and education services, at least twenty-five percent (25%) of the money in the fund.

(2) For persons, organizations, agencies, and political subdivisions to provide intervention and treatment services, at least twenty-five percent (25%) of the money in the fund.

(3) For persons, organizations, agencies, and political subdivisions to provide criminal justice services and activities,

at least twenty-five percent (25%) of the money in the fund.

(4) A county fiscal body shall allocate the remaining twenty-five percent (25%) of the money in the fund to persons, organizations, agencies, and political subdivisions to provide services and activities under subdivisions (1) through (3) based on the comprehensive drug free communities plan submitted by the local coordinating council and approved by the criminal justice institute.

(b) In the comprehensive drug free communities plan, the local coordinating council shall determine the amount of funds the county fiscal body shall appropriate to implement the objectives approved in the comprehensive drug free communities plan.

(c) If the comprehensive drug free communities plan is not approved by the criminal justice institute, the county fiscal body may not appropriate any funds at the request of the local coordinating council or any other local entity.

(d) If funds are allocated by a county legislative body under subsection (a) and the criminal justice institute has not approved the comprehensive drug free communities plan for the county, the criminal justice institute may:

(1) approve and appoint a new local coordinating council for the county;

(2) freeze funds allocated by the county legislative body; or

(3) reevaluate the comprehensive drug free communities plan.

As added by P.L.12-1990, SEC.3. Amended by P.L.50-1993, SEC.4; P.L.62-1995, SEC.2; P.L.44-2006, SEC.8; P.L.26-2007, SEC.1; P.L.7-2016, SEC.6.

IC 5-2-11-6
Prohibited uses

Sec. 6. The fund may not be used to replace other funding for alcohol and drug abuse services provided to the county.

As added by P.L.12-1990, SEC.3.

IC 5-2-11.5

Chapter 11.5. Enhanced Enforcement Drug Mitigation Area Pilot Program

IC 5-2-11.5-1

"EEDMA program"

Sec. 1. As used in this chapter, "EEDMA program" refers to the enhanced enforcement drug mitigation area pilot program established by section 3 of this chapter.

As added by P.L.213-2015, SEC.58.

IC 5-2-11.5-2

"Institute"

Sec. 2. As used in this chapter, "institute" refers to the Indiana criminal justice institute established by IC 5-2-6-3.

As added by P.L.213-2015, SEC.58.

IC 5-2-11.5-3

EEDMA program established; administered by the criminal justice institute

Sec. 3. (a) The enhanced enforcement drug mitigation area pilot program is established for the purpose of providing multijurisdictional cooperation concerning drug enforcement and interdiction in Indiana.

(b) The institute shall administer the EEDMA program.

As added by P.L.213-2015, SEC.58.

IC 5-2-11.5-4

Designation of area participating in the program

Sec. 4. The institute, in consultation with the Indiana state police and the Indiana prosecuting attorneys council, may designate boundaries for not more than four (4) regional areas within Indiana to participate in the EEDMA program. At least one (1) of the designated areas must encompass a rural area.

As added by P.L.213-2015, SEC.58.

IC 5-2-11.5-5

Enhanced enforcement drug mitigation area fund

Sec. 5. (a) The enhanced enforcement drug mitigation area fund is established for the purpose of funding the EEDMA program established by this chapter.

(b) The institute shall administer the fund.

(c) The fund consists of the following:

(1) Appropriations from the general assembly.

(2) Gifts to the fund.

(3) Grants, including grants from private entities.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) Money in the fund that is not needed to pay the obligations of the fund may be invested in the manner that other public money may be invested. Interest from the investment of money in the fund becomes part of the fund.

(f) 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.213-2015, SEC.58.

IC 5-2-11.5-6
Expiration

Sec. 6. This chapter expires July 1, 2019.

As added by P.L.213-2015, SEC.58.

IC 5-2-12
Repealed

(Repealed by P.L.140-2006, SEC.41 and P.L.173-2006, SEC.55.)

IC 5-2-13

Chapter 13. Law Enforcement Assistance Fund

IC 5-2-13-1

"Agency" defined

Sec. 1. As used in this chapter, "agency" means a state or local law enforcement agency.

As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the law enforcement assistance fund established by section 4 of this chapter.

As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-3

"Officer" defined

Sec. 3. As used in this chapter, "officer" means a state or local law enforcement officer.

As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-4

Establishment of fund

Sec. 4. The law enforcement assistance fund is established to provide money to agencies to increase the number of officers on patrol in the community. The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Any other public or private source.

As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-5

Administration of fund

Sec. 5. The Indiana criminal justice institute established under IC 5-2-6 shall administer the fund. Costs of administering the fund:

(1) shall be paid from money in the fund; and

(2) may not exceed fifty thousand dollars ($50,000) during any year.

As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-6

Investment of money in fund

Sec. 6. 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.260-1997(ss), SEC.46.

IC 5-2-13-7

No 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.260-1997(ss), SEC.46.

IC 5-2-13-8
Grants; application; amount; purpose

Sec. 8. (a) An agency may apply to the criminal justice institute to receive grants from the fund under this chapter.

(b) The criminal justice institute shall approve or deny a grant application submitted under this chapter.

(c) An agency may receive a grant in the amount of one hundred thousand dollars ($100,000) to train, equip, and pay the first three (3) years' salary for one (1) officer. An agency may receive a grant for an amount of up to one hundred thousand dollars ($100,000) to purchase equipment or hire and train persons to permit the agency to increase by one (1) the number of officers on patrol in the community. An agency may receive more than one (1) grant under this chapter.

(d) A grant awarded under this chapter must be used to supplement funds available to an agency, and an agency may not use a grant to replace funds that the agency would normally spend for training, personnel, equipment, and other agency expenses.
As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-9
Grants; restrictions

Sec. 9. (a) Except as provided in subsection (b), an agency may not receive grants under this chapter if the grant or grants allow the agency an increase of more than five percent (5%) over the total number of officers employed by the agency or on patrol in the community on the date that the agency submits its first application for a grant.

(b) An agency that employs less than thirty (30) officers on the date the agency submits its first application for a grant may receive a grant under this chapter only to hire one (1) new officer.
As added by P.L.260-1997(ss), SEC.46.

IC 5-2-13-10
Rules

Sec. 10. The board of trustees of the criminal justice institute shall adopt rules under IC 4-22-2 to implement this chapter.
As added by P.L.260-1997(ss), SEC.46.

IC 5-2-14
Repealed
(Repealed by P.L.3-2008, SEC.269.)

IC 5-2-15

Chapter 15. Methamphetamine Lab Reporting

IC 5-2-15-1

"Law enforcement agency"

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

As added by P.L.192-2005, SEC.3.

IC 5-2-15-2

"Methamphetamine laboratory"

Sec. 2. As used in this chapter, "methamphetamine laboratory" means a location or facility that:

(1) is being used;

(2) was intended to be used; or

(3) has been used;

to produce methamphetamine.

As added by P.L.192-2005, SEC.3.

IC 5-2-15-3

Reporting of methamphetamine laboratory by law enforcement agency

Sec. 3. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to:

(1) the state police department;

(2) the local fire department that serves the area in which the methamphetamine laboratory is located;

(3) the county health department or, if applicable, multiple county health department of the county in which the methamphetamine laboratory is located; and

(4) the Indiana criminal justice institute;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

As added by P.L.192-2005, SEC.3. Amended by P.L.186-2007, SEC.6.

IC 5-2-15-4

Law enforcement agency to report child under 18 found at methamphetamine lab

Sec. 4. A law enforcement agency that discovers a child less than eighteen (18) years of age at a site used for the illegal manufacture of a controlled substance (as defined in IC 35-48-1-9) shall notify the department of child services.

As added by P.L.192-2005, SEC.3. Amended by P.L.145-2006, SEC.10; P.L.151-2006, SEC.2; P.L.1-2007, SEC.25.

IC 5-2-16

Chapter 16. Methamphetamine Abuse Reporting

IC 5-2-16-1

"Law enforcement agency"

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

As added by P.L.151-2006, SEC.3.

IC 5-2-16-2

"Methamphetamine abuse"

Sec. 2. As used in this chapter, "methamphetamine abuse" means the:

(1) use;
(2) sale;
(3) manufacture or attempt to manufacture;
(4) transport; or
(5) delivery;

of methamphetamine or of a methamphetamine precursor, if the precursor is being used, sold, manufactured, transported, delivered, or processed to facilitate the manufacture of methamphetamine.

As added by P.L.151-2006, SEC.3. Amended by P.L.76-2016, SEC.1.

IC 5-2-16-3

Reporting of methamphetamine abuse

Sec. 3. A law enforcement agency that discovers evidence of:

(1) methamphetamine abuse; or
(2) a fire related to methamphetamine abuse;

shall report the methamphetamine abuse to the criminal justice institute on a form and in the manner prescribed by guidelines adopted by the criminal justice institute under IC 5-2-6-18.

As added by P.L.151-2006, SEC.3. Amended by P.L.76-2016, SEC.2.

IC 5-2-17

Chapter 17. Missing Persons

IC 5-2-17-1

"High risk missing person"

Sec. 1. As used in this chapter, "high risk missing person" means a person whose whereabouts are not known and who may be at risk of injury or death. The term includes the following:

(1) A person who is missing as the result of abduction by a stranger.

(2) A person whose disappearance may be the result of the commission of a crime.

(3) A person whose disappearance occurred under circumstances that are inherently dangerous.

(4) A person who is missing for more than thirty (30) days.

(5) A missing person who is in need of medical attention or prescription medication.

(6) A missing person who may be at risk due to abduction by a noncustodial parent.

(7) A missing person who is mentally impaired.

(8) A missing person who is less than twenty-one (21) years of age.

(9) A missing person who has previously been the victim of a threat of violence or an act of violence.

(10) A missing person who has been determined by a law enforcement agency to be:

(A) at risk of injury or death; or

(B) a person that meets any of the descriptions in subdivisions (1) through (9).

(11) A missing person who is an endangered adult (as defined in IC 12-7-2-131.3).

As added by P.L.92-2007, SEC.1.

IC 5-2-17-2

"Law enforcement agency"

Sec. 2. As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. The term does not include the inspector general or the attorney general.

As added by P.L.92-2007, SEC.1.

IC 5-2-17-3

Law enforcement agency receiving report of missing child or endangered adult

Sec. 3. A law enforcement agency receiving a report of a missing:

(1) child less than eighteen (18) years of age shall comply with the requirements of IC 31-36-2; or

(2) endangered adult (as defined in IC 12-7-2-131.3) shall

comply with the requirements of IC 12-10-18;
in addition to the procedures described in this chapter.
As added by P.L.92-2007, SEC.1.

IC 5-2-17-4
Law enforcement agency; acceptance of report of missing person

Sec. 4. A law enforcement agency shall accept immediately a report made in person concerning a missing person, including if one (1) or more of the following circumstances apply:

(1) The missing person is an adult.

(2) It does not appear that the person's disappearance is the result of a crime.

(3) It does not appear that the missing person was within the jurisdiction served by the law enforcement agency at the time the person went missing. However, the law enforcement agency shall advise the person reporting the missing person to make the report to a law enforcement agency that has jurisdiction in the place that the missing person was last seen, or, if that place is unknown, to a law enforcement agency that has jurisdiction in the place where the missing person resides.

(4) It appears that the missing person's disappearance may be voluntary.

(5) The person reporting the missing person is unable to provide all the information requested by the law enforcement agency.

(6) The person reporting the missing person does not have a familial relationship with the missing person.

As added by P.L.92-2007, SEC.1.

IC 5-2-17-5
Missing person report not made in person; acceptance

Sec. 5. A law enforcement agency may accept a missing person report that is not made in person, including a report made by telephone, by electronic mail, by means of the Internet, or in another manner, if accepting the report is otherwise consistent with the practices of the law enforcement agency.
As added by P.L.92-2007, SEC.1.

IC 5-2-17-6
Information concerning missing person; determination of high risk status; stopping investigation; nondisclosure of location upon missing person's request

Sec. 6. (a) Upon receipt of a report of a missing person, a law enforcement agency shall attempt to gather relevant information that will assist in locating the missing person. This information must include the following, if available:

(1) The name of the missing person, including any aliases.

(2) The date of birth of the missing person.

(3) Any identifying marks, such as a birthmark, mole, tattoo, or

scar.
(4) The height and weight of the missing person.
(5) The gender of the missing person.
(6) The race of the missing person.
(7) The color of the missing person's hair at the time of the disappearance, and, if applicable, the natural color of the missing person's hair.
(8) The eye color of the missing person.
(9) Any prosthetic devices or surgical or cosmetic implants that the missing person may have.
(10) Any physical anomalies of the missing person.
(11) The blood type of the missing person.
(12) The driver's license number of the missing person.
(13) A recent photograph of the missing person.
(14) A description of the clothing that the missing person was wearing when last seen.
(15) A description of any other items, including jewelry or other accessories, that the missing person may have possessed at the time of the disappearance.
(16) Contact information for the missing person, including electronic mail addresses and cellular telephone numbers.
(17) Why the person submitting the report believes that the missing person is missing.
(18) The name and location of the missing person's school or employer.
(19) The names and locations of the missing person's dentist and physician.
(20) Any reason to believe that the missing person's disappearance was not voluntary.
(21) Any reason to believe that the missing person may be in danger.
(22) A detailed description of the missing person's vehicle.
(23) Information concerning:
(A) the person with whom the missing person was last seen; or
(B) a possible abductor.
(24) The date of last contact with the missing person.
(25) Any other information that will assist in locating the missing person.

(b) A law enforcement agency shall determine as soon as possible after receipt of a report of a missing person whether the missing person is a high risk missing person. If a law enforcement agency determines that a missing person is not a high risk missing person and new information suggests that the missing person may be a high risk missing person, the law enforcement agency shall make a new determination as to whether the person is a high risk missing person.

(c) A law enforcement agency that determines after a diligent investigation that a missing person is either voluntarily missing or

not missing may stop the investigation.

(d) A law enforcement agency stopping an investigation under subsection (c) must document the investigative steps and the results of the investigation that led to the conclusion that the person reported missing is either voluntarily missing or not missing.

(e) A law enforcement agency that stops an investigation under subsection (c) may not disclose the location of the missing person to the person who made the missing person report if the missing person requests that the information not be disclosed.

As added by P.L.92-2007, SEC.1.

IC 5-2-17-7

Information provided by law enforcement agency

Sec. 7. (a) A law enforcement agency shall provide a copy of the written informational pamphlet described in IC 10-11-2-34 to a person making a report of a missing child less than eighteen (18) years of age at the time the person makes the report.

(b) If requested by the person making a report of a missing person, a law enforcement agency shall inform the person making the report, a family member of the missing person, and any other person whom the law enforcement agency believes may be helpful in locating the missing person of the following:

(1) The general procedure for handling missing person cases.

(2) The approach the law enforcement agency intends to pursue in the case, if, in the opinion of the law enforcement agency, disclosure would not adversely affect its investigation.

(3) That additional information may be required if the missing person is not promptly located or if additional information is discovered in the course of the investigation. The law enforcement agency shall describe the additional information that may be helpful, if this information is known.

(4) That the National Center for Missing and Exploited Children (if the missing person is a child) or the National Center for Missing Adults (if the missing person is an adult) may provide additional resources. The law enforcement agency shall provide contact information for the appropriate organization.

As added by P.L.92-2007, SEC.1. Amended by P.L.23-2015, SEC.1.

IC 5-2-17-8

Person missing for longer than 30 days; additional information

Sec. 8. (a) If a missing person has not been located thirty (30) days after the date of the missing person report, the law enforcement agency that received the report may obtain, if available, the following information and material:

(1) An authorization from the missing person's family to release dental records or skeletal x-rays of the missing person.

(2) Additional photographs that may assist in locating the

missing person.

(3) Dental records or skeletal x-rays of the missing person.

(b) A health care provider (as defined in IC 16-18-2-163) that discloses information in good faith under subsection (a) is immune from civil liability for disclosing the information. This subsection does not apply to acts or admissions amounting to gross negligence or willful or wanton misconduct.

(c) A law enforcement agency may obtain the information described in subsection (a) even if thirty (30) days have not elapsed from the date of the missing person report.

(d) Notwithstanding subsection (a), this section does not permit a law enforcement agency to obtain information or material without a search warrant or another judicial order that would otherwise be required to obtain the information or material.

As added by P.L.92-2007, SEC.1.

IC 5-2-17-9

Reporting to Violent Criminal Apprehension Program; release of information to public concerning missing person

Sec. 9. (a) Information that is relevant to the Violent Criminal Apprehension Program operated by the Federal Bureau of Investigation shall be reported as soon as possible.

(b) The law enforcement agency may release to the public any photograph of the missing person that will, in the opinion of the law enforcement agency, assist in the location of the missing person. A law enforcement agency that releases a photograph under this subsection in good faith is not required to obtain written authorization for the release.

As added by P.L.92-2007, SEC.1.

IC 5-2-17-10

Notification to other law enforcement agencies; data base information

Sec. 10. (a) A law enforcement agency (if the law enforcement agency is not the state police department) that receives a report of a missing person may notify the state police department of the missing person and request the assistance of the state police department in locating the missing person.

(b) The law enforcement agency that receives a report of a high risk missing person shall inform every appropriate law enforcement agency in Indiana of the high risk missing person. In addition, the law enforcement agency that receives a report of a missing person may notify a law enforcement agency in another state if the state police department believes that the notification will assist in the location of the missing person.

(c) The law enforcement agency that receives a report of a missing person shall do the following:

(1) Enter information that relates to a missing person report for

a missing person into:

(A) the National Crime Information Center (NCIC) data base not more than two (2) hours after the information is received; and

(B) any other appropriate data base not more than one (1) day after the information is received.

(2) Ensure that a person who enters data relating to medical or dental records in a data base has the appropriate training to understand and correctly enter the information. The law enforcement agency that receives a report of a missing person may consult with a coroner, a pathologist, or another medical professional to ensure the accuracy of the medical or dental information.

(d) A law enforcement agency that receives a report of a high risk missing person under this section shall immediately:

(1) instruct the agency's officers to be alert for the missing person, and a person who may have abducted the missing person, if applicable; and

(2) enter all collected information related to the missing person case into appropriate state or federal data bases.

As added by P.L.92-2007, SEC.1. Amended by P.L.22-2009, SEC.1.

IC 5-2-18

Chapter 18. Requirement to Notify Parent, Guardian, or Custodian of a Child

IC 5-2-18-1

"Child"

Sec. 1. As used in this chapter, "child" means a person who is less than eighteen (18) years of age.

As added by P.L.131-2011, SEC.1.

IC 5-2-18-2

"Law enforcement agency"

Sec. 2. As used in this chapter, "law enforcement agency" has the meaning set forth IC 5-2-17-2.

As added by P.L.131-2011, SEC.1.

IC 5-2-18-3

Attempt to notify parent, guardian, or custodian of a child; provide information

Sec. 3. Except as provided in section 4 of this chapter, if a child is named in a written report of a crime as a victim of the crime or in a written report of a crime, and the law enforcement agency that receives the report reasonably believes that the child may be a victim of a crime, the law enforcement agency that receives the report shall make a reasonable attempt to:

(1) notify the parent, guardian, or custodian of the child that the child has been named:

(A) in the report as a victim of a crime; or

(B) in the report and the law enforcement agency reasonably believes that the child may be a victim of a crime; and

(2) provide the parent, guardian, or custodian of the child with contact information, if available, for a victim rights advocate or a nonprofit, community, or government organization that assists victims.

As added by P.L.131-2011, SEC.1.

IC 5-2-18-4

Notification to parent, guardian, or custodian of a child not required

Sec. 4. A law enforcement agency is not required to notify or send a letter to the parent, guardian, or custodian of a child under section 3 of this chapter if:

(1) the parent, guardian, or custodian is the alleged perpetrator of the crime; or

(2) notification or sending a letter to the parent, guardian, or custodian would not be in the best interests of the child due to the relationship of the parent, guardian, or custodian with the alleged perpetrator of the crime.

As added by P.L.131-2011, SEC.1.

IC 5-2-18.2

Chapter 18.2. Citizenship and Immigration Status Information and Enforcement of Federal Immigration Laws

IC 5-2-18.2-1

"Governmental body"

Sec. 1. As used in this chapter, "governmental body" has the meaning set forth in IC 5-22-2-13.

As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-2

"Law enforcement officer"

Sec. 2. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 5-2-1-2.

As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-3

Prohibited from enacting or implementing restrictions on taking certain actions regarding information of citizenship or immigration status

Sec. 3. A governmental body may not enact or implement an ordinance, a resolution, a rule, or a policy that prohibits or in any way restricts another governmental body, including a law enforcement officer, a state or local official, or a state or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual:

(1) Communicating or cooperating with federal officials.

(2) Sending to or receiving information from the United States Department of Homeland Security.

(3) Maintaining information.

(4) Exchanging information with another federal, state, or local government entity.

As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-4

Prohibited from limiting or restricting enforcement of federal immigration laws

Sec. 4. A governmental body may not limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.

As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-5

Action to compel

Sec. 5. If a governmental body violates this chapter, a person lawfully domiciled in Indiana may bring an action to compel the governmental body to comply with this chapter.

As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-6
Enjoin violation

Sec. 6. If a court finds that a governmental body knowingly or intentionally violated section 3 or 4 of this chapter, the court shall enjoin the violation.
As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-7
Written notice to law enforcement officers of duty to cooperate pertaining to enforcement of immigration laws

Sec. 7. Every law enforcement agency (as defined in IC 5-2-17-2) shall provide each law enforcement officer with a written notice that the law enforcement officer has a duty to cooperate with state and federal agencies and officials on matters pertaining to enforcement of state and federal laws governing immigration.
As added by P.L.171-2011, SEC.2.

IC 5-2-18.2-8
Enforced without discrimination

Sec. 8. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.
As added by P.L.171-2011, SEC.2.

IC 5-2-20

Chapter 20. Prohibit Verification of Citizenship or Immigration Status

IC 5-2-20-1

"Law enforcement agency"

Sec. 1. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 5-2-17-2.

As added by P.L.171-2011, SEC.3.

IC 5-2-20-2

"Law enforcement officer"

Sec. 2. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 5-2-1-2.

As added by P.L.171-2011, SEC.3.

IC 5-2-20-3

Prohibited from requesting verification of citizenship or immigration status

Sec. 3. A law enforcement agency or law enforcement officer may not request verification of the citizenship or immigration status of an individual from federal immigration authorities if the individual has contact with the law enforcement agency or law enforcement officer only:

(1) as a witness to or victim of a crime; or

(2) for purposes of reporting a crime.

As added by P.L.171-2011, SEC.3.

IC 5-2-21.2

Chapter 21.2. Indiana Technical Assistance Center for Crisis Intervention Teams

IC 5-2-21.2-1

"Crisis intervention team trained officer"

Sec. 1. As used in this chapter, "crisis intervention team trained officer" means a law enforcement officer who has received training by a local crisis intervention team regarding how to respond to an individual in crisis.

As added by P.L.115-2015, SEC.4.

IC 5-2-21.2-2

"Crisis intervention team training"

Sec. 2. As used in this chapter, "crisis intervention team training" means free training that crisis intervention teams provide for law enforcement officers regarding:

(1) signs and symptoms of mental health crisis;

(2) mental health treatment options in the local community; and

(3) deescalation and crisis intervention techniques to facilitate interaction and referrals to treatment.

As added by P.L.115-2015, SEC.4.

IC 5-2-21.2-3

"Individual in crisis"

Sec. 3. As used in this chapter, "individual in crisis" means an individual with:

(1) mental illness;

(2) a substance addiction disorder; or

(3) both mental illness and a substance addiction disorder.

As added by P.L.115-2015, SEC.4.

IC 5-2-21.2-4

"Institute"

Sec. 4. As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6-3.

As added by P.L.115-2015, SEC.4.

IC 5-2-21.2-5

"Technical assistance center"

Sec. 5. As used in this chapter, "technical assistance center" means a center established by the institute in conjunction with the division of mental health and addiction under IC 5-2-6-3(20) to support the development and sustainability of local crisis intervention teams.

As added by P.L.115-2015, SEC.4.

IC 5-2-21.2-6

Duties

Sec. 6. The technical assistance center shall:

(1) identify grants and other funds that may be used to fund:

(A) local crisis intervention teams;

(B) law enforcement agencies; and

(C) evaluation of the effectiveness of crisis intervention team training;

(2) create and support a statewide crisis intervention team advisory committee that:

(A) includes representatives from:

(i) local crisis intervention teams;

(ii) state level stakeholders;

(iii) state agencies, including the division of mental health and addiction, the institute, the Indiana law enforcement academy and other agencies considered appropriate; and

(iv) advocacy organizations, including organizations representing people affected by mental illnesses and substance addiction disorders and other organizations considered appropriate;

(3) assist rural counties in creating crisis intervention teams and crisis intervention team training;

(4) provide established local crisis intervention teams with appropriate training, information, and technical assistance to:

(A) assist law enforcement agencies and law enforcement officers in providing a sense of dignity in crisis situations to an individual in crisis;

(B) identify underserved populations with mental illness, substance addiction disorders, or both, and link the populations to appropriate care;

(C) build partnerships and encourage formal agreements among local law enforcement, mental health providers, individuals and families affected by mental illness and substance addiction disorders, and other community stakeholders to improve system prevention and response to mental health and substance addiction disorder crises;

(D) develop and communicate a recommended best practices crisis intervention team training curriculum, consistent with recommended standards developed by CIT International; and

(E) identify and improve awareness of existing crisis response resources;

(5) communicate and disseminate existing standard protocols for law enforcement officers transferring an individual in crisis to medical personnel for treatment under an immediate detention under IC 12-26-4;

(6) recognize local crisis intervention teams and law enforcement officers trained in crisis intervention teams; and

(7) report on the status of crisis intervention teams in Indiana, including:

(A) the overall operation of crisis intervention teams in Indiana;

(B) problems local crisis intervention teams encounter and proposed solutions, as identified by the advisory committee described in subdivision (2);

(C) an evaluation of outcomes and best practices to achieve crisis intervention team goals, including:

(i) the reduction in the amount of time law enforcement officers spend out of service awaiting assessment and disposition of individuals in crisis;

(ii) reduction in injuries to law enforcement officers during crisis events;

(iii) reduction of the use of force when responding to individuals in crisis;

(iv) reduction in inappropriate arrests of individuals in crisis;

(v) reducing the need for mental health treatment in jails; and

(vi) other goals identified by the technical assistance center;

(D) information regarding the number of crisis intervention trained officers in each county;

(E) the addresses and directors of the local crisis intervention teams and whether each local crisis intervention team:

(i) is an established team meeting regularly to address local needs and host crisis intervention team training as needed;

(ii) is a developing team consisting of community stakeholders planning for future crisis intervention team training, but training has not yet taken place; or

(iii) is an inactive team, in which law enforcement officers were previously trained to be crisis intervention teams but there are no future plans for crisis intervention team training; and

(F) an analysis of costs and cost savings associated with crisis intervention teams.

As added by P.L.115-2015, SEC.4.

IC 5-2-22

Chapter 22. Child Abuse Registry

IC 5-2-22-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Crime of child abuse" means:

(A) neglect of a dependent (IC 35-46-1-4) if the dependent is a child and the offense is committed under:

(i) IC 35-46-1-4(a)(1);

(ii) IC 35-46-1-4(a)(2); or

(iii) IC 35-46-1-4(a)(3);

(B) child selling (IC 35-46-1-4(d));

(C) a sex offense (as defined in IC 11-8-8-5.2) committed against a child; or

(D) battery against a child under:

(i) IC 35-42-2-1(d)(3) (battery on a child);

(ii) IC 35-42-2-1(f)(5)(B) (battery causing bodily injury to a child);

(iii) IC 35-42-2-1(i) (battery causing serious bodily injury to a child); or

(iv) IC 35-42-2-1(j) (battery resulting in the death of a child).

(2) "Division" refers to the division of state court administration created under IC 33-24-6-1(b)(2).

(3) "Registry" means the child abuse registry established under section 2 of this chapter.

As added by P.L.52-2016, SEC.1.

IC 5-2-22-2

Child abuse registry established

Sec. 2. Not later than July 1, 2017, the division shall establish and maintain a child abuse registry.

As added by P.L.52-2016, SEC.1.

IC 5-2-22-3

Information included in the registry

Sec. 3. The registry must contain:

(1) the name;

(2) the age;

(3) the last known city of residence;

(4) a photograph, if available;

(5) a description of the crime of child abuse conviction; and

(6) any other identifying information, as determined by the division;

of every person convicted of a crime of child abuse.

As added by P.L.52-2016, SEC.1.

IC 5-2-22-4

Duties of division of state court administration

Sec. 4. (a) The division shall publish the registry on the division's Internet web site. The registry must be searchable and available to the public.

(b) The division shall ensure that the registry is updated at least one (1) time every thirty (30) days.

(c) The division shall ensure that the registry displays the following or similar words:

> "Based on information submitted to law enforcement, a person whose name appears in this registry has been convicted of a crime of child abuse. However, information on the registry may not be complete."

As added by P.L.52-2016, SEC.1.

IC 5-3

ARTICLE 3. PUBLICATION OF NOTICES

IC 5-3-1

Chapter 1. Publication Procedures

IC 5-3-1-0.2

"Locality newspaper"

Sec. 0.2. As used in this section, "locality newspaper" means a publication that meets all the following requirements:

(1) Is regularly issued at least one (1) time per week.

(2) Contains in each issue news of general or community interest, community notices, or editorial commentary by different authors.

(3) Has, in more than one-half (1/2) of its issues published during the previous twelve (12) month period, not more than seventy-five percent (75%) advertising content.

(4) Has been published continuously for at least three (3) years.

(5) Has the capability to add subscribers to its distribution list and must add any person:

(A) who requests to be added as a new subscriber; and

(B) whose mailing address is within the political subdivision in which the locality newspaper generally circulates.

(6) Is a publication of general circulation in the political subdivision that is responsible for the publication of notice.

(7) Is circulated by United States mail, free of charge, to addresses that are located within the political subdivision responsible for the publication of notice.

(8) Has its circulation verified by an annual independent audit of the publication.

(9) Contains advertisements from numerous unrelated advertisers in each issue.

(10) Is not owned by, or under the control of, the owners or lessees of a shopping center, a merchant's association, or a business that sells property or services (other than advertising) whose advertisements for their sales of property or services constitute the predominant advertising in the publication.

(11) Has continuity as to title and general nature of content from issue to issue.

(12) Does not constitute a book, either singly or when successive issues are combined.

(13) Has a known office location in the county in which the locality newspaper is published.

As added by P.L.147-2016, SEC.1.

IC 5-3-1-0.4

"Newspaper"

Sec. 0.4. As used in this chapter, "newspaper" refers to a

newspaper:

(1) that:

(A) is a daily, weekly, semiweekly, or triweekly newspaper of general circulation;

(B) has been published for at least three (3) consecutive years in the same city or town;

(C) has been entered, authorized, and accepted by the United States Postal Service for at least three (3) consecutive years as mailable matter of the periodicals class;

(D) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal; and

(E) has had an average circulation during the preceding year of at least two hundred (200), based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year; or

(2) that:

(A) is a daily, weekly, semiweekly, or triweekly newspaper of general circulation;

(B) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of the periodicals class;

(C) has at least fifty percent (50%) of all copies circulated paid for by subscribers or other purchasers at a rate that is not nominal; and

(D) meets the greater of the following conditions:

(i) The newspaper's paid circulation during the preceding year is equal to at least fifty percent (50%) of the paid circulation for the largest newspaper with a periodicals class permit located in the county in which the newspaper is published, based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year or based on the newspaper's initial application for a permit from the United States Postal Service.

(ii) The newspaper has an average daily paid circulation of one thousand five hundred (1,500) based on the average paid or requested circulation for the preceding twelve (12) months reported in the newspaper's United States Postal Service Statement of Ownership published by the newspaper in October of each year or based on the newspaper's initial application for a permit from the United States Postal Service.

As added by P.L.64-1995, SEC.1. Amended by P.L.38-1997, SEC.1; P.L.169-2006, SEC.1; P.L.122-2015, SEC.1.

IC 5-3-1-0.6
Place of publication

Sec. 0.6. (a) For purposes of this chapter, a newspaper or qualified publication is published at the place where the newspaper or qualified publication has its original entry for mail privileges authorized by the United States Postal Service.

(b) For purposes of this chapter, a newspaper or qualified publication is considered published at only one (1) place. The place of publication does not include places at which additional entry offices have been established with the authorization of the United States Postal Service.

As added by P.L.64-1995, SEC.2. Amended by P.L.38-1997, SEC.2.

IC 5-3-1-0.7
"Qualified publication"

Sec. 0.7. (a) As used in this chapter, "qualified publication" means a publication that:

(1) is published daily, weekly, semiweekly, or triweekly;

(2) is of general circulation to the public;

(3) has been published for at least three (3) consecutive years in the same city or town;

(4) has continuity as to title and general nature of content from issue to issue;

(5) contains news of general or community interest, community notices, or editorial commentary;

(6) contains advertisements from unrelated advertisers in each issue;

(7) has, in more than one-half (1/2) of its issues published during the previous twelve (12) month period, not more than seventy-five percent (75%) advertising content;

(8) has a known office location in the county in which it is published; and

(9) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of standard mail (A) class for the time published.

(b) A publication is not a qualified publication if any of the following apply:

(1) The publication is owned by, or under the control of, the owners or lessees of a shopping center or a merchant's association.

(2) The publication is owned by, or under the control of, a business that sells property or services (other than advertising) and the predominant advertising in the publication is advertising for the business's sales of property or services.

(3) The publication is a mail order catalog or other catalog, advertising flier, travel brochure, house organ, theater program, telephone directory, restaurant guide, shopping center advertising sheet, or other similar publication.

(4) The publication is primarily devoted to matters of specialized interest such as a labor, fraternal, society, political, religious, sporting, or trade news publication or journal.

(5) The publication is a magazine, racing form, or tip sheet.

As added by P.L.64-1995, SEC.3. Amended by P.L.38-1997, SEC.3.

IC 5-3-1-1

Cost of advertising; form of legal advertisements; determination of circulation

Sec. 1. (a) The cost of all public notice advertising which any elected or appointed public official or governmental agency is required by law to have published, or orders published, for which the compensation to the newspapers, locality newspapers, or qualified publications publishing such advertising is drawn from and is the ultimate obligation of the public treasury of the governmental unit concerned with the advertising shall be charged to and collected from the proper fund of the public treasury and paid over to the newspapers, locality newspapers, or qualified publications publishing such advertising, after proof of publication and claim for payment has been filed.

(b) The basic charges for publishing public notice advertising shall be by the line and shall be computed based on a square of two hundred and fifty (250) ems at the following rates:

(1) Before January 1, 1996, three dollars and thirty cents ($3.30) per square for the first insertion in newspapers or qualified publications plus one dollar and sixty-five cents ($1.65) per square for each additional insertion in newspapers, or qualified publications.

(2) After December 31, 1995, and before December 31, 2005, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by five percent (5%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper, or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper, or qualified publication for comparable use of the same amount of space for other purposes.

(3) After December 31, 2009, and before January 1, 2017, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes and must include all multiple insertion discounts extended to the newspaper's other advertisers.

(4) After December 31, 2016, a newspaper, locality newspaper, or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper, locality newspaper, or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper, locality newspaper, or qualified publication for comparable use of the same amount of space for other purposes and must include all multiple insertion discounts extended to the newspaper's, locality newspaper's, or qualified publication's other advertisers.

An additional charge of fifty percent (50%) shall be allowed for the publication of all public notice advertising containing rule or tabular work.

(c) All public notice advertisements shall be set in solid type that is at least 7 point type, without any leads or other devices for increasing space. All public notice advertisements shall be headed by not more than two (2) lines, neither of which shall total more than four (4) solid lines of the type in which the body of the advertisement is set. Public notice advertisements may be submitted by an appointed or elected official or a governmental agency to a newspaper, locality newspaper, or qualified publication in electronic form, if the newspaper, locality newspaper, or qualified publication is equipped to accept information in compatible electronic form.

(d) Each newspaper, locality newspaper, or qualified publication publishing public notice advertising shall submit proof of publication and claim for payment in duplicate on each public notice advertisement published. For each additional proof of publication required by a public official, a charge of one dollar ($1) per copy shall be allowed each newspaper, locality newspaper, or qualified publication furnishing proof of publication.

(e) The circulation of a newspaper, locality newspaper, or qualified publication is determined as follows:

(1) For a newspaper, by the circulation stated on line 10.C. (Total Paid and/or Requested Circulation of Single Issue Published Nearest to Filing Date) of the Statement of Ownership, Management and Circulation required by 39 U.S.C. 3685 that was filed during the previous year.

(2) For a locality newspaper, by a verified affidavit filed with each agency, department, or office of the political subdivision that has public notices the locality newspaper wants to publish. The affidavit must:

(A) be filed with the agency, department, or office of the political subdivision before January 1 of each year; and

(B) attest to the circulation of the locality newspaper for the issue published nearest to October 1 of the previous year, as

determined by an independent audit of the locality newspaper performed for the previous year.

(3) For a qualified publication, by a verified affidavit filed with each governmental agency that has public notices the qualified publication wants to publish. The affidavit must:

(A) be filed with the governmental agency before January 1 of each year; and

(B) attest to the circulation of the qualified publication for the issue published nearest to October 1 of the previous year.

(Formerly: Acts 1927, c.96, s.1; Acts 1957, c.16, s.1; Acts 1967, c.89, s.1.) As amended by Acts 1979, P.L.33, SEC.1; P.L.52-1987, SEC.1; P.L.64-1995, SEC.4; P.L.141-2009, SEC.1; P.L.147-2016, SEC.2.

IC 5-3-1-1.5

Posting notice on web site

Sec. 1.5. (a) This section applies to a notice that must be published in accordance with this chapter.

(b) If a newspaper or locality newspaper maintains an Internet web site, a notice that is published in the newspaper or locality newspaper must also be posted on the web site of the newspaper or locality newspaper. The notice must appear on the web site on the same day the notice appears in the newspaper or locality newspaper.

(c) The state board of accounts shall develop a standard form for notices posted on a newspaper's or locality newspaper's Internet web site.

(d) A newspaper or locality newspaper may not charge a fee for posting a notice on the newspaper's or locality newspaper's Internet web site under this section.

As added by P.L.141-2009, SEC.2. Amended by P.L.147-2016, SEC.3.

IC 5-3-1-2

Public hearings or meetings, elections, and other events; requirements for publication of notice; posting instead of publication

Sec. 2. (a) This section applies only when notice of an event is required to be given by publication in accordance with this chapter.

(b) If the event is a public hearing or meeting concerning any matter not specifically mentioned in subsection (c), (d), (e), (f), (g), (h), or (i), notice shall be published one (1) time, at least ten (10) days before the date of the hearing or meeting.

(c) If the event is an election, notice shall be published one (1) time, at least ten (10) days before the date of the election.

(d) If the event is a sale of bonds, notes, or warrants, notice shall be published two (2) times, at least one (1) week apart, with:

(1) the first publication made at least fifteen (15) days before the date of the sale; and

(2) the second publication made at least three (3) days before the date of the sale.

(e) If the event is the receiving of bids, notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received.

(f) If the event is the establishment of a cumulative or sinking fund, notice of the proposal and of the public hearing that is required to be held by the political subdivision shall be published two (2) times, at least one (1) week apart, with the second publication made at least three (3) days before the date of the hearing.

(g) If the event is the submission of a proposal adopted by a political subdivision for a cumulative or sinking fund for the approval of the department of local government finance, the notice of the submission shall be published one (1) time. The political subdivision shall publish the notice when directed to do so by the department of local government finance.

(h) If the event is the required publication of an ordinance, notice of the passage of the ordinance shall be published one (1) time within thirty (30) days after the passage of the ordinance.

(i) If the event is one about which notice is required to be published after the event, notice shall be published one (1) time within thirty (30) days after the date of the event.

(j) If any officer charged with the duty of publishing any notice required by law is unable to procure publication of notice:

(1) at the price fixed by law;

(2) because all newspapers or locality newspapers that are qualified to publish the notice refuse to publish the notice; or

(3) because the newspapers or locality newspapers referred to in subdivision (2) refuse to post the notice on the newspapers' or locality newspapers' Internet web sites (if required under section 1.5 of this chapter);

it is sufficient for the officer to post printed notices in three (3) prominent places in the political subdivision, instead of publication of the notice in newspapers or locality newspapers and on an Internet web site (if required under section 1.5 of this chapter).

(Formerly: Acts 1927, c.96, s.2.) As amended by Acts 1981, P.L.45, SEC.1; P.L.23-1984, SEC.6; P.L.36-1986, SEC.1; P.L.53-1987, SEC.1; P.L.54-1987, SEC.1; P.L.10-1989, SEC.19; P.L.1-1990, SEC.49; P.L.64-1995, SEC.5; P.L.153-1999, SEC.1; P.L.90-2002, SEC.14; P.L.141-2009, SEC.3; P.L.183-2014, SEC.1; P.L.122-2015, SEC.2; P.L.147-2016, SEC.4.

IC 5-3-1-2.3

Validity of notice containing errors or omissions

Sec. 2.3. A notice published in accordance with this chapter or any other Indiana statute is valid even though the notice contains errors or omissions, as long as:

(1) a reasonable person would not be misled by the error or omission; and

(2) the notice is in substantial compliance with the time and publication requirements applicable under this chapter or any other Indiana statute under which the notice is published.

As added by P.L.1-1990, SEC.50. Amended by P.L.169-2006, SEC.2; P.L.183-2014, SEC.2; P.L.149-2016, SEC.17.

IC 5-3-1-2.5
Repealed

(Repealed by P.L.31-1992, SEC.2.)

IC 5-3-1-3
Cities, towns, and school corporations; publication of annual reports; annual report required for school corporation issuance of debt

Sec. 3. (a) Within sixty (60) days after the expiration of each calendar year, the fiscal officer of each civil city and town in Indiana shall publish an annual report of the receipts and expenditures of the city or town during the preceding calendar year.

(b) Not earlier than August 1 or later than August 15 of each year, the secretary of each school corporation in Indiana shall publish an annual financial report.

(c) In the annual financial report the school corporation shall include the following:

(1) Actual receipts and expenditures by major accounts as compared to the budget advertised under IC 6-1.1-17-3 for the prior calendar year.

(2) The salary schedule for all certificated employees (as defined in IC 20-29-2-4) as of June 30, with the number of employees at each salary increment. However, the listing of salaries of individual teachers is not required.

(3) The extracurricular salary schedule as of June 30.

(4) The range of rates of pay for all noncertificated employees by specific classification.

(5) The number of employees who are full-time certificated, part-time certificated, full-time noncertificated, and part-time noncertificated.

(6) The lowest, highest, and average salary for the administrative staff and the number of administrators without a listing of the names of particular administrators.

(7) The number of students enrolled at each grade level and the total enrollment.

(8) The assessed valuation of the school corporation for the prior and current calendar year.

(9) The tax rate for each fund for the prior and current calendar year.

(10) In the general fund, capital projects fund, and

transportation fund, a report of the total payment made to each vendor for the specific fund in excess of two thousand five hundred dollars ($2,500) during the prior calendar year. However, a school corporation is not required to include more than two hundred (200) vendors whose total payment to each vendor was in excess of two thousand five hundred dollars ($2,500). A school corporation shall list the vendors in descending order from the vendor with the highest total payment to the vendor with the lowest total payment above the minimum listed in this subdivision.

(11) A statement providing that the contracts, vouchers, and bills for all payments made by the school corporation are in its possession and open to public inspection.

(12) The total indebtedness as of the end of the prior calendar year showing the total amount of notes, bonds, certificates, claims due, total amount due from such corporation for public improvement assessments or intersections of streets, and any and all other evidences of indebtedness outstanding and unpaid at the close of the prior calendar year.

(d) The school corporation may provide an interpretation or explanation of the information included in the financial report.

(e) The department of education shall do the following:

(1) Develop guidelines for the preparation and form of the financial report.

(2) Provide information to assist school corporations in the preparation of the financial report.

(f) The annual reports required by this section and IC 36-2-2-19 and the abstract required by IC 36-6-4-13 shall each be published one (1) time only, in accordance with this chapter.

(g) Each school corporation shall submit to the department of education a copy of the financial report required under this section. The department of education shall make the financial reports available for public inspection.

(h) As used in this subsection, "bonds" means any bonds, notes, or other evidences of indebtedness, whether payable from property taxes, other taxes, revenues, fees, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness that have a maturity of not more than five (5) years and that are made in anticipation of and to be paid from revenues of the school corporation. Notwithstanding any other law, a school corporation as provided in subsection (i) may not issue any bonds unless:

(1) the school corporation has filed the annual financial report required under subsection (b) with the department of education; and

(2) in addition to any information required under subsection (c), the annual financial report filed with the department of education was prepared in accordance with all generally

accepted accounting principles for financial accounting and reporting as established by the Governmental Accounting Standards Board. However, upon request of the school corporation to the state examiner, the state examiner may waive the requirement under this subdivision.

The requirements under this subsection for the issuance of bonds by a school corporation are in addition to any other requirements imposed under any other law. This subsection applies to the issuance of bonds authorized under any statute, regardless of whether that statute specifically references this subsection or the requirements under this subsection.

(i) The requirements under subsection (h) apply only to the following:

(1) After August 15, 2019, and before August 16, 2020, the requirements under subsection (h) apply to a school corporation that has an ADM (as defined in IC 20-18-2-2) of greater than twenty-five thousand (25,000).

(2) After August 15, 2020, the requirements under subsection (h) apply to a school corporation that has an ADM (as defined in IC 20-18-2-2) of greater than fifteen thousand (15,000).

(Formerly: Acts 1927, c.96, s.3; Acts 1929, c.200, s.1; Acts 1959, c.262, s.1.) As amended by Acts 1981, P.L.45, SEC.2; P.L.36-1986, SEC.2; P.L.342-1989(ss), SEC.1; P.L.1-1991, SEC.30; P.L.19-1992, SEC.2; P.L.38-1993, SEC.2; P.L.1-1994, SEC.17; P.L.24-1994, SEC.1; P.L.340-1995, SEC.40; P.L.34-1996, SEC.1; P.L.98-2000, SEC.1; P.L.102-2001, SEC.1; P.L.1-2005, SEC.73; P.L.184-2015, SEC.4.

IC 5-3-1-3.5

Publication of annual report of certain political subdivisions

Sec. 3.5. (a) This section applies to each political subdivision that has:

(1) an annual budget of at least three hundred thousand dollars ($300,000); and

(2) the power to levy taxes.

(b) This section does not apply to a political subdivision that is required to publish an annual report under any other statute.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) Not later than sixty (60) days after the expiration of each calendar year, a political subdivision shall publish an annual report of the receipts and expenditures of the political subdivision during the preceding calendar year.

(e) The annual reports required by this section shall be published only one (1) time per year.

As added by P.L.141-2009, SEC.4.

IC 5-3-1-4

Notices by political subdivisions and school corporations; requirements; notice in multiple counties; supplementary notices

Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication of the notice shall be made in one (1) of the following:

(1) A locality newspaper that circulates within the municipality or school corporation.

(2) A newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation.

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b). If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper. If no newspaper is published in the political subdivision, then publication of the notice shall be made in one (1) of the following:

(1) A locality newspaper that circulates within the municipality or school corporation.

(2) A newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication of the notice in that newspaper and in one (1) of the following:

(A) A locality newspaper that circulates within the political subdivision.

(B) In another newspaper:

(i) published in any county in which the political subdivision extends; and

(ii) that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the

political subdivision, by publishing the notice in two (2) publications, consisting of either or both of the following:

(A) A locality newspaper that circulates within the political subdivision.

(B) A newspaper that:

(i) is published in any counties into which the political subdivision extends; and

(ii) has a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication of the notice in one (1) of the following:

(A) A locality newspaper that circulates within the political subdivision.

(B) The newspaper published in the county if the newspaper circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers or locality newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

(Formerly: Acts 1927, c.96, s.4.) As amended by Acts 1981, P.L.45, SEC.3; Acts 1981, P.L.46, SEC.1; Acts 1982, P.L.33, SEC.1; P.L.48-1983, SEC.1; P.L.5-1988, SEC.30; P.L.1-1990, SEC.51; P.L.35-1990, SEC.5; P.L.64-1995, SEC.6; P.L.38-1997, SEC.4; P.L.98-2000, SEC.2; P.L.141-2009, SEC.5; P.L.147-2016, SEC.5.

IC 5-3-1-5
Repealed

(Repealed by Acts 1981, P.L.45, SEC.105.)

IC 5-3-1-6
Notices published in newspapers or by state; electronic access

Sec. 6. (a) In all cases where notices are required by law to be published in the public newspaper by or under the supervision of any state officer, board, commission, or institution of the state of Indiana, said notices are hereby required to be published in each of two (2) daily newspapers published in the city of Indianapolis and in such other cities as is required by law, said notices to be in all cases published in two (2) newspapers in each city where they are required to be published. In all cases where the officer, board, commission, or institution making said publication is located outside of the city of Indianapolis, said notices shall also be published in newspapers published within the county where said officer, board, commission, or institution maintains its office. The rate charged for all such notices and advertising shall be the same as is set out in section 1 of this chapter.

(b) In addition to the requirements of subsection (a), a state officer, board, commission, or institution of the state of Indiana that

is required by law to publish a notice of a public meeting shall also provide electronic access to the notice through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(Formerly: Acts 1927, c.96, s.6.) As amended by P.L.25-1986, SEC.12; P.L.251-1999, SEC.3; P.L.177-2005, SEC.13.

IC 5-3-1-7
Repealed

(Repealed by Acts 1981, P.L.45, SEC.105.)

IC 5-3-1-8
Utility regulatory commission hearings; notice

Sec. 8. Whenever the utility regulatory commission shall order a hearing in any city, town, county, or township of the state, notice of such hearing shall be published in two (2) newspapers of general circulation in such city, town, county, or township, by one (1) publication in each of such newspapers, not less than ten (10) days prior to the day on which such hearing will be held.

(Formerly: Acts 1927, c.96, s.8.) As amended by P.L.23-1988, SEC.6.

IC 5-3-1-9
Violations; offense

Sec. 9. A person who fails to comply with this article commits a Class C infraction.

(Formerly: Acts 1927, c.96, s.9.) As amended by Acts 1978, P.L.2, SEC.504.

IC 5-3-2

Chapter 2. Newspapers Qualified to Publish Legal Notices

IC 5-3-2-1

Repealed

(Repealed by Acts 1982, P.L.33, SEC.50.)

IC 5-3-2-2

Circulation requirements

Sec. 2. (a) This section does not apply in counties that have a population of more than forty thousand (40,000).

(b) In addition to the requirement for all newspapers provided in IC 5-3-1-4, a newspaper in which notices, reports, and other information affecting county business are required by law to be published shall have a paid circulation of not less than two percent (2%) of the population of the county in which it is published.

(c) In addition to the requirements for qualified publications provided in IC 5-3-1-4, in which notices, reports, and other information affecting county business may be published, qualified publications must be circulated to not less than ten percent (10%) of the population of the county in which the qualified publication is published.

(Formerly: Acts 1939, c.84, s.2.) As amended by Acts 1982, P.L.33, SEC.2; P.L.64-1995, SEC.7.

IC 5-3-2-3

Repealed

(Repealed by Acts 1978, P.L.2, SEC.521.)

IC 5-3-2-4

Supplemental effect of law

Sec. 4. This chapter shall not be deemed to alter, amend, or repeal any other statute of the state of Indiana, but shall be supplemental and in addition to any other law in force on June 14, 1939, requiring all legal notices to be published in a newspaper of general circulation.

(Formerly: Acts 1939, c.84, s.4.) As amended by P.L.25-1986, SEC.13.

IC 5-3-3

Chapter 3. Publication of Legal Notices in Trade Journals and Magazines

IC 5-3-3-1

Circulation requirements

Sec. 1. In all cases in which the law now or hereafter provides for the publication of a legal notice or notices pertaining to public works projects in any newspaper, it shall hereafter be legal for the governmental agency or official required by law to provide for and effect publication of such legal notice or notices required by law to be published, also to make publication of such notice or notices, not to exceed three times within any continuous period of twenty one (21) days, and to incur the cost thereof at charges regularly made for the publication of classified advertising, in any highway or construction trade journal or magazine published not less often than biweekly, and having general state-wide circulation within not less than three-fourths (3/4) of the counties of the state, whenever in the judgment of such agency or official state-wide publicity for the subject matter of such notice or notices is deemed to be to the possible advantage of the affected state or local governmental agency in the more economical or efficient procurement or performance of the property, supplies, work, service or other public project which is the subject matter of such notice or notices; provided, expressly, that such authority shall be discretionary and not required or mandatory upon any governmental agency or official.

(Formerly: Acts 1973, P.L.32, SEC.1.)

IC 5-3-3-2

Supplemental effect of law

Sec. 2. This chapter shall not be deemed to alter, amend or repeal any other law of the state of Indiana but shall be supplemental and in addition to any other law now in force providing for the publication of legal notices in a newspaper of general circulation.

(Formerly: Acts 1973, P.L.32, SEC.1.)

IC 5-3-4

Chapter 4. Publication of Notices Containing Legal Descriptions

IC 5-3-4-1

Application

Sec. 1. This chapter applies to a notice published by a governmental body that contains or is required by law to contain the legal description of real property.

As added by P.L.31-1992, SEC.1.

IC 5-3-4-2

"Governmental body" defined

Sec. 2. As used in this chapter, "governmental body" means any of the following:

(1) A state agency (as defined in IC 4-13-1-1).

(2) The legislative department of state government.

(3) The judicial department of state government.

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

(5) A state educational institution.

(6) An instrumentality of the state that performs essential governmental functions.

(7) The state lottery commission created by IC 4-30-3-1.

As added by P.L.31-1992, SEC.1. Amended by P.L.2-2007, SEC.79.

IC 5-3-4-3

Street address or other common description statement

Sec. 3. A notice must contain a statement, for informational purposes only, of the location of each property by:

(1) street address if any; or

(2) other common description of the real property other than the legal description.

As added by P.L.31-1992, SEC.1.

IC 5-3-4-4

Order of descriptions

Sec. 4. The statement required by section 3 of this chapter must precede the legal description in the notice.

As added by P.L.31-1992, SEC.1.

IC 5-3-4-5

Misstatement in common description; effect

Sec. 5. A misstatement in the statement required by section 3 of this chapter does not invalidate an otherwise valid notice.

As added by P.L.31-1992, SEC.1.

IC 5-4

ARTICLE 4. OFFICERS' BONDS AND OATHS

IC 5-4-1

Chapter 1. Filing, Recording, and Terms of Bonds and Oaths

IC 5-4-1-0.5

"Contractor"

Sec. 0.5. As used in this chapter, "contractor" means an individual or entity that:

(1) enters into a contractual relationship with a city, town, county, or township;

(2) has a fiduciary relationship with or performs a fiscal responsibility for the city, town, county, or township; and

(3) is not insured, for purposes of the individual's or entity's accounts, by the Federal Deposit Insurance Corporation.

As added by P.L.188-2016, SEC.1.

IC 5-4-1-1

Oaths; officers and deputies; prosecuting attorneys and deputies

Sec. 1. (a) Except as provided in subsection (c), every officer and every deputy, before entering on the officer's or deputy's official duties, shall take an oath to support the Constitution of the United States and the Constitution of the State of Indiana, and that the officer or deputy will faithfully discharge the duties of such office.

(b) A prosecuting attorney and a deputy prosecuting attorney shall take the oath required under subsection (a) before taking office.

(c) This subsection applies to a deputy of a political subdivision. An individual appointed as a deputy is considered an employee of the political subdivision performing ministerial functions on behalf of an officer and is not required to take the oath prescribed by subsection (a). However, if a chief deputy assumes the duties of an office during a vacancy under IC 3-13-11-12, the chief deputy must take the oath required under subsection (a) before entering on the official duties of the office.

(Formerly: Acts 1852, 1RS, c.13, s.1.) As amended by P.L.49-1989, SEC.2; P.L.176-1999, SEC.119.

IC 5-4-1-1.1

Repealed

(As added by Acts 1980, P.L.8, SEC.27. Amended by Acts 1980, P.L.24, SEC.1; P.L.3-1995, SEC.140. Repealed by P.L.176-1999, SEC.134.)

IC 5-4-1-1.2

Time for taking oath; exceptions; failure of officer of political subdivision to take and deposit oath

Sec. 1.2. (a) This section does not apply to an individual:

(1) appointed or elected to an office the establishment or qualifications of which are expressly provided for in the Constitution of the State of Indiana or the Constitution of the United States; or

(2) holding over in an office under Article 15, Section 3 of the Constitution of the State of Indiana.

(b) Subject to subsection (c), an individual appointed or elected to an office of a political subdivision may take the oath required under section 1 of this chapter at any time after the individual's appointment or election.

(c) An individual appointed or elected to an office of a political subdivision must take the oath required by section 1 of this chapter and deposit the oath as required by section 4 of this chapter not later than thirty (30) days after the beginning of the term of office.

(d) If an individual appointed or elected to an office of a political subdivision does not comply with subsection (c), the office becomes vacant.

As added by Acts 1980, P.L.8, SEC.28. Amended by P.L.176-1999, SEC.120; P.L.26-2000, SEC.32; P.L.169-2015, SEC.162.

IC 5-4-1-2

Endorsement

Sec. 2. (a) The oath required by section 1 of this chapter, except in the case of a notary public or in those cases specified in section 3 of this chapter, shall be endorsed on or attached to the:

(1) commission;

(2) certificate if a certificate was issued under IC 3-10-7-34, IC 3-12-4, or IC 3-12-5; or

(3) certificate of appointment pro tempore under IC 3-13-11-11;

signed by the person taking the oath, and certified to by the officer before whom the oath was taken, who shall also deliver to the person taking the oath a copy of the oath.

(b) A copy of the oath of office of a prosecuting attorney shall be:

(1) recorded on the bond required by section 20 of this chapter; or

(2) attached to the commission of the prosecuting attorney.

(Formerly: Acts 1852, 1RS, c.13, s.2.) As amended by Acts 1978, P.L.23, SEC.1; P.L.49-1989, SEC.3; P.L.10-1992, SEC.26; P.L.3-1993, SEC.240; P.L.3-1997, SEC.416; P.L.176-1999, SEC.121.

IC 5-4-1-3

Legislators; governor and lieutenant governor

Sec. 3. (a) Members of the general assembly shall take the oath described by section 1 of this chapter before taking their seats. The oath shall be entered on the journals.

(b) The governor and lieutenant-governor shall each take the oath described by section 1 of this chapter. The oath shall be entered on

the journals of each chamber of the general assembly.
(Formerly: Acts 1852, 1RS, c.13, s.3.) As amended by P.L.221-2005, SEC.141.

IC 5-4-1-4
Copy of oath; deposit

Sec. 4. (a) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

(1) Of all officers whose oath is endorsed on or attached to the commission and whose duties are not limited to a particular county or of a justice, judge, or prosecuting attorney, in the office of the secretary of state.

(2) Of the circuit court clerk, officers of a political subdivision or school corporation, and constables of a small claims court, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.

(3) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

(Formerly: Acts 1852, 1RS, c.13, s.4.) As amended by Acts 1980, P.L.8, SEC.29; Acts 1980, P.L.24, SEC.2; P.L.8-1987, SEC.7; P.L.49-1989, SEC.4; P.L.32-1992, SEC.1; P.L.3-1995, SEC.141; P.L.3-1997, SEC.417; P.L.176-1999, SEC.122; P.L.254-1999, SEC.5; P.L.14-2000, SEC.14.

IC 5-4-1-5
Repealed

(Repealed by Acts 1980, P.L.8, SEC.38.)

IC 5-4-1-5.1
Political subdivision officer, employee, and contractor bond filing; data base

Sec. 5.1. (a) "Political subdivision" as used in this section has the meaning set forth in IC 36-1-2-13 and excludes any department or agency of the state.

(b) Every elected or appointed officer, official, deputy, employee, or contractor of a political subdivision who is required by section 18 of this chapter to file an official bond for the faithful performance of duty, except the county recorder and deputies and employees of the recorder, shall file the bond with the fiscal officer of the political subdivision and in the office of the county recorder in the county of office or employment of the officer, official, deputy, employee, or contractor. The county recorder and deputies and employees of the recorder shall file their bonds with the county auditor and in the office of the clerk of the circuit court.

(c) The bonds described in subsection (b) shall be filed within ten (10) days of their issuance or, if approval is required, within ten (10) days after their approval by the person required to approve the bonds. The recorder shall record all of the bonds filed under this section, indexing them alphabetically under the name of the principal and referring to the title, office, and page number where recorded. The bonds shall be kept in a safe and convenient place in the recorder's office with a reference to the date filed and record and page where recorded.

(d) Every county officer who is required to give bond shall have a copy of the oath of office recorded with the bond.

(e) The fiscal officer of a political subdivision with whom an official bond is filed under subsection (b) shall file a copy of the bond with the state board of accounts:

(1) contemporaneously with the filing of the political subdivision's annual financial report required under IC 5-11-1-4(a); and

(2) electronically in the manner prescribed under IC 5-14-3.8-7.

(f) The state board of accounts shall maintain a data base of bonds received under this section and make the data base available to the public on the state board of accounts Internet web site. To the extent practicable, the data base must include a list that specifies:

(1) every individual who is required by section 18 of this chapter to file; and

(2) whether each individual specified under subdivision (1) has obtained and filed;

an official bond for the faithful performance of duty.

As added by Acts 1980, P.L.8, SEC.30. Amended by Acts 1981, P.L.47, SEC.1; P.L.3-1997, SEC.418; P.L.230-2015, SEC.1; P.L.188-2016, SEC.2.

IC 5-4-1-6

Secretary of state; filing official bond

Sec. 6. The official bond of the secretary of state shall be filed and recorded in the recorder's office of Marion County.

(Formerly: Acts 1852, 1RS, c.13, s.6.) As amended by Acts 1980, P.L.8, SEC.31.

IC 5-4-1-7

Preservation of certified copy; fees

Sec. 7. It shall be the duty of every officer with whom such certified copies and bonds shall be filed to preserve the same, and, on demand, give certified copies thereof, or of the record, attested with his official seal, and for the same he shall receive the same fees allowed by law for certified copies in other cases.

(Formerly: Acts 1852, 1RS, c.13, s.7.)

IC 5-4-1-8

Approval of bonds

Sec. 8. (a) The official bonds of officers, if sufficient, shall be approved as follows:

(1) Of county officers required to give bonds, by the clerk of the circuit court unless otherwise specified in this section.

(2) Of county sheriff, county coroner, county recorder, county auditor, county treasurer, and clerk of the circuit court, by the county executive.

(3) Of county assessor, township trustee, and township assessor (if any), by the county auditor.

(4) Of city officers, except the executive and members of the legislative body, by the city executive.

(5) Of members of the board of public works or of the board of public works and safety in cities, by the city legislative body.

(6) Of clerk-treasurer and marshal of a town, by the town legislative body.

(7) Of a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal), by the board of directors of the solid waste management district.

(b) A person who approves an official bond shall write the approval on the bond.

(c) A bond must be approved before it is filed.

(Formerly: Acts 1852, 1RS, c.13, s.8.) As amended by Acts 1980, P.L.8, SEC.32; Acts 1981, P.L.47, SEC.2; P.L.8-1989, SEC.17; P.L.33-1992, SEC.1; P.L.1-1996, SEC.35; P.L.146-2008, SEC.33.

IC 5-4-1-9

Time limitation for bond; failure to comply

Sec. 9. An officer required to give an official bond shall give the bond before the commencement of his term of office. If the officer fails to give the bond before that time, the officer may not take office.

(Formerly: Acts 1852, 1RS, c.13, s.9.) As amended by Acts 1980, P.L.8, SEC.33; Acts 1980, P.L.24, SEC.3.

IC 5-4-1-10

Bonds payable to state

Sec. 10. All official bonds shall be payable to the state of Indiana; and every such bond shall be obligatory to such state, upon the principal and sureties, for the faithful discharge of all duties required of such officer by any law, then or subsequently in force, for the use of any person injured by any breach of the condition thereof.

(Formerly: Acts 1852, 1RS, c.13, s.10.)

IC 5-4-1-11

First recovery; exhaustion of penalty

Sec. 11. No official bond shall be void on a first recovery, but suits may be instituted thereon, from time to time, until the penalty

thereof is exhausted.
(Formerly: Acts 1852, 1RS, c.13, s.11.)

IC 5-4-1-12
Defects in form and substance

Sec. 12. No official bond shall be void because of defects in form or substance or in the approval and filing thereof, but, upon the suggestion of such defects, such bond shall be obligatory as if properly executed, filed and approved.
(Formerly: Acts 1852, 1RS, c.13, s.12.)

IC 5-4-1-13
Execution

Sec. 13. (a) All official bonds required by statute shall be executed by the principal and one (1) or more freehold sureties except as provided by subsection (b).

(b) The official bonds of county surveyors and township trustees shall be executed by the principal and by two (2) or more freehold sureties or an authorized surety company.
(Formerly: Acts 1852, 1RS, c.13, s.13.) As amended by Acts 1980, P.L.8, SEC.34.

IC 5-4-1-14
Copies as evidence

Sec. 14. A copy, a record, or a copy of a record of an official bond legally certified has the same effect in evidence as the original. Suit may be brought on a copy of an official bond as on the original.
(Formerly: Acts 1852, 1RS, c.13, s.14.) As amended by Acts 1980, P.L.8, SEC.35.

IC 5-4-1-15
Repealed

(Repealed by Acts 1981, P.L.47, SEC.26.)

IC 5-4-1-15.1
Deputies or employees; bonds and insurance policies

Sec. 15.1. (a) Whenever it is necessary, the appropriate administrative officer of any department or agency of the state may cover deputies or employees of the department or agency by individual bonds, or blanket bonds, or a crime insurance policy endorsed to cover the faithful performance of duties. The administrative officer shall determine the amount of the insurance policy, individual bond, or blanket bond obtained under this section.

(b) An individual bond, or blanket bond, or crime insurance policy endorsed to include faithful performance obtained under this section shall be filed and paid for in the same manner as public official bonds.

(c) This section does not apply to officers required by law to

execute and furnish individual official bonds.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by Acts 1982, P.L.33, SEC.3. Amended by P.L.49-1995, SEC.3.

IC 5-4-1-16
Repealed

(Repealed by Acts 1981, P.L.47, SEC.26.)

IC 5-4-1-17
Repealed

(Repealed by Acts 1981, P.L.47, SEC.26.)

IC 5-4-1-18 Version a
Local officer, employee, and contractor surety bonds and crime policies; amount, form, term requirements

Note: This version of section effective until 7-1-2016. See also following version of this section, effective 7-1-2016.

Sec. 18. (a) Except as provided in subsection (b), the following individuals shall file and maintain in place an individual surety bond during each year that the individual serves as an officer, employee, or contractor:

(1) City judges, controllers, clerks, and clerk-treasurers.

(2) Town judges and clerk-treasurers.

(3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.

(4) Township trustees.

(5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(6) Township assessors (if any).

(7) Individuals:

(A) who are employees or contractors of a city, town, county, or township; and

(B) whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity.

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond that:

(1) is endorsed to include faithful performance to cover the faithful performance of; and

(2) includes aggregate coverage sufficient to provide coverage amounts specified for;

all employees, commission members, and persons acting on behalf of the local government unit, including the officers, employees, and contractors described in subsection (a) who are required to file a bond under this chapter.

(c) The fiscal body of a city, town, county, or township may by ordinance (or for a township, by resolution) authorize the purchase of a crime insurance policy that provides coverage for criminal acts or omissions committed by officers, employees, contractors, commission members, and persons acting on behalf of the local government unit. For the sole purpose of recovering public funds on behalf of a local government unit, the state is considered to be an additional named insured on all crime insurance policies obtained under this subsection.

(d) Except as provided in subsections (j) and (k), the fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

(1) The amount must equal thirty thousand dollars ($30,000) for each one million dollars ($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).

(2) The amount may not be less than thirty thousand dollars ($30,000) nor more than three hundred thousand dollars ($300,000) unless the fiscal body approves a greater amount for the officer or employee.

County auditors shall file bonds in amounts of not less than thirty thousand dollars ($30,000), as fixed by the fiscal body of the county.

(e) The amount of the bond of a person who is not specified in subsection (d) and is required to file an individual bond shall be fixed by the fiscal body of the unit as follows:

(1) If the person is not described in subsection (a)(7), at not less than fifteen thousand dollars ($15,000).

(2) If the person is described in subsection (a)(7), at not less than five thousand dollars ($5,000).

(f) Except as provided in subsection (l), a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

(1) fixed by the board of directors of the solid waste management district; and

(2) that is at least thirty thousand dollars ($30,000).

(g) Except as provided under subsection (f), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(h) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report in an electronic format under IC 5-14-6 to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(i) The commissioner of insurance shall prescribe the form of the

bonds or crime insurance policies required by this section, in consultation with the state board of accounts and the Indiana archives and records administration under IC 5-15-5.1-6. A bond or crime insurance policy that does not conform to the form prescribed under this subsection may not be used to meet the requirements of this chapter.

(j) Notwithstanding subsection (d), the state board of accounts may fix the amount of the bond for a city controller, city clerk-treasurer, town clerk-treasurer, Barrett Law fund custodian, county treasurer, county sheriff, circuit court clerk, township trustee, or conservancy district financial clerk at an amount that exceeds thirty thousand dollars ($30,000) for each one million dollars ($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond. However, the bond amount may not exceed three hundred thousand dollars ($300,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the officer engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(k) Notwithstanding subsection (e), the state board of accounts may fix the amount of the bond for any person who is described in:

(1) subsection (e)(1) and is required to file an individual bond at an amount that exceeds fifteen thousand dollars ($15,000); or

(2) subsection (e)(2) and is required to file an individual bond at an amount that exceeds five thousand dollars ($5,000).

An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the person engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(l) Notwithstanding subsection (f), the state board of accounts may fix the amount of the bond for a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) at an amount that exceeds thirty thousand dollars ($30,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the controller engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(m) Both of the following apply to a bond that is filed to comply with this section:

(1) Each bond must have a term of one (1) year commencing on the first day of the:

(A) calendar year;

(B) fiscal year of the political subdivision or governmental

unit; or

(C) individual's service in the office, employment, or contracted position for which a bond is required.

(2) Consecutive yearly bonds filed by an individual must provide separate coverage for each year. The aggregate liability of the surety or insurer for a policy year is the sum of the amounts specified in the bonds issued by the surety or insurer for that policy year.

As added by Acts 1981, P.L.47, SEC.3. Amended by P.L.54-1989, SEC.1; P.L.49-1989, SEC.5; P.L.33-1992, SEC.2; P.L.49-1995, SEC.4; P.L.1-1996, SEC.36; P.L.28-2004, SEC.56; P.L.146-2008, SEC.34; P.L.176-2009, SEC.1; P.L.117-2011, SEC.1; P.L.171-2015, SEC.6; P.L.230-2015, SEC.2; P.L.60-2016, SEC.1.

IC 5-4-1-18 Version b

Local officer, employee, and contractor surety bonds and crime policies; amount, form, term requirements

Note: This version of section effective 7-1-2016. See also preceding version of this section, effective until 7-1-2016.

Sec. 18. (a) Except as provided in subsections (b), (c), and (d), the following individuals shall file and maintain in place an individual surety bond during each year that the individual serves as an officer, employee, or contractor:

(1) City judges, controllers, clerks, and clerk-treasurers.

(2) Town judges and clerk-treasurers.

(3) Auditors, treasurers, recorders, surveyors, sheriffs, coroners, assessors, and clerks.

(4) Township trustees.

(5) Those employees directed to file an individual bond by the fiscal body of a city, town, or county.

(6) Township assessors (if any).

(7) Individuals:

(A) who are employees or contractors of a city, town, county, or township; and

(B) whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds:

(i) that belong to the federal government, the state, a political subdivision, or another governmental entity; and

(ii) in an amount that exceeds five thousand dollars ($5,000) per year.

(b) The fiscal body of a city, town, county, or township may by ordinance authorize the purchase of a blanket bond that:

(1) is endorsed to include faithful performance to cover the faithful performance of; and

(2) includes aggregate coverage sufficient to provide coverage amounts specified for;

all employees, commission members, and persons acting on behalf of the local government unit, including the officers, employees, and

contractors described in subsection (a) who are required to file a bond under this chapter.

(c) The fiscal body of a city, town, or county may by ordinance or the fiscal body of a township may by resolution authorize the purchase of a name or position schedule bond that:

(1) names each individual or each position covered under the schedule bond;

(2) is endorsed to include faithful performance to cover the faithful performance of all officers, employees, and contractors described in subsection (a) who are required to file a bond under this chapter; and

(3) includes aggregate coverage sufficient to provide coverage amounts specified for all officers, employees, and contractors described in subsection (a) who are required to file a bond under this chapter.

(d) The fiscal body of a city, town, county, or township may by ordinance (or for a township, by resolution) authorize the purchase of a crime insurance policy that:

(1) provides coverage for criminal acts or omissions committed by;

(2) is endorsed to include faithful performance to cover the faithful performance of; and

(3) includes aggregate coverage sufficient to provide coverage amounts specified for;

all officers, employees, contractors, commission members, and persons acting on behalf of the local government unit and required to file a bond under this chapter. For the sole purpose of recovering public funds on behalf of a local government unit, the state is considered to be an additional named insured on all crime insurance policies and endorsements obtained under this subsection.

(e) Except as provided in subsections (k) and (l), the fiscal bodies of the respective units shall fix the amount of the bond of city controllers, city clerk-treasurers, town clerk-treasurers, Barrett Law fund custodians, county treasurers, county sheriffs, circuit court clerks, township trustees, and conservancy district financial clerks as follows:

(1) The amount must equal thirty thousand dollars ($30,000) for each one million dollars ($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2).

(2) The amount may not be less than thirty thousand dollars ($30,000) nor more than three hundred thousand dollars ($300,000) unless the fiscal body approves a greater amount for the officer or employee.

County auditors shall file bonds in amounts of not less than thirty thousand dollars ($30,000), as fixed by the fiscal body of the county.

(f) The amount of the bond of a person who is not specified in subsection (e) and is required to file an individual bond shall be fixed

by the fiscal body of the unit as follows:

(1) If the person is not described in subsection (a)(7), at not less than fifteen thousand dollars ($15,000).

(2) If the person is described in subsection (a)(7), at not less than five thousand dollars ($5,000).

(g) Except as provided in subsection (m), a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file an individual surety bond in an amount:

(1) fixed by the board of directors of the solid waste management district; and

(2) that is at least thirty thousand dollars ($30,000).

(h) Except as provided under subsection (g), a person who is required to file an individual surety bond by the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) shall file a bond in an amount fixed by the board of directors.

(i) In 1982 and every four (4) years after that, the state examiner shall review the bond amounts fixed under this section and report in an electronic format under IC 5-14-6 to the general assembly whether changes are necessary to ensure adequate and economical coverage.

(j) The commissioner of insurance may prescribe the form of the bonds or crime insurance policies required by this section, in consultation with the state board of accounts and the Indiana archives and records administration under IC 5-15-5.1-6. However, a bond or crime insurance policy that does not conform to a form prescribed under this subsection may be used to meet the requirements of this chapter.

(k) Notwithstanding subsection (e), the state board of accounts may fix the amount of the bond for a city controller, city clerk-treasurer, town clerk-treasurer, Barrett Law fund custodian, county treasurer, county sheriff, circuit court clerk, township trustee, or conservancy district financial clerk at an amount that exceeds thirty thousand dollars ($30,000) for each one million dollars ($1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond. However, the bond amount may not exceed three hundred thousand dollars ($300,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the officer engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(l) Notwithstanding subsection (f), the state board of accounts may fix the amount of the bond for any person who is described in:

(1) subsection (f)(1) and is required to file an individual bond at an amount that exceeds fifteen thousand dollars ($15,000); or

(2) subsection (f)(2) and is required to file an individual bond at an amount that exceeds five thousand dollars ($5,000).

An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the person engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(m) Notwithstanding subsection (g), the state board of accounts may fix the amount of the bond for a controller of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal) at an amount that exceeds thirty thousand dollars ($30,000). An increased bond amount may be established under this subsection only if the state examiner issues a report under IC 5-11-5-1 that includes a finding that the controller engaged in malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds.

(n) The following apply to a bond that is filed to comply with this section:

(1) Each bond must provide coverage in the amount required for the individual covered under the bond for one (1) year (the policy year) commencing on the first day of the:

(A) calendar year;

(B) fiscal year of the political subdivision or governmental unit; or

(C) individual's service in the office or position for which a bond is required.

(2) A continuous bond may be used to satisfy the requirement of subdivision (1) if the bond:

(A) is renewed on an annual basis for the period during which the individual serves in the office or position for which a bond is required; and

(B) provides coverage in the amount required for the individual covered under the bond for each policy year.

However, any claim under a continuous bond used under this subdivision must be brought not later than six (6) years after the occurrence giving rise to the claim.

(3) The maximum aggregate liability of the surety or insurer for a single policy year is the penal sum of the bond. In the case of a continuous bond, the maximum aggregate liability of the surety or insurer for the entire term that the bond is in effect is the penal sum of the bond for the current term of the bond and the penal sums of the bond for the five (5) immediately preceding years.

As added by Acts 1981, P.L.47, SEC.3. Amended by P.L.54-1989, SEC.1; P.L.49-1989, SEC.5; P.L.33-1992, SEC.2; P.L.49-1995, SEC.4; P.L.1-1996, SEC.36; P.L.28-2004, SEC.56; P.L.146-2008, SEC.34; P.L.176-2009, SEC.1; P.L.117-2011, SEC.1; P.L.171-2015, SEC.6; P.L.230-2015, SEC.2; P.L.60-2016, SEC.1; P.L.188-2016, SEC.3.

IC 5-4-1-19

Individual surety bonds for city, town, county, or township officers and employees; faithful performance of duties

Sec. 19. The bonds prescribed by IC 5-4-1-18 cover the faithful performance of the duties of the officer, employee, or contractor, including the duty to comply with IC 35-44.1-1-1 and the duty to account properly for all monies and property received by virtue of the officer's, employee's, or contractor's service in the office or position.

As added by Acts 1981, P.L.47, SEC.4. Amended by P.L.126-2012, SEC.15; P.L.188-2016, SEC.4.

IC 5-4-1-20

Individual surety bonds for prosecuting attorneys

Sec. 20. (a) A person elected to the office of prosecuting attorney shall execute an individual surety bond for the faithful performance of the duties of the office. The amount of the bond must be at least eight thousand five hundred dollars ($8,500).

(b) A person elected to the office of prosecuting attorney may not take office until that person has filed a bond:

(1) in the office of the county recorder of the county in which the person resides; and

(2) within ten (10) days after the bond is issued.

(c) The cost of a bond shall be paid by the county. For multiple county judicial circuits, the cost shall be paid by each county in the judicial circuit in the manner provided by IC 33-38-5-3.

(d) A bond must be:

(1) executed by the person elected prosecuting attorney and one (1) or more freehold sureties; and

(2) payable to the state as provided in section 10 of this chapter.

(e) A bond is not void on first recovery, and suits may be brought on the bond until the penalty is exhausted.

(f) If a bond has been legally certified, any of the following have the same effect in evidence as the bond:

(1) A copy of the bond.

(2) A record of the bond.

(3) A copy of a record of the bond.

(g) The county recorder of the county in which the person elected prosecuting attorney resides shall record the bond in an official bond register.

As added by P.L.49-1989, SEC.6. Amended by P.L.98-2004, SEC.58.

IC 5-4-2
Repealed

(Repealed by Acts 1981, P.L.47, SEC.26.)

IC 5-4-3

Chapter 3. Acknowledgment of Bonds

IC 5-4-3-1

Certification of acknowledgment

Sec. 1. (a) An official bond of any state, county, township, or other public officer may not be approved until the execution is acknowledged by the principal and sureties before some officer authorized to take the acknowledgment of deeds. The officer taking the acknowledgment shall certify the act on the bond.

(b) In the case of a surety company, the official bonds of the county treasurer and the city controller acting as city treasurer in a second class city shall be signed and acknowledged by the appropriate officers of the company in the presence of a notary public or other officer authorized to take acknowledgments. Otherwise, the official bonds of those officers shall be signed and acknowledged by the officers and their sureties in the presence of at least a majority of the board of county commissioners in the case of the county treasurer and of a majority of the common council of the city in the case of the city controller acting as city treasurer of a second class city.

(Formerly: Acts 1865(ss), c.76, s.1.) As amended by Acts 1980, P.L.8, SEC.37.

IC 5-4-3-2

Defenses

Sec. 2. The sureties in any official bond, taken and acknowledged as contemplated in the foregoing section, shall, as between such sureties and the state, be deemed and taken to be principals; and it shall not be competent for any surety in such bond to set up, as a defense to an action brought for a breach of the condition thereof, any matter which would not be available as a defense to the principal in such bond.

(Formerly: Acts 1865(ss), c.76, s.2.)

IC 5-4-4

Chapter 4. Insufficiency, Release, and Liability of Sureties

IC 5-4-4-1

Officers ceasing to do business; insufficient sureties; proceedings against officer

Sec. 1. Whenever the clerk of the circuit court, superior court, or probate court with jurisdiction in the county where an officer resides determines or a voter eligible to vote for an officer files an affidavit with the clerk stating that:

(1) the sureties for the official bond of an officer have ceased to do business in Indiana;

(2) the security for an official bond of an officer has become insufficient; or

(3) the penalty has become inadequate to secure the faithful performance of the duties of an officer's office by the diminution of the penalty by suit, an increase of liabilities from the enactment of statutes after the commencement of an officer's term, or other sufficient cause;

the clerk shall issue a writ to the sheriff commanding the officer to appear before the judge of the circuit court, superior court, or probate court with jurisdiction in the county in which the officer resides ten (10) days after the service of process and answer the complaint. The summons shall be served, return made, and fees charged as in the case of other summons.

(Formerly: Acts 1852, 1RS, c.12, s.1.) As amended by P.L.1-1990, SEC.52; P.L.84-2016, SEC.21.

IC 5-4-4-2

Notice of hearing to judge

Sec. 2. Such clerk, on the return of the process served, shall immediately notify such judge of the time and place of hearing such complaint, and such judge shall attend thereupon.

(Formerly: Acts 1852, 1RS, c.12, s.2.)

IC 5-4-4-3

Hearings; dismissal; new bond

Sec. 3. At the time set therefor, whether the officer complained against appear or not, upon being satisfied of the legal service of such process, such judge shall hear and determine such complaint; and if he decide against the same, he shall dismiss it at the costs of the petitioner, unless such petitioner be such clerk, in which case he shall dismiss it without costs; but if he decide that such bond has become insufficient by the removal of the sureties, or that they are unable to discharge the penalty thereof, or that such penalty is inadequate to secure the official liabilities of such officer, such judge shall require a new bond, with sufficient additional sureties to his approval, to be executed and filed by such officer with him within

ten (10) days thereafter, and tax the costs of such proceedings against him.
(Formerly: Acts 1852, 1RS, c.12, s.3.)

IC 5-4-4-4
Failure to file bond; vacating office
Sec. 4. If such officer fail to file such bond within the time and in the manner prescribed in the preceding section, such judge shall declare his office vacant, and forthwith notify the governor thereof.
(Formerly: Acts 1852, 1RS, c.12, s.4.)

IC 5-4-4-5
Repealed
(Repealed by P.L.1-1990, SEC.53.)

IC 5-4-4-6
Repealed
(Repealed by P.L.1-1990, SEC.53.)

IC 5-4-4-7
Failure to comply with order of court; vacating office
Sec. 7. If the order of the court is not complied with, such judge shall declare such office vacant, and forthwith notify the governor thereof.
(Formerly: Acts 1852, 1RS, c.12, s.7.)

IC 5-4-4-8
Release of surety
Sec. 8. Whenever any surety in an official bond shall petition such judge, in writing, to be released therefrom, he shall cause a summons to be personally served on the officer complained of, by the sheriff of the county, commanding him to appear before such judge, ten days after the service thereof, and give additional bond and sureties; which summons shall be served on such officer in person, return thereof made, and fees thereon charged, as in case of a summons from the circuit court.
(Formerly: Acts 1852, 1RS, c.12, s.8.)

IC 5-4-4-9
Release of surety; notice to judge
Sec. 9. Such clerk, upon the return of the process provided for in section 8 of this chapter, shall notify the judge of the circuit court, superior court, or probate court as is provided for in section 2 of this chapter.
(Formerly: Acts 1852, 1RS, c.12, s.9.) As amended by P.L.25-1986, SEC.14; P.L.84-2016, SEC.22.

IC 5-4-4-10

Taxation of costs

Sec. 10. If, on the day set for the hearing of such complaint, such officer give a new bond and sureties to be approved of such judge, the costs of the proceeding shall be taxed against such petitioner; but if such officer fail to give such additional bond and sureties, such judge shall declare his office vacant, forthwith notify the governor thereof, and tax the costs of the proceeding against such officer.
(Formerly: Acts 1852, 1RS, c.12, s.10.)

IC 5-4-4-11
Filing new bond

Sec. 11. Whenever a new bond is filed with such judge, as herein provided for, he shall forthwith file the same with the officer who by law has the custody thereof.
(Formerly: Acts 1852, 1RS, c.12, s.11.)

IC 5-4-4-12
Complaint against clerk of circuit court; duties assumed by auditor

Sec. 12. If the officer against whom a complaint is filed under section 1 of this chapter is the clerk of the circuit court, the duties required to be performed by the clerk under this chapter shall be discharged by the auditor of the county.
(Formerly: Acts 1852, 1RS, c.12, s.12.) As amended by P.L.1-1990, SEC.54.

IC 5-4-4-13
Liabilities of old and new sureties

Sec. 13. Where a new bond shall be required of any officer, the sureties of the old bond shall be liable only for the acts of such officer up to the time of the execution of such new bond; and the sureties of such new bond shall be liable only for the acts of such officer after the date of its execution.
(Formerly: Acts 1852, 1RS, c.12, s.13.)

IC 5-4-4-14
Liabilities of new sureties on old bond

Sec. 14. Any officer required to execute a bond as provided herein, in consequence of the insufficiency of the sureties, may procure other sureties, to sign the old bond at the time set for the hearing of such petition, and if such judge shall deem such new sureties sufficient, no new bond shall be required; but such old bond, with the names of the new sureties subscribed thereto, shall be directed to be filed with the proper keeper of such bond; and such new sureties shall be liable for all the official acts of such officer from the original date of the execution of such bond; and such bond, thus signed by the additional sureties, shall be valid against the principal, the original and the new sureties; and all the sureties shall be jointly and severally liable for the official acts of such principal

from the date of the original execution of such bond.
(Formerly: Acts 1852, 1RS, c.12, s.14.)

IC 5-4-4-15
Examination of official bonds; proceedings on insufficiency

Sec. 15. The board of commissioners of each county shall examine all the official bonds filed in the office of the clerk of the circuit court and in the office of the auditor of such county, and also the bond of such clerk; and if the penalty of any such bond is inadequate, or the sureties thereof are insufficient, or have removed from the state, except in case of the bond of the clerk, such board shall direct such clerk to cause the necessary proceedings to be had as herein provided to procure new bond or additional sureties. And in case of such clerk's bond, such board shall cause the auditor of such county to institute such proceedings; and in case such clerk or auditor fail to comply with the order of such board, they shall be liable on their bonds for any damage occasioned by such neglect growing out of any malfeasance or nonfeasance or default in office of the officers complained against. Such board may at any time institute such examination, of its own motion, as to the bond of any such officer, or may make such examination on petition of any taxpayer.
(Formerly: Acts 1852, 1RS, c.12, s.15; Acts 1873, c.13, s.1.)

IC 5-4-5

Chapter 5. Bonds Obtained From Surety Companies

IC 5-4-5-1

Who must furnish bond

Sec. 1. Every public official elected or appointed to any public office, employment or position of trust, and officer of the Indiana national guard, who is required to execute and furnish a bond or other like obligation may procure such bond or other like obligation from a surety company or surety companies authorized by law to transact business in this state and competent to execute and furnish a bond or other like obligation of the character required.

(Formerly: Acts 1925, c.30, s.1; Acts 1931, c.27, s.1.) As amended by Acts 1981, P.L.47, SEC.5.

IC 5-4-5-2

Cost of bond; source of payment

Sec. 2. The cost of any such bond or other like obligation so procured, if furnished by a state officer or employee, shall be paid out of the general fund of the state treasury; if furnished by an officer or employee of any state institution, such cost shall be paid out of the maintenance fund of such institution; if furnished by a county, city, town, or township officer or employee, such cost shall be paid out of the general fund of the county, city, town, or township in and for which such officer or employee shall have been or shall be elected or appointed, as the case may be; if furnished by any officer or employee of any school corporation, such cost shall be paid out of the special school fund of the school corporation in and for which such officer or employee shall have been or shall be elected or appointed; and if furnished by any officer or employee of any municipal corporation or political subdivision of the state, other than those designated in this section, such cost shall be paid out of the operating or maintenance fund of such corporation or political subdivision in or for which such officer or employee is acting.

(Formerly: Acts 1925, c.30, s.2.) As amended by P.L.25-1986, SEC.15.

IC 5-4-5-3

Cost of bond; method of payment

Sec. 3. The cost of any such surety bond or other like obligation so required, as hereinbefore provided, shall be paid in the same manner as office expenses, and the proper fiduciary officer of the state or of any such municipal corporation or institution is hereby authorized and directed, upon the presentation of a voucher therefor, to issue his warrant, without an appropriation having been previously made therefor, in such amount as may be necessary to pay for the cost of such bond or obligation.

(Formerly: Acts 1925, c.30, s.3.)

IC 5-4-5-4

Bonds executed before passage of act

Sec. 4. In the event that any surety bond shall have been procured and executed, prior to February 28, 1925, by any officer whose term of office will extend beyond February 28, 1925, any deferred payments on any such bond which may fall due on or after January 1, 1926, shall be paid, as provided in this chapter, out of the funds of the state or of the municipal corporation or political subdivision or institution in and for which such public official is acting.

(Formerly: Acts 1925, c.30, s.4.) As amended by P.L.25-1986, SEC.16.

IC 5-4-5-5

Blanket bonds; crime policies; faithful performance of duty of state employee or instrumentality

Sec. 5. (a) This section applies notwithstanding any other statute.

(b) Whenever the state or an instrumentality of the state pays for a bond or crime insurance policy endorsed to cover the faithful performance of duty of an employee of the state or an instrumentality of the state (including a public official or deputy), the bond or crime insurance policy must, when feasible, cover all of the employees in:

(1) an individual state agency or instrumentality; or

(2) two (2) or more state agencies or instrumentalities specified in the blanket bond or crime insurance policy.

The Indiana department of administration may require two (2) or more state agencies to obtain a joint blanket bond or crime insurance policy endorsed to include faithful performance.

(c) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

As added by P.L.14-1986, SEC.10. Amended by P.L.49-1995, SEC.5.

IC 5-5

ARTICLE 5. REPEALED

(Repealed by P.L.3-1987, SEC.570.)

IC 5-6

ARTICLE 6. OFFICERS' DEPUTIES

IC 5-6-1

Chapter 1. Appointment of Deputies

IC 5-6-1-1

Officers authorized to appoint deputies; bonds

Sec. 1. (a) The secretary of state, the auditor of state, the treasurer of state, the sheriff of the supreme court, and every clerk of the circuit court may appoint deputies, when necessary or when required, if provision shall have been made for paying such deputies for their services from the funds of the state or of the county or from fees received for their services.

(b) Any such officer may require any deputy so appointed to give bond, in such amount as may be prescribed by law or as may be fixed by such officer, conditioned for the proper and faithful discharge of all official duties as such deputy, and for the safe accounting of all funds received by the deputy or entrusted to the deputy's care, control, or management.

(Formerly: Acts 1852, 1RS, c.28, s.1; Acts 1855, c.41, s.1; Acts 1925, c.164, s.1; Acts 1959, c.314, s.1.) As amended by Acts 1981, P.L.11, SEC.17; P.L.14-2004, SEC.181.

IC 5-6-1-2

Oaths; duties

Sec. 2. (a) Subsection (b) does not apply to the deputy of a circuit court clerk.

(b) Deputies shall take the oath required of their principals.

(c) A deputy may perform all the official duties of the deputy's principal, being subject to the same regulations and penalties.

(Formerly: Acts 1852, 1RS, c.28, s.2.) As amended by P.L.176-1999, SEC.123; P.L.26-2000, SEC.33.

IC 5-6-1-3

Responsibility of principals for official acts of deputies

Sec. 3. Such principals shall be responsible for all the official acts of their deputies.

(Formerly: Acts 1852, 1RS, c.28, s.3.)

IC 5-6-2

Chapter 2. Deputies for Officers in Military Service

IC 5-6-2-1

Who may appoint deputies

Sec. 1. All persons holding civil offices under the laws of this state, except judges, notaries public, and the officers that the Constitution of the State of Indiana expressly requires personally to perform the duties of their respective offices, who enter the volunteer or militia forces called into service under the authority of the United States, or of this state, may appoint deputies who, during a service related absence of their principals, may perform all the duties appertaining by law to the office.

(Formerly: Acts 1861(ss), c.26, s.1.) As amended by P.L.1-1990, SEC.55.

IC 5-6-2-2

Principal not considered to have vacated office

Sec. 2. When under existing laws the duties of any office may be performed by deputy, the person holding such office shall not be deemed to have vacated the same by entering into the service named in the preceding section, but the duties of such office may be performed by deputy as if the principal had not entered into the military service.

(Formerly: Acts 1861(ss), c.26, s.2.)

IC 5-6-2-3

Oaths; bond

Sec. 3. Such deputies by this chapter authorized to be appointed shall take the oath required of their principals and be subject to the same rules and penalties and shall each file an official bond in the same manner and in the same penalty required by law of their principals.

(Formerly: Acts 1861(ss), c.26, s.3.) As amended by P.L.25-1986, SEC.17.

IC 5-6-3
Repealed

(Repealed by Acts 1981, P.L.47, SEC.26.)

IC 5-6-4

Chapter 4. Deputies of Local Officers

IC 5-6-4-1

Applicability of chapter

Sec. 1. This chapter applies to a deputy of an officer of a political subdivision or a judicial circuit.

As added by P.L.176-1999, SEC.124.

IC 5-6-4-2

Applicability of definitions

Sec. 2. The definitions in IC 36-1-2 apply throughout this chapter.

As added by P.L.176-1999, SEC.124.

IC 5-6-4-3

State constitutional considerations

Sec. 3. For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, the position of appointed deputy of an officer of a political subdivision or a judicial circuit is not a lucrative office.

As added by P.L.176-1999, SEC.124.

IC 5-7

ARTICLE 7. OFFICERS' FEES AND SALARIES

IC 5-7-1

Chapter 1. State Officers' Fees and Salaries

IC 5-7-1-1

Fees authorized

Sec. 1.The secretary of state, provided that no fees shall be charged against the United States, or this, or any other state, or any county of this state, nor against any officer of either of them, for any attestation, certificate or paper required by them for official use, shall be authorized to charge and collect on behalf of the state of Indiana a fee to be paid by the parties requiring the service, for all copying of records, papers and documents not otherwise provided for, ten cents ($0.10) per page.

(Formerly: Acts 1895, c.145, s.3.) As amended by Acts 1978, P.L.12, SEC.7; P.L.34-1997, SEC.2.

IC 5-7-1-2

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-1-3

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-1-4

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-1-5

Repealed

(Repealed by P.L.4-1983, SEC.20.)

IC 5-7-1-6

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-1-7

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-1-8

Repealed

(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-7-1-9

Repealed
(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-7-1-10
Repealed
(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-7-1-11
Repealed
(Repealed by Acts 1980, P.L.25, SEC.1; Acts 1980, P.L.212, SEC.10.)

IC 5-7-1-12
Repealed
(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-7-1-13
Repealed
(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-7-1-14
Repealed
(Repealed by Acts 1980, P.L.25, SEC.1.)

IC 5-7-1-15
Repealed
(Repealed by Acts 1980, P.L.8, SEC.169.)

IC 5-7-1-16
Repealed
(Repealed by Acts 1980, P.L.212, SEC.10(a).)

IC 5-7-1-17
Repealed
(Repealed by Acts 1980, P.L.212, SEC.10(a).)

IC 5-7-1-18
Repealed
(Repealed by Acts 1980, P.L.212, SEC.10(a).)

IC 5-7-1-19
Repealed
(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-1-20
Repealed
(Repealed by Acts 1978, P.L.2, SEC.521.)

IC 5-7-1-21
Repealed
(Repealed by P.L.4-1988, SEC.5.)

IC 5-7-2

Chapter 2. Fees Charged Illegally

IC 5-7-2-1

Illegally taxed fees

Sec. 1. It shall be unlawful for any officer in this state, under color of his office, to tax, or permit to be taxed in his office, any fee or sum of money that is not legally allowable under the statute or statutes of the state.

(Formerly: Acts 1883, c.42, s.1.)

IC 5-7-2-2

Fees must be specified

Sec. 2. No county or township officer in this state shall, under color of the officer's office, charge, tax up, or receive, or permit to be taxed up or received, in relation to any service in or about the officer's office, any fee or sum of money except such fee or sum of money as is plainly specified in IC 33-37 and IC 36-2 without resort to implication.

(Formerly: Acts 1883, c.42, s.2.) As amended by P.L.25-1986, SEC.20; P.L.5-1988, SEC.31; P.L.98-2004, SEC.59.

IC 5-7-2-3

Laws specifying fees; construction

Sec. 3. Whenever IC 33-37 or IC 36-2 specifies a fee or sum of money as compensation for any service, duty, or thing, the same shall be construed to be in full therefor, and it shall be unlawful to charge, tax up, or receive any further or additional sum under color of any claim or construction of law.

(Formerly: Acts 1883, c.42, s.3.) As amended by P.L.25-1986, SEC.21; P.L.5-1988, SEC.32; P.L.98-2004, SEC.60.

IC 5-7-2-4

Fees for services not actually rendered

Sec. 4. It shall be unlawful to charge, tax up or receive, or permit to be charged, taxed up or received, under claim or color of office or official right, any fee or sum of money for or on account of services that were not actually executed and rendered.

(Formerly: Acts 1883, c.42, s.4.)

IC 5-7-2-5

Services existing only by legal fiction

Sec. 5. No officer of this state, county, township, or other officer, shall ever tax up, charge, receive or suffer to be taxed up, or received in such office, under color of such office, any fee or sum or money for services contemplated to exist only by legal fiction.

(Formerly: Acts 1883, c.42, s.5.)

IC 5-7-2-6
Cumulative and superadditional fees

Sec. 6. It shall be unlawful to tax up, charge, or receive fees or sums of money in county, township, or other public offices in this state, under color of office, as if the sums and fees allowed and fixed by IC 33-37 and IC 36-2 are cumulative and superadditional.

(Formerly: Acts 1883, c.42, s.6.) As amended by P.L.25-1986, SEC.22; P.L.5-1988, SEC.33; P.L.98-2004, SEC.61.

IC 5-7-2-7
Nonstatutory allowances; circuit court clerks; per diem

Sec. 7. It shall be unlawful for any board of commissioners to allow any county, township or other public officer, any sum of money out of a county treasury except when the statutes confer the clear and unequivocal authority to do so: Provided, That the clerk of the circuit court shall receive for attendance upon the circuit court the same per diem as is allowed for attendance upon criminal and superior courts.

(Formerly: Acts 1883, c.42, s.7.)

IC 5-7-2-8
Violations; civil actions

Sec. 8. If any county, township, or other public officer of the state shall violate or disregard this chapter or any part thereof and shall thereby obtain any fee or sum of money denied him by this chapter or any part of this chapter, the person or persons from whom he received such money shall have the right of civil action in any of the courts of the county for the recovery of such money, and shall, in connection therewith, recover the sum of not less than ten dollars ($10) damages and not more than thirty dollars ($30) damages, but such suit shall be preceded by demand.

(Formerly: Acts 1883, c.42, s.8.) As amended by P.L.25-1986, SEC.23.

IC 5-7-3

Chapter 3. Advance Payment of Salaries Prohibited

IC 5-7-3-1

Advance payments prohibited

Sec. 1. (a) Public officers may not draw or receive their salaries in advance.

(b) This section does not prohibit a payment under IC 36-4-8-9.

(Formerly: Acts 1863, c.36, s.1.) As amended by P.L.37-1986, SEC.1.

IC 5-7-3-2

Repealed

(Repealed by Acts 1980, P.L.212, SEC.10(a).)

IC 5-7-4

Chapter 4. Salary Discontinued While Officer Incarcerated

IC 5-7-4-1

Elected officials; salary while incarcerated

Sec. 1. Any elected official of any county, city, town, township or the state shall not be entitled to receive payment of any salary or fees, as fixed by law, covering the period during which such elected official is incarcerated in any penal institution as the result of a sentence by any court upon conviction of any crime, except such pay or fees as may have been earned prior to his or her incarceration. Any public official charged with the duty of paying the salaries and fees of any elected official of any county, city, town, township or the state is prohibited from paying any salary and fees to such elected official while such elected official is incarcerated in any penal institution, excepting such pay or fees as may have been earned prior to his or her incarceration.

(Formerly: Acts 1951, c.56, s.1.)

IC 5-7-5
Repealed

(Repealed by Acts 1980, P.L.211, SEC.14(a).)

IC 5-7-6
Repealed

(Repealed by Acts 1980, P.L.211, SEC.14(a).)

IC 5-7-7
Repealed

(Repealed by Acts 1980, P.L.211, SEC.14(a).)

IC 5-7-8
Repealed

(Repealed by P.L.5-1988, SEC.175.)

IC 5-7-9
Repealed

(Repealed by P.L.1-1993, SEC.24.)

IC 5-8

ARTICLE 8. OFFICERS' IMPEACHMENT, REMOVAL, RESIGNATION, AND DISQUALIFICATION

IC 5-8-1

Chapter 1. Impeachment and Removal From Office

IC 5-8-1-1

Officers; judges; prosecuting attorney; liability to impeachment

Sec. 1. (a) Under Article 6, Sections 7 and 8 of the Constitution of the State of Indiana, all state officers other than justices of the supreme court or judges of the court of appeals of Indiana or the Indiana tax court, all other judges, prosecuting attorneys, and all county, city, town, and township officers are liable to impeachment for any misdemeanor in office.

(b) A justice of the supreme court or a judge of the court of appeals of Indiana or of the Indiana tax court is subject to removal from office under Article 7, Section 11 of the Constitution of the State of Indiana.

(Formerly: Acts 1897, c.182, s.1.) As amended by P.L.3-1993, SEC.241.

IC 5-8-1-2

Method of impeachment

Sec. 2. All impeachments must be by resolution, adopted, originated in and conducted by managers elected by the house of representatives, who must prepare articles of impeachment, present them at the bar of the senate and prosecute the same, and the trial must be had before the senate sitting as a court of impeachment.

(Formerly: Acts 1897, c.182, s.2.)

IC 5-8-1-3

Articles of impeachment

Sec. 3. When an officer is impeached by the house of representatives for a misdemeanor in office, the articles of impeachment must be delivered to the president of the senate, saving and excepting only that in case the officer impeached be the governor, lieutenant-governor, or the acting president of the senate, such articles shall be delivered to the secretary of the senate.

(Formerly: Acts 1897, c.182, s.3.)

IC 5-8-1-4

Hearing

Sec. 4. The senate must assign a day for the hearing of the impeachment, and inform the managers elected by the house of representatives thereof. The secretary of the senate must cause a copy of the articles of impeachment, with a notice to appear and answer the same at the time and place appointed, to be served on the

defendant not less than ten (10) days before the day fixed for the hearing.
(Formerly: Acts 1897, c.182, s.4.)

IC 5-8-1-5
Service upon defendant
Sec. 5. The service must be made upon the defendant personally, or if he can not, upon diligent inquiry, be found within the state, the senate, upon proof of the fact, may order publication to be made, in such manner as it may deem proper, of a notice requiring him to appear at a specified time and place and answer the articles of impeachment.
(Formerly: Acts 1897, c.182, s.5.)

IC 5-8-1-6
Absence of defendant
Sec. 6. If the defendant does not appear, the senate, upon proof of service or publication, as provided in the two (2) sections last preceding, may, of its own motion, or for cause shown, assign another day for hearing the impeachment, or may proceed, in the absence of the defendant, to trial and judgment.
(Formerly: Acts 1897, c.182, s.6.)

IC 5-8-1-7
Objections to articles of impeachment; pleas
Sec. 7. When the defendant appears, he may in writing object to the sufficiency of the articles of impeachment, or he may answer the same by an oral plea of not guilty, which plea must be entered upon the journal and put in issue every material allegation of the articles of impeachment.
(Formerly: Acts 1897, c.182, s.7.)

IC 5-8-1-8
Answering articles of impeachment; judgment
Sec. 8. If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate who heard the argument, the defendant must be ordered forthwith to answer the articles of impeachment. If he then pleads guilty, the senate must render judgment of conviction against him. If he plead not guilty, or refuses to plead, the senate must, at such time as it may appoint, proceed to try the impeachment.
(Formerly: Acts 1897, c.182, s.8.)

IC 5-8-1-9
Oaths
Sec. 9. At the time and place appointed, and before the senate proceeds to act on the impeachment, the secretary must administer to the president of the senate, and the president of the senate to each

of the members of the senate then present, an oath, truly and impartially to hear, try and determine the impeachment; and no member of the senate can vote or act upon the impeachment, or upon any question arising thereon, without having taken such oath.
(Formerly: Acts 1897, c.182, s.9.)

IC 5-8-1-10
Conviction
Sec. 10. The defendant can not be convicted on impeachment without the concurrence of two-thirds of the members elected, voting by ayes and noes, and if two-thirds of the members elected do not concur in a conviction, he must be acquitted.
(Formerly: Acts 1897, c.182, s.10.)

IC 5-8-1-11
Judgment
Sec. 11. After conviction, the senate must, at such time as it may appoint, pronounce judgment, in the form of resolution entered upon the journals of the senate.
(Formerly: Acts 1897, c.182, s.11.)

IC 5-8-1-12
Resolution of acquittal or conviction
Sec. 12. On the adoption of the resolution by a majority of the members present who voted on the question of acquittal or conviction, it becomes the judgment of the senate.
(Formerly: Acts 1897, c.182, s.12.)

IC 5-8-1-13
Suspension or removal from office
Sec. 13. The judgment may be that the defendant be suspended or that he be removed from office and disqualified to hold any office of honor, trust or profit, under the state.
(Formerly: Acts 1897, c.182, s.13.)

IC 5-8-1-14
Disqualification of defendant from receiving salaries
Sec. 14. If judgment of suspension is given, the defendant, during the continuance thereof, is disqualified from receiving the salary, fees or emoluments of the office.
(Formerly: Acts 1897, c.182, s.14.)

IC 5-8-1-15
Temporary suspension during pendency of proceedings; filling vacancies
Sec. 15. Whenever articles of impeachment against any officer subject to impeachment are presented to the senate, such officer is temporarily suspended from office and cannot act in the officer's

official capacity until the officer is acquitted. Upon such suspension of any officer other than the governor, the office must, at once, be temporarily filled by an appointment made by the governor, with the advice and consent of the senate, until the acquittal of the party impeached, or, in case of removal, until the vacancy is filled as required by law.
(Formerly: Acts 1897, c.182, s.15.) As amended by P.L.3-1989, SEC.27.

IC 5-8-1-16
Impeachment of governor or lieutenant governor; chief justice to preside

Sec. 16. If the governor or lieutenant-governor is impeached, the chief justice of the Supreme Court of the state shall preside over the senate during the impeachment trial, but he shall not have the right to vote.
(Formerly: Acts 1897, c.182, s.16.)

IC 5-8-1-17
Indictment or information not barred

Sec. 17. If the offense for which the defendant is convicted on impeachment is also the subject of an indictment or information, the indictment or information is not barred hereby.
(Formerly: Acts 1897, c.182, s.17.)

IC 5-8-1-18
Senate to continue in session

Sec. 18. In case impeachment proceedings be pending in the senate at the time of the expiration of any session of the general assembly, the senate shall be continued in session for the sole and only purpose of sitting as a court of impeachment until such impeachment proceedings be concluded, and may, pending the conclusion of such impeachment proceedings, adjourn from time to time, as it may deem expedient.
(Formerly: Acts 1897, c.182, s.18.)

IC 5-8-1-19
Judge or prosecuting attorney; duties of attorney general

Sec. 19. (a) Under Article 7, Section 13 of the Constitution of the State of Indiana, whenever a circuit, superior, or probate court judge or prosecuting attorney has been convicted of corruption or any other high crime, the attorney general shall bring proceedings in the supreme court, on information, in the name of the state, for the removal from office of the judge or prosecuting attorney.

(b) If the judgment is against the defendant, the defendant is removed from office. The governor, the officer, or the entity required to fill a vacancy under IC 3-13-6-2 shall, subject to:

(1) IC 33-33-2-39;

(2) IC 33-33-2-43;
(3) IC 33-33-45-38; and
(4) IC 33-33-71-40;
appoint or select a successor to fill the vacancy in office.
(Formerly: Acts 1897, c.182, s.19.) As amended by P.L.3-1987, SEC.497; P.L.3-1993, SEC.242; P.L.16-1995, SEC.3; P.L.19-1995, SEC.4; P.L.98-2004, SEC.62; P.L.201-2011, SEC.7.

IC 5-8-1-20
Repealed
(Repealed by P.L.3-1993, SEC.282.)

IC 5-8-1-21
Written accusations; grand jury
Sec. 21. An accusation in writing against any district officer, county officer, township officer, municipal officer, or prosecuting attorney may be presented by the grand jury of the county in which the officer accused is elected or appointed.
(Formerly: Acts 1897, c.182, s.21.) As amended by P.L.1-1990, SEC.56.

IC 5-8-1-22
Form of accusation
Sec. 22. The accusation must state the offense charged in ordinary and concise language, and without repetition.
(Formerly: Acts 1897, c.182, s.22.)

IC 5-8-1-23
Delivery of accusations; service on defendant
Sec. 23. The accusation must be delivered by the foreman of the grand jury to the prosecuting attorney of the county, except when the prosecuting attorney of the county is the officer accused, who must cause a copy thereof to be served upon the defendant, and require, by notice in writing of not less than ten (10) days, that the defendant appear before the circuit court or superior court of the county at the time mentioned in the notice, and answer the accusation. The original accusation must then be filed with the clerk of the court, or if the clerk of the court is the party accused, with the judge of the court.
(Formerly: Acts 1897, c.182, s.23.) As amended by P.L.3-1993, SEC.243; P.L.84-2016, SEC.23.

IC 5-8-1-24
Appearance of defendant
Sec. 24. The defendant must appear at the time appointed in the notice and answer the accusation, unless, for some sufficient cause, the court assign another day for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence.

(Formerly: Acts 1897, c.182, s.24.)

IC 5-8-1-25
Answering accusation

Sec. 25. The defendant may answer the accusation either by objecting to the sufficiency thereof, or of any article therein, or by denying the truth of the same.
(Formerly: Acts 1897, c.182, s.25.)

IC 5-8-1-26
Objections to legal sufficiency of accusation

Sec. 26. If the defendant objects to the legal sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection.
(Formerly: Acts 1897, c.182, s.26.)

IC 5-8-1-27
Denial of accusation

Sec. 27. If he denies the truth of the accusation, the denial may be oral and without oath, and must be entered upon the minutes.
(Formerly: Acts 1897, c.182, s.27.)

IC 5-8-1-28
Objection to accusation not sustained

Sec. 28. If an objection to the sufficiency of the accusation is not sustained, the defendant must answer thereto forthwith.
(Formerly: Acts 1897, c.182, s.28.)

IC 5-8-1-29
Guilty plea or refusal to answer; not guilty plea

Sec. 29. If the defendant pleads guilty, or refuses to answer the accusation, the court must render judgment of conviction against him. If he denies the matters charged, the court must immediately, or at such time as it may appoint, proceed to try the accusation.
(Formerly: Acts 1897, c.182, s.29.)

IC 5-8-1-30
Trial

Sec. 30. The trial must be by a jury, and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.
(Formerly: Acts 1897, c.182, s.30.)

IC 5-8-1-31
Attendance of witnesses

Sec. 31. The prosecuting attorney and the defendant are respectively entitled to such process as may be necessary to enforce the attendance of witnesses, as upon a trial of an indictment.

(Formerly: Acts 1897, c.182, s.31.)

IC 5-8-1-32
Repealed
(Repealed by Acts 1982, P.L.34, SEC.2.)

IC 5-8-1-33
Repealed
(Repealed by Acts 1982, P.L.34, SEC.2.)

IC 5-8-1-34
Removal of prosecuting attorney; proceedings
Sec. 34. The same proceedings may be had on like grounds for the removal of a prosecuting attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by the clerk to the judge of the circuit court or superior court of the county, who must thereupon notify the attorney general to act as prosecuting officer in the matter, and shall designate some resident attorney to act as assistant to the attorney general in such prosecution, whose compensation shall be fixed by the court and paid out of the county treasury.
(Formerly: Acts 1897, c.182, s.34.) As amended by P.L.84-2016, SEC.24.

IC 5-8-1-35
Verification of accusation; citing party; hearing; judgment
Sec. 35. (a) When an accusation in writing, verified by the oath of any person, is presented to a circuit court, superior court, or probate court, alleging that any officer within the jurisdiction of the court has been guilty of:

(1) charging and collecting illegal fees for services rendered or to be rendered in the officer's office;
(2) refusing or neglecting to perform the official duties pertaining to the officer's office; or
(3) violating IC 36-6-4-17(b) if the officer is the executive of a township;

the court must cite the party charged to appear before the court at any time not more than ten (10) nor less than five (5) days from the time the accusation was presented, and on that day or some other subsequent day not more than twenty (20) days from the time the accusation was presented must proceed to hear, in a summary manner, the accusation and evidence offered in support of the same, and the answer and evidence offered by the party accused.

(b) If after the hearing under subsection (a) it appears that the charge is sustained, the court must do the following:

(1) Enter a decree that the party accused be deprived of the party's office.
(2) Enter a judgment as follows:

(A) For five hundred dollars ($500) in favor of the prosecuting officer.
(B) For costs as are allowed in civil cases.
(C) For the amount of money that was paid to the officer in compensation from the day when the accusation was filed under this section to the day when judgment is entered in favor of the public entity paying the compensation to the officer.

(c) In an action under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the accused officer if:

(1) the officer prevails; and

(2) the court finds that the accusation is frivolous or vexatious.

(Formerly: Acts 1897, c.182, s.35.) As amended by P.L.34-1992, SEC.1; P.L.84-2016, SEC.25.

IC 5-8-1-36
Repealed

(Repealed by Acts 1982, P.L.34, SEC.2.)

IC 5-8-1-37
Repealed

(As added by Acts 1982, P.L.34, SEC.1. Amended by P.L.16-1983, SEC.2; P.L.113-2005, SEC.2; P.L.119-2005, SEC.25. Repealed by P.L.37-2008, SEC.4.)

IC 5-8-1-38
Felony conviction; removal; appeal; reinstatement; remuneration; vacancy

Sec. 38. (a) The following definitions apply throughout this section:

(1) "Felony" has the meaning set forth in IC 3-8-1-5.

(2) "Public officer" means either of the following:

(A) An individual who holds an elected office (as defined in IC 3-5-2-17), other than a federal office.
(B) An individual who holds an appointed office of the state or a political subdivision (as defined in IC 36-1-2-13).

(b) Any public officer convicted of a felony during the public officer's term of office shall:

(1) be removed from office by operation of law when:

(A) in a jury trial, a jury publicly announces a verdict against the person for a felony;
(B) in a bench trial, the court publicly announces a verdict against the person for a felony; or
(C) in a guilty plea hearing, the person pleads guilty or nolo contendere to a felony; and

(2) not receive any salary or remuneration from the time the public officer is removed from office under subdivision (1).

(c) The subsequent reduction of a felony to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5 after the:

(1) jury has announced its verdict against the person for a felony;

(2) court has announced its verdict against the person for a felony; or

(3) person has pleaded guilty or nolo contendere to a felony;

does not affect the operation of subsection (b).

(d) If the conviction is:

(1) reversed;

(2) vacated;

(3) set aside;

(4) for a felony other than a felony arising out of an action taken in the public officer's official capacity, reduced to a Class A misdemeanor under IC 35-50-2-7 or IC 35-38-1-1.5; or

(5) not entered because the trial court did not accept the guilty plea;

and the public officer's term has not expired, the public officer shall be reinstated in office and receive any salary or other remuneration that the public officer would have received had the public officer not been removed from office.

(e) If the conviction is reversed, vacated, or set aside and the public officer's term has expired, the public officer shall receive any salary or other remuneration that the public officer would have received had the public officer not been removed from office.

(f) A vacancy in a public office caused by the removal of a public officer under this section shall be filled as provided by law. If a convicted public officer is reinstated, the person filling the office during the appeal shall cease to hold the office.

(g) This subsection applies whenever:

(1) a public officer is removed from office by operation of law under subsection (b); and

(2) a vacancy occurs in a state, county, township, city, or town office as the result of the removal from office.

The court must file a certified copy of the sentencing order with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving a copy of the sentencing order must give notice of the vacancy in the same manner as if the person had received a notice under IC 5-8-6. The person who is required or permitted to fill the vacancy must comply with IC 3-13.

(h) This subsection applies if a public officer is reinstated in office under subsection (d). The court must file a certified copy of the order reversing, vacating, reducing, or setting aside the conviction with the person who is entitled under IC 5-8-6 to receive notice of the death of an individual holding the office. The person receiving a copy of the order must give notice of the reinstatement in the same manner as notice of a vacancy would be given under

IC 5-8-6. The person receiving a copy of the order must also give notice to the person who was selected to fill the vacancy before the reinstatement occurred.

As added by P.L.37-2008, SEC.2. Amended by P.L.57-2015, SEC.1.

IC 5-8-2

Chapter 2. Removal From Office for Intoxication

IC 5-8-2-1

Voluntary intoxication during business hours

Sec. 1. Any person holding any office under the constitution or laws of this state who shall voluntarily become intoxicated within the business hours of the office, or is in the habit of becoming intoxicated by the use of intoxicating liquors, shall be removed from office under IC 34-17.

(Formerly: Acts 1875, c.58, s.1.) As amended by P.L.3-1993, SEC.244; P.L.1-1998, SEC.68.

IC 5-8-3

Chapter 3. Disqualification by Violation of Federal Law

IC 5-8-3-1

Draft dodging; sedition

Sec. 1. A person may not hold an office within Indiana, either by election or appointment, if the person has been convicted of:

(1) evading the Selective Service Act (50 App. U.S.C. 451-473);

(2) engaging in conspiracy or an attempt to defraud the government of the United States;

(3) seditious utterances in violation of the laws of the United States; or

(4) any other crime against the laws of the United States where the sentence imposed exceeded six (6) months.

(Formerly: Acts 1921, c.83, s.1.) As amended by P.L.3-1987, SEC.498; P.L.10-1988, SEC.216.

IC 5-8-3-2

Appointment or election void

Sec. 2. Any appointment or election of any person lacking the qualification described in section 1 of this chapter is absolutely void and the person shall be removed from office under IC 34-17.

(Formerly: Acts 1921, c.83, s.2.) As amended by P.L.25-1986, SEC.25; P.L.3-1993, SEC.245; P.L.1-1998, SEC.69.

IC 5-8-3.5

Chapter 3.5. Notice of Resignation

IC 5-8-3.5-1

Notices of resignation and vacancy

Sec. 1. (a) An officer who wants to resign shall give written notice of the officer's resignation as follows:

(1) The governor and lieutenant governor shall notify the principal clerk of the house of representatives and the principal secretary of the senate to act in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) A member of the general assembly shall notify the following, whichever applies:

(A) A member of the senate shall notify the president pro tempore of the senate.

(B) A member of the house of representatives shall notify the speaker of the house of representatives.

(3) The following officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) An elector or alternate elector for President and Vice President of the United States.

(B) The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, or attorney general.

(C) An officer elected by the general assembly, the senate, or the house of representatives.

(D) A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.

(E) A judge of a circuit, city, county, probate, superior, town, or township small claims court.

(F) A prosecuting attorney.

(G) A circuit court clerk.

(H) A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.

(4) An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the circuit court clerk of the county containing the largest percentage of population of the political subdivision.

(5) An officer not listed in subdivisions (1) through (4) shall notify the person or entity from whom the officer received the officer's appointment.

(b) A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, not later than seventy-two (72) hours after receipt of the notice of resignation, give notice of the vacancy to the person or entity that has the power to:

(1) fill the vacancy; or

(2) call a caucus for the purpose of filling the vacancy.

As added by Acts 1980, P.L.8, SEC.39. Amended by P.L.49-1983, SEC.1; P.L.6-1983, SEC.17; P.L.5-1986, SEC.12; P.L.1-1991, SEC.31; P.L.10-1992, SEC.27; P.L.3-1993, SEC.246; P.L.3-1997, SEC.419; P.L.26-2000, SEC.34; P.L.14-2004, SEC.182.

IC 5-8-4

Chapter 4. Resignations

IC 5-8-4-1

No right to withdrawal without consent

Sec. 1. Whenever any officer, servant or employee of the state of Indiana, or of any board, bureau, commission, department, division, instrumentality or agency thereof, or of any city, town, county, township, or school corporation, or of any board, bureau, commission, department, division, instrumentality or agency of any city, town, county, township, or school corporation, shall submit in writing his or her resignation, whether to take effect at once, when accepted, or at some future fixed date, with the proper officer, person or persons or authority of government to receive such resignation, the person so submitting such written resignation shall have no right to withdraw, rescind, annul or amend such resignation without the consent of the officer, person or persons or authority of government having power by law to fill such vacancy.

(Formerly: Acts 1945, c.119, s.1.)

IC 5-8-4-2

Conditions null and void

Sec. 2. Any condition contained in any resignation, except as to time of taking effect of the same, shall be null and void.

(Formerly: Acts 1945, c.119, s.2.)

IC 5-8-4-3

Repealed

(Repealed by P.L.4-1988, SEC.5.)

IC 5-8-4-4

Effective upon filing with person authorized to receive resignation

Sec. 4. (a) This section applies to a person holding an elected or appointed office.

(b) When the person submits a written resignation as an officer, the resignation takes effect when filed with the proper person authorized to receive the resignation unless the resignation:

(1) has a delayed effective date; or

(2) is withdrawn, rescinded, annulled, or amended in accordance with this chapter.

As added by P.L.3-1997, SEC.420.

IC 5-8-4-5

Effective on time or date contained in resignation

Sec. 5. A written resignation containing a provision stating that the resignation takes effect at a time or on a date following the filing of the resignation with the proper person takes effect at that time or on that date.

As added by P.L.3-1997, SEC.421.

IC 5-8-4-6
Effective upon filing with first required entity

Sec. 6. If this article requires that notice of a resignation be filed with more than one (1) officer or entity, the resignation becomes effective when filed with the first entity unless otherwise stated in the resignation.

As added by P.L.3-1997, SEC.422.

IC 5-8-5

Chapter 5. Notice of a Town Council Vacancy

IC 5-8-5-1

Applicability

Sec. 1. This chapter applies when a vacancy must be filled under:

(1) IC 3-13-9; or

(2) IC 3-13-11;

due to a reason set forth in IC 36-5-2-6.5(3).

As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.16; P.L.119-2005, SEC.26.

IC 5-8-5-2

"Member" defined

Sec. 2. As used in this chapter, "member" refers to a town council member.

As added by P.L.174-2002, SEC.4.

IC 5-8-5-3

Public meeting to determine vacancy on town council

Sec. 3. (a) The town council may hold a public meeting to determine whether a circumstance has occurred under IC 36-5-2-6.5(3) that results in a vacancy on the town council. The town council may set a meeting for making the determination on its own motion, or a person may petition the town council to set a meeting to make the determination. The town council may grant or deny a petition for a meeting.

(b) If a person files a petition with the council, the petition must state the basis for the person's claim that a circumstance has occurred under IC 36-5-2-6.5(3).

As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.17; P.L.119-2005, SEC.27.

IC 5-8-5-4

Declaring vacancy on town council; notice of vacancy

Sec. 4. (a) If the town council is reasonably satisfied that any circumstance has occurred under IC 36-5-2-6.5(3), the council may, by an affirmative vote of a majority of the members appointed to the body, vote to declare a vacancy in the town council membership. The member who is alleged to have vacated the member's seat may participate in the meeting as a member, but may not vote on the issue.

(b) If the member who is the subject of the petition or motion does not attend the meeting at which the town council makes the determination that a vacancy exists, the town council shall mail notice of its determination to the member.

(c) If the town council determines that a vacancy exists, the town clerk-treasurer shall give the circuit court clerk notice of the

determination not later than five (5) days after the date of the town council's determination. The circuit court clerk shall give notice to the county chairman if a caucus is required under IC 3-13-11 to fill the vacancy.
As added by P.L.174-2002, SEC.4. Amended by P.L.1-2003, SEC.18; P.L.119-2005, SEC.28.

IC 5-8-5-5
Right of vacating town council member to file action
Sec. 5. The member whose seat is vacated may file an action under IC 34-17-1 with the circuit court, superior court, or probate court of the county where the town is located.
As added by P.L.174-2002, SEC.4. Amended by P.L.84-2016, SEC.26.

IC 5-8-6

Chapter 6. Notice of Death of an Officeholder

IC 5-8-6-1

Applicability

Sec. 1. This chapter applies when a vacancy must be filled under:

(1) IC 3-13-4;
(2) IC 3-13-5;
(3) IC 3-13-6;
(4) IC 3-13-7;
(5) IC 3-13-8;
(6) IC 3-13-9;
(7) IC 3-13-10;
(8) IC 3-13-11; or
(9) IC 20;

due to the death of an officeholder.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-2

"Officeholder"

Sec. 2. As used in this chapter, "officeholder" refers to a person who holds a state office, legislative office, local office, or school board office (as those terms are defined in IC 3-5-2).

As added by P.L.119-2005, SEC.29.

IC 5-8-6-3

Certification of officeholder's death

Sec. 3. (a) A person who knows of the death of an officeholder may certify the death to the following:

(1) The governor, in the case of the death of any of the following:
(A) An individual who holds a state office (as defined in IC 3-5-2-48).
(B) An individual who is a judge of a circuit, superior, probate, county, or city court.
(2) The secretary of state, in the case of the death of an individual who holds a legislative office (as defined in IC-3-5-2-28).
(3) The circuit court clerk of the county in which the officeholder resided, in the case of the death of an officeholder of a county, city, town, township, or school corporation not covered under subdivision (1).

(b) A person who certifies the death of an officeholder shall:

(1) state the information that causes the person to believe the officeholder has died; and
(2) certify, under the penalties for perjury, that to the best of the person's knowledge and belief, the information stated is true.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-4
Vacancies filled by governor

Sec. 4. When the governor:

(1) obtains information concerning the death of an individual who:

(A) holds a state office (as defined in IC 3-5-2-48); or

(B) is a judge of a circuit, superior, probate, county, or city court; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the governor shall fill the vacancy as provided by law.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-5
Secretary of state's notice

Sec. 5. (a) When the secretary of state:

(1) obtains information concerning the death of an individual who holds a legislative office (as defined in IC 3-5-2-28); and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the secretary of state shall give notice of the death to the state chairman of the political party that elected or selected the deceased individual.

(b) The secretary of state shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

As added by P.L.119-2005, SEC.29.

IC 5-8-6-6
Circuit court clerk's notice

Sec. 6. (a) When a circuit court clerk:

(1) obtains information concerning the death of an officeholder of a county, city, town, township, or school corporation not subject to section 4 of this chapter; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the circuit court clerk shall give notice of the death to the person described in subsection (b).

(b) The circuit court clerk shall give the notice required by subsection (a) to:

(1) the person who must give notice of any meeting or caucus required to fill the vacancy caused by the death; or

(2) if a meeting or caucus is not required to fill the vacancy, the person who has the power to fill the vacancy.

(c) The circuit court clerk shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

As added by P.L.119-2005, SEC.29.

IC 5-9

ARTICLE 9. LEAVES OF ABSENCE AND APPOINTMENT PREFERENCES FOR MILITARY SERVICE

IC 5-9-1

Repealed

(Repealed by Acts 1980, P.L.8, SEC.3.)

IC 5-9-2
Repealed

(Repealed by P.L.2-1995, SEC.140.)

IC 5-9-3

Chapter 3. Preference for Appointment of Veterans

IC 5-9-3-1

Civil offices

Sec. 1. Persons honorably discharged from the military or naval service of the United States, by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointment to civil offices, provided they are found to possess the capacity necessary for the proper discharge of such offices.

(Formerly: Acts 1919, c.65, s.1.)

IC 5-9-3-2

Preference points

Sec. 2. (a) Political subdivisions of the state of Indiana shall allow preference points to eligible armed forces veterans who are being examined for full time employment. Preference points awarded to such veterans on each such examination shall be ten percent (10%) of the total number of points which may be obtained thereon.

(b) To be eligible to receive preference points, under this chapter, a person must have:

(1) served on active duty in the armed forces of the United States for at least one hundred eighty-one (181) days; and

(2) received an honorable discharge.

(c) The provisions of this chapter are in lieu of any policy of a political subdivision allowing employment preference for veterans in effect before July 1, 1975.

(Formerly: Acts 1975, P.L.38, SEC.1.) As amended by P.L.3-2008, SEC.21.

IC 5-9-4

Chapter 4. Leaves of Absence for Military Service

IC 5-9-4-1

Applicability of chapter

Sec. 1. (a) This chapter applies to a person who:

(1) holds a state, legislative, local, or school board office (all as defined in IC 3-5-2);

(2) is called into active duty in the:

(A) armed forces of the United States; or

(B) the national guard; and

(3) may not appoint a deputy under IC 5-6-2.

(b) This chapter may not be applied in violation of Article 2, Section 9 of the Constitution of the State of Indiana.

As added by P.L.79-2004, SEC.1.

IC 5-9-4-2

"Active duty"

Sec. 2. As used in this chapter, "active duty" means full-time service in:

(1) the armed forces of the United States; or

(2) the national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

As added by P.L.79-2004, SEC.1.

IC 5-9-4-3

"Armed forces of the United States"

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

(1) the army;

(2) the navy;

(3) the air force;

(4) the coast guard;

(5) the marine corps; or

(6) the merchant marine.

As added by P.L.79-2004, SEC.1.

IC 5-9-4-4

"National guard"

Sec. 4. As used in this chapter, "national guard" means:

(1) the Indiana army national guard; or

(2) the Indiana air national guard.

As added by P.L.79-2004, SEC.1.

IC 5-9-4-5

"Officeholder"

Sec. 5. As used in this chapter, "officeholder" refers to a person

who holds a state, legislative, local, or school board office (all as defined in IC 3-5-2).
As added by P.L.79-2004, SEC.1.

IC 5-9-4-6
Officeholder's leave of absence for active duty

Sec. 6. (a) An officeholder who:
(1) is called into active duty in the:
(A) armed forces of the United States; or
(B) national guard; and
(2) as a result of the action described in subdivision (1), is unable to perform the duties of the officeholder's office;
is entitled to a leave of absence from the officeholder's office for the period of the active duty.

(b) An officeholder has not vacated the officeholder's office by taking a leave of absence described in subsection (a).
As added by P.L.79-2004, SEC.1.

IC 5-9-4-7
Written notice of leave; person receiving notice; contents of notice

Sec. 7. (a) Except as provided in subsection (b) or (c), an officeholder who elects to take the leave of absence described in section 6 of this chapter shall give written notice that the officeholder is taking a leave of absence for military service to the person or entity designated in IC 5-8-3.5-1 to receive a resignation for the office the officeholder holds.

(b) An officeholder who is:
(1) a justice of the supreme court, a judge of the court of appeals, or a judge of the tax court; or
(2) a judge of a circuit, city, probate, or superior court;
shall give the written notice required by subsection (a) to the clerk of the supreme court.

(c) An officeholder who holds a school board office shall give the written notice required by subsection (a) to the person or entity designated in IC 20-25-3, IC 20-25-4, IC 20-25-5, IC 20-23-12, IC 20-23-14, IC 20-23-15, IC 20-23-4, or IC 20-26 to receive a resignation for the office the officeholder holds.

(d) The written notice required by subsection (a) must state that the officeholder is taking a leave of absence because the officeholder:
(1) has been called for active duty in:
(A) the armed forces of the United States; or
(B) the national guard; and
(2) will be temporarily unable to perform the duties of the officeholder's office.
As added by P.L.79-2004, SEC.1. Amended by P.L.1-2005, SEC.74; P.L.2-2014, SEC.13.

IC 5-9-4-8

Temporary appointment during officeholder's leave; method and term of appointment; rights, duties, and compensation of appointee

Sec. 8. (a) Except as provided in subsection (b) and IC 36-5-6-9, during the officeholder's leave of absence, the officeholder's office must be filled by a temporary appointment made under:

(1) IC 3-13-4;
(2) IC 3-13-5;
(3) IC 3-13-6;
(4) IC 3-13-7;
(5) IC 3-13-8;
(6) IC 3-13-9;
(7) IC 3-13-10;
(8) IC 3-13-11;
(9) IC 20-23-4;
(10) IC 20-26;
(11) IC 20-23-12;
(12) IC 20-23-14;
(13) IC 20-23-15;
(14) IC 20-23-17;
(15) IC 20-23-17.2;
(16) IC 20-25-3;
(17) IC 20-25-4; or
(18) IC 20-25-5;

in the same manner as a vacancy created by a resignation is filled.

(b) For an officeholder who:

(1) is:
(A) a justice of the supreme court, a judge of the court of appeals, or a judge of the tax court; or
(B) a judge of a circuit, city, probate, or superior court; and
(2) is taking a leave of absence under this chapter;

the supreme court shall appoint a judge pro tempore to fill the officeholder's office in accordance with the court's rules and procedures.

(c) The person selected or appointed under subsection (a) or (b) serves until the earlier of:

(1) the date the officeholder's leave of absence ends as provided in section 10 of this chapter; or
(2) the officeholder's term of office expires.

(d) The person selected or appointed to an office under subsection (a) or (b):

(1) assumes all the rights and duties of; and
(2) is entitled to the compensation established for;

the office for the period of the temporary appointment.

As added by P.L.79-2004, SEC.1. Amended by P.L.1-2005, SEC.75; P.L.179-2011, SEC.9; P.L.2-2014, SEC.14; P.L.120-2015, SEC.2.

IC 5-9-4-9

Notice to person or entity making the appointment

Sec. 9. (a) Whenever the person or entity that receives the written notice under section 7(a) or 7(c) of this chapter has the power to fill a vacancy created by a resignation from the office the officeholder holds, the person or entity shall make the temporary appointment needed during the officeholder's leave of absence.

(b) Whenever the person or entity that receives the written notice under section 7(a) or 7(c) of this chapter does not have the power to fill a vacancy created by a resignation from the office the officeholder holds, the person or entity shall, not later than seventy-two (72) hours after receipt of the officeholder's notice, give written notice of the need for a temporary appointment during the officeholder's leave of absence to the person or entity who has the power to:

(1) fill a vacancy; or

(2) call a caucus under IC 3-13-11 for the purpose of filling a vacancy;

created by a resignation from the office the officeholder holds.

(c) Whenever the clerk of the supreme court receives the written notice under section 7(b) of this chapter, the clerk shall give notice of the officeholder's leave of absence to the supreme court in accordance with the court's rules and procedures.

As added by P.L.79-2004, SEC.1.

IC 5-9-4-10

Term of leave; officeholder's notice of return; resumption of duties

Sec. 10. (a) A leave of absence under this chapter begins on the date the officeholder enters active duty and ends on the earliest of:

(1) the date of the officeholder's death;

(2) the thirtieth day after the date of the discharge or release of the officeholder from active duty; or

(3) the date the officeholder provides the written notice required by subsection (b).

(b) An officeholder returning from a leave of absence under this chapter shall give written notice that the officeholder's leave of absence has ended to the person or entity to which the officeholder provided notice under section 7 of this chapter.

(c) The person or entity that receives the written notice under subsection (b) shall, not later than seventy-two (72) hours after receipt of the officeholder's notice, give written notice that the officeholder's leave of absence has ended to:

(1) the person temporarily appointed to the officeholder's office; and

(2) any person or entity that received the written notice of the leave of absence under section 9(b) of this chapter.

(d) On the date an officeholder's leave of absence ends, as determined under subsection (a), the officeholder shall resume the duties of the officeholder's office for the remainder of the term for

which the officeholder was elected.
As added by P.L.79-2004, SEC.1. Amended by P.L.2-2005, SEC.14.

IC 5-9-4-11
Expiration of officeholder's term during leave; reelection

Sec. 11. (a) In the event that the officeholder's term of office expires during the officeholder's leave of absence, the office shall be filled as required by law.

(b) Except as provided by a federal law or regulation, an officeholder who is on a leave of absence under this chapter is entitled to become a candidate for and be elected to the office from which the officeholder has taken a leave of absence.
As added by P.L.79-2004, SEC.1.

IC 5-9-4-12
Construction with federal law

Sec. 12. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

(1) the armed forces of the United States; or
(2) the national guard;

under federal law.
As added by P.L.79-2004, SEC.1.

IC 5-10

ARTICLE 10. PUBLIC EMPLOYEE BENEFITS

IC 5-10-0.5

Chapter 0.5. Limitations on Public Retirement Fund Investments

IC 5-10-0.5-1

Limitations on public retirement fund investments

Sec. 1. (a) The prohibitions of Article 11, Section 12 of the Constitution of the State of Indiana do not apply to:

(1) the public employees' retirement fund (IC 5-10.3);

(2) the Indiana state teachers' retirement fund (IC 5-10.4);

(3) the Indiana state police pre-1987 benefit system (IC 10-12-3);

(4) the Indiana state police 1987 benefit system (IC 10-12-4); or

(5) any other public pension or employee retirement fund administered by the board of trustees of the Indiana public retirement system.

(b) Investments of the funds listed in subsection (a) are subject to the following limitations and regulations:

(1) Investments of the public employees' retirement fund and any other public pension or employee retirement fund administered by the board of trustees of the Indiana public retirement system are subject to IC 5-10.3-5-3, including P.L.37-1996, and IC 5-10.5-5.

(2) Investments of the Indiana state teachers' retirement fund are subject to IC 5-10.4-3-10 and IC 5-10.5-5.

(3) Investments of the Indiana state police benefit system are subject to IC 10-12-2-2.

As added by P.L.39-1997, SEC.1. Amended by P.L.2-2003, SEC.21; P.L.2-2006, SEC.12; P.L.35-2012, SEC.20.

IC 5-10-1
Repealed

(Repealed by Acts 1977, P.L.53, SEC.4.)

IC 5-10-1.1

Chapter 1.1. Public Employees Deferred Compensation Plans

IC 5-10-1.1-0.3

Legalization of actions of school corporations to establish certain employee savings plans

Sec. 0.3. The actions taken by a school corporation before January 1, 1988, to:

(1) establish an employee savings plan that is a defined contribution plan qualified under Section 401(a) of the Internal Revenue Code; and

(2) contribute amounts to the employee savings plan on behalf of the employee, with those amounts to be credited and allocated to the employee;

are legalized.

As added by P.L.220-2011, SEC.63.

IC 5-10-1.1-1

Nonqualified deferred compensation plans; employee savings plans

Sec. 1. The state and any political subdivision (as defined by IC 36-1-2-13) may:

(1) agree with any employee to reduce and defer any portion of such employee's compensation which under federal law may be deferred under a nonqualified deferred compensation plan and subsequently contract for, purchase, or otherwise procure insurance and investment products appropriate for a nonqualified deferred compensation plan (all referred to in this chapter as "funding"), for the purpose of funding a deferred compensation plan for such employee;

(2) if the political subdivision is a school corporation, establish an employee savings plan that is a defined contribution plan qualified under Section 401(a) or 403(b) of the Internal Revenue Code, and contribute amounts to the plan on behalf of eligible employees to be credited and allocated to an account for each employee; and

(3) contribute amounts before January 1, 1995, and continue or begin to contribute amounts after January 1, 1995, to a nonqualified deferred compensation plan on behalf of eligible employees, subject to any limits and provisions under Section 457 of the Internal Revenue Code.

(Formerly: Acts 1975, P.L.42, SEC.1.) As amended by Acts 1980, P.L.27, SEC.1; P.L.42-1988, SEC.1; P.L.66-1995, SEC.1; P.L.65-1995, SEC.1; P.L.15-1998, SEC.1; P.L.68-2001, SEC.1.

IC 5-10-1.1-1.5

Defined contribution plan

Sec. 1.5. (a) The state, through the budget agency, may adopt a defined contribution plan, under Section 401(a) of the Internal

Revenue Code, for the purpose of matching all or a specified portion of state employees' contributions to the state employees' deferred compensation plan and for any additional purposes established by statute.

(b) The deferred compensation committee shall be the trustee of a plan established under subsection (a) as described in section 4 of this chapter. A plan established under subsection (a) shall be administered by the auditor of state as described in section 5 of this chapter.

(c) The deferred compensation committee may approve funding offerings for a plan established under subsection (a), which may be the same as offerings for the state employees' deferred compensation plan. All funds in each plan shall be separately accounted for but may be commingled for investment purposes.

(d) Contributions to a plan established under subsection (a) are limited to the amount of biennial appropriations the budget agency determines are available for any such purposes. The deferred compensation committee may use funds available under the plan to hire or contract with qualified attorneys, financial advisers, or other professional or administrative persons that the committee believes are necessary or useful in the administration of the plan.

(e) A plan established under subsection (a) must include appropriate provisions concerning the plan's day to day operation and any other provisions that are appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, online activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The state is obligated at any particular time only for the current market value of the funding previously made to a plan established under subsection (a).

(g) The state board of finance shall extend the plan established under subsection (a) to any political subdivision that also elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) or 7(b)(3) of this chapter.
As added by P.L.195-1999, SEC.7 and P.L.273-1999, SEC.231. Amended by P.L.184-2001, SEC.2; P.L.220-2005, SEC.1.

IC 5-10-1.1-2
Employee defined

Sec. 2. As used in this chapter, "employee" means any person, including a person elected, appointed or under contract, receiving compensation from the state or any political subdivision as described in section 1 of this chapter.
(Formerly: Acts 1975, P.L.42, SEC.1.)

IC 5-10-1.1-3

Effective and operative dates

Sec. 3. A deferred compensation plan established under this chapter exists and serves in addition to other retirement, pension and benefit systems established by the state, or political subdivision, and may not effect a reduction of any retirement, pension or other benefit provided by applicable law. Any compensation deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employee.

(Formerly: Acts 1975, P.L.42, SEC.1.) As amended by Acts 1977, P.L.51, SEC.1.

IC 5-10-1.1-3.5

Deferred compensation plan; automatic enrollment

Sec. 3.5. (a) This section applies to an individual who becomes an employee of the state after June 30, 2007.

(b) Unless an employee notifies the state that the employee does not want to enroll in the deferred compensation plan, on day thirty-one (31) of the employee's employment:

(1) the employee is automatically enrolled in the deferred compensation plan; and

(2) the state is authorized to begin deductions as otherwise allowed under this chapter.

(c) The auditor of state shall provide written notice to an employee of the provisions of this chapter. The notice provided under this subsection must:

(1) be provided:

(A) with the employee's first paycheck; and

(B) on paper that is a color that is separate and distinct from the color of the employee's paycheck;

(2) contain a statement concerning:

(A) the purposes of;

(B) procedures for notifying the state that the employee does not want to enroll in;

(C) the tax consequences of; and

(D) the details of the state match for employee contribution to;

the deferred compensation plan; and

(3) list the telephone number, electronic mail address, and other contact information for the auditor of state, who serves as plan administrator.

(d) This subsection applies to contributions made before July 1, 2011. Notwithstanding IC 22-2-6, except as provided by subsection (h), the state shall deduct from an employee's compensation as a contribution to the deferred compensation plan established by the state under this chapter an amount equal to the maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this

chapter.

(e) This subsection applies to contributions made after June 30, 2011, and before July 1, 2013. Notwithstanding IC 22-2-6 and except as provided by subsection (h), during the first year an employee is enrolled under subsection (b) in the deferred compensation plan, the state shall deduct each pay period from the employee's compensation as a contribution to the deferred compensation plan an amount equal to the greater of the following:

(1) The maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this chapter.

(2) One-half percent (0.5%) of the employee's base salary.

(f) This subsection applies to contributions made after June 30, 2013. Notwithstanding IC 22-2-6 and except as provided by subsection (h), during the first year an employee is enrolled under subsection (b) in the deferred compensation plan, the state shall deduct each pay period from the employee's compensation as a contribution to the deferred compensation plan an amount equal to the greater of the following:

(1) The maximum amount of any match provided by the state on behalf of the employee to a defined contribution plan established under section 1.5(a) of this chapter.

(2) Two percent (2%) of the employee's base salary.

(g) This subsection applies to a year:

(1) after the first year in which an employee is enrolled in the deferred compensation plan; and

(2) in which the employee does not affirmatively choose a contribution amount under subsection (h).

The percentage of the employee's base salary used for the year in subsection (e)(2) or (f)(2) to determine the employee's contribution increases by one-half percent (0.5%) from the percentage determined in the immediately preceding year. The maximum percentage of an employee's base salary that may be deducted under this subsection is five percent (5%). The contribution increase occurs on the anniversary date of the employee's enrollment in the deferred compensation plan.

(h) An employee may contribute to the deferred compensation plan established by the state under this chapter an amount other than the amount described in subsections (d) through (g) by affirmatively choosing to contribute:

(1) a higher amount;

(2) a lower amount; or

(3) zero (0).

As added by P.L.234-2007, SEC.207. Amended by P.L.3-2008, SEC.22; P.L.21-2011, SEC.1; P.L.242-2013, SEC.1; P.L.177-2014, SEC.2.

IC 5-10-1.1-4

Deferred compensation committee; state employees' deferred compensation plan

Sec. 4. (a) The deferred compensation committee is established. The committee consists of five (5) persons appointed by the state board of finance as follows:

(1) Each member of the state board of finance shall appoint one (1) member to the committee.

(2) The remaining two (2) members:

(A) must be participants in the state employees' deferred compensation plan;

(B) may not be employees of the members of the state board of finance;

(C) must be from different political parties; and

(D) may not serve for more than two (2) consecutive three (3) year terms.

(b) The deferred compensation committee may annually elect a chairperson and a secretary.

(c) The deferred compensation committee may approve proposed investment products for the state employees' deferred compensation plan.

(d) All amounts deferred under the state employees' deferred compensation plan must be put into a trust for the exclusive benefit of plan participants, as required by Section 457(g) of the Internal Revenue Code. The deferred compensation committee is the trustee of the trust.

(e) The plan shall include appropriate provisions pertaining to its day to day operation providing for methods of electing to defer income, methods of changing the amount of income to be deferred, and such other provisions as may be appropriate. Notwithstanding IC 22-2-6-2, the plan may also include provisions for the use of automated voice response units and telephonic communications, on-line activities, and other technology for participant elections, directions, and services if the technology has sufficient capacity to record and store the elections and directions.

(f) The plan shall provide for the preparation and distribution, from time to time to all eligible employees, of pamphlets describing the plan and outlining the opportunities available to employees under the plan.

(g) The state board of finance shall extend the plan to any political subdivision which elects to utilize the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) or 7(b)(3) of this chapter.

(h) At least annually, the deferred compensation committee shall report to the state board of finance on the status of the state employees' deferred compensation plan, including any changes to the plan.

(Formerly: Acts 1975, P.L.42, SEC.1.) As amended by Acts 1977, P.L.51, SEC.2; Acts 1980, P.L.27, SEC.2; P.L.15-1998, SEC.2;

P.L.184-2001, SEC.3; P.L.220-2005, SEC.2.

IC 5-10-1.1-5
State employees' deferred compensation plan; contracts; funding, selection by bidding; review

Sec. 5. (a) The auditor of state shall provide for the administration of the state employees' deferred compensation plan. The auditor of state may, at the auditor of state's option, enter into a contract or contracts with an individual or individuals, incorporated or unincorporated organizations or associations, the state of Indiana, units of local government, agencies of the state or units of local government, or a group of such persons acting in concert, for the provision of all or part of the services involved in the administration of the plan. Participation in the plan shall be by a specific written agreement between each employee and the state which agreement shall provide for the deferral of such amount of compensation as requested by the employee. With each deferral of compensation, the employee shall receive a memorandum of the amount by which the employee's gross compensation is reduced by reason of the deferment of compensation, which amount shall not be included as a part of the employee's taxable compensation as to that period.

(b) The funding utilized under the state employees' deferred compensation plan shall have been reviewed and selected by the deferred compensation committee based on a competitive bidding process as established by such specifications deemed appropriate by the deferred compensation committee. Nothing in this section shall be construed as requiring a limitation on the number and variety of funding contracts which may be selected as a result of this bidding process.

(c) In no case shall funding of the state employees' deferred compensation plan be made except through persons or companies authorized and duly licensed by this state and applicable federal regulatory agencies to offer such funding programs.

(Formerly: Acts 1975, P.L.42, SEC.1.) As amended by Acts 1977, P.L.51, SEC.3; Acts 1980, P.L.27, SEC.3; P.L.15-1998, SEC.3.

IC 5-10-1.1-6
Obligations of state or political subdivision

Sec. 6. The state or political subdivision under a deferred compensation plan shall be obligated at any point in time solely for the then current market value of the funding theretofore made.

(Formerly: Acts 1975, P.L.42, SEC.1.) As amended by P.L.15-1998, SEC.4.

IC 5-10-1.1-7
Participation by political subdivisions

Sec. 7. (a) Any political subdivision (as defined in IC 36-1-2-13) may establish for its employees a deferred compensation plan. The

plan shall be selected by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance. Participation shall be by written agreement between each employee and the governing body of the political subdivision, which agreement provides for the deferral of compensation and subsequent administration of such funds.

(b) For funding such agreements, the governing body of the political subdivision may:

(1) designate one (1) of its agencies or departments to establish and administer such plans and choose such funding as deemed appropriate by the agency or department, which may include more than one (1) funding product;

(2) extend the state employees' deferred compensation plan to employees of the political subdivision, subject to the terms and conditions of the state employees' deferred compensation plan as it is established from time to time; or

(3) offer both a plan described in subdivision (1) and the plan described in subdivision (2).

(c) This section does not limit the power or authority of any political subdivision to establish and administer other plans deemed appropriate by the governing bodies of such subdivisions, including plans established under section 1(2) of this chapter.

(Formerly: Acts 1975, P.L.42, SEC.1.) As amended by Acts 1977, P.L.51, SEC.4; Acts 1980, P.L.27, SEC.4; P.L.42-1988, SEC.2; P.L.15-1998, SEC.5; P.L.220-2005, SEC.3; P.L.1-2006, SEC.93.

IC 5-10-1.1-7.3
Matching funds

Sec. 7.3. (a) Any political subdivision (as defined in IC 36-1-2-13) that elects to use the state employees' deferred compensation plan for its employees as authorized in section 7(b)(2) or 7(b)(3) of this chapter also may elect to participate in the state's defined contribution plan established by section 1.5 of this chapter for the purpose of matching all or a specified portion of the political subdivision's employees' contributions to the deferred compensation plan.

(b) Participation in the state's defined contribution plan described in subsection (a) shall be authorized by the governing body of the political subdivision, which in the case of a unit subject to IC 36-1-3 shall be done by ordinance.

(c) Contributions by a political subdivision to the state's defined contribution plan described in subsection (a) for the purpose of matching all or a specified portion of employee contributions are limited to the amount of appropriations made each year for that purpose.

(d) The political subdivision is obligated at any particular time only for the current market value of the funding previously made to the state's defined contribution plan described in subsection (a).

(e) This section does not limit the power or authority of any political subdivision to establish and administer any other plans considered appropriate by the governing body of the political subdivision, including plans established under section 1(2) of this chapter.

As added by P.L.184-2001, SEC.4. Amended by P.L.220-2005, SEC.4.

IC 5-10-1.1-7.5

Unused excess accrued leave

Sec. 7.5. (a) As used in this section, "state agency" means the following:

(1) An authority, a board, a branch, a commission, a committee, a department, a division, or other instrumentality of state government.

(2) A separate corporate body politic that adopts the plan described in subsection (b).

(3) State elected officials and their office staff.

(4) The legislative services agency.

(5) Legislative staff eligible to participate in the state employees' deferred compensation plan established by section 1 of this chapter.

However, the term does not include a state educational institution or a political subdivision.

(b) The deferred compensation committee shall adopt provisions in a defined contribution plan, under Sections 401(a) and 414(d) of the Internal Revenue Code, for the purpose of converting unused excess accrued leave to a monetary contribution for employees of a state agency. These provisions may be part of the plan and trust established under section 1.5(a) of this chapter.

(c) The deferred compensation committee is the trustee of the plan described in subsection (b). The plan must be a qualified plan, as determined by the Internal Revenue Service.

(d) The state personnel department shall adopt rules under IC 4-22-2 that it considers appropriate or necessary to implement this section. The rules adopted by the state personnel department under this section must:

(1) be consistent with the plan described in subsection (b);

(2) include provisions concerning:

(A) the type and amount of leave that may be converted to a monetary contribution;

(B) the conversion formula for valuing any leave that is converted;

(C) the manner of employee selection of leave conversion; and

(D) the vesting schedule for any leave that is converted; and

(3) apply to all state agencies.

(e) The rules adopted by the state personnel department under

subsection (d) specifying the conversion formula must provide for a conversion rate under which the amount contributed on behalf of a participating employee for a day of leave that is converted under this section is equal to at least sixty percent (60%) of the employee's daily pay as of the date the leave is converted.

(f) The deferred compensation committee may adopt the following:

(1) Plan provisions governing:

(A) the investment of accounts in the plan; and

(B) the accounting for converted leave.

(2) Any other plan provisions that are necessary or appropriate for operation of the plan.

(g) The plan described in subsection (b) may be implemented only if the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate.

(h) To the extent allowed by:

(1) the Internal Revenue Code; and

(2) rules adopted by:

(A) the state personnel department under this section; and

(B) the board of trustees of the Indiana public retirement system under IC 5-10.3-8-14;

an employee of a state agency may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10.3-8-14.

As added by P.L.184-2001, SEC.5. Amended by P.L.220-2005, SEC.5; P.L.2-2007, SEC.80; P.L.35-2012, SEC.21.

IC 5-10-1.1-8

Supplemental effect of chapter

Sec. 8. This chapter shall be supplemental and in addition to all other laws. The powers and duties herein given to the state and its political subdivisions shall be in addition to those given by any other law and shall not be subject to the limitations set out therein.

(Formerly: Acts 1975, P.L.42, SEC.1.)

IC 5-10-1.1-9

Amounts to be held for exclusive benefit of participants and beneficiaries

Sec. 9. All amounts held under any deferred compensation plan established under this chapter must be held for the exclusive benefit of participants of the plan and their beneficiaries, as required by Section 457(g) of the Internal Revenue Code.

As added by P.L.15-1998, SEC.6.

IC 5-10-1.5
Repealed

(Repealed by P.L.47-2013, SEC.1.)

IC 5-10-1.7

Chapter 1.7. Retirement Plan Investments

IC 5-10-1.7-1

Retirement plans covered

Sec. 1. (a) The retirement plans covered by this chapter are:

(1) The state excise police, gaming agent, gaming control officer, and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under IC 10-12-2.

(4) The Indiana state teachers' retirement fund, established under IC 5-10.4-2.

(5) The Indiana judges' retirement fund, established under IC 33-38-6.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter, "board" means both of the following:

(1) The board of trustees of the Indiana public retirement system.

(2) The board of trustees of the state police pension trust.

As added by Acts 1982, P.L.35, SEC.1. Amended by P.L.19-1986, SEC.5; P.L.2-2003, SEC.23; P.L.98-2004, SEC.64; P.L.170-2005, SEC.10; P.L.2-2006, SEC.13; P.L.227-2007, SEC.50; P.L.35-2012, SEC.22.

IC 5-10-1.7-2

Housing and community development authority mortgage-backed bonds or notes

Sec. 2. In addition to any other investment power given to a board, a board may invest as much of its trust funds as are not required for current disbursements in mortgage-backed bonds or notes issued by the Indiana housing and community development authority under IC 5-20-1.

As added by Acts 1982, P.L.35, SEC.1. Amended by P.L.41-1983, SEC.2; P.L.1-2006, SEC.94 and P.L.181-2006, SEC.16.

IC 5-10-2
Repealed

(Repealed by Acts 1977, P.L.53, SEC.4.)

IC 5-10-3
Repealed

(Repealed by Acts 1977, P.L.53, SEC.4.)

IC 5-10-4
Repealed

(Repealed by Acts 1977, P.L.53, SEC.4.)

IC 5-10-5
Repealed

(Repealed by Acts 1977, P.L.53, SEC.4.)

IC 5-10-5.5

Chapter 5.5. Excise Police and Conservation Enforcement Officers' Retirement Plan

IC 5-10-5.5-0.1

Application of certain amendments to chapter

Sec. 0.1. (a) As used in this section, "plan" refers to the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan established by section 2 of this chapter.

(b) The following amendments to this chapter apply as follows:

(1) The addition of section 7.5 of this chapter by P.L.180-2007 applies after June 30, 2007, to active participants of the plan.

(2) The amendments made to section 8 of this chapter by P.L.180-2007 apply after June 30, 2007, to active participants of the plan.

(3) The amendments made to sections 10, 11, and 12 of this chapter by P.L.180-2007 apply to participants of the plan who retire after June 30, 2007.

(4) The amendments made to sections 7 and 13.5 of this chapter by P.L.180-2007 apply to participants of the plan who become disabled after June 30, 2007.

(5) The addition of section 22 of this chapter by P.L.128-2008 applies only to a participant in the plan who is in active service after June 30, 2008.

(6) The amendments made to sections 9 and 10 of this chapter by P.L.128-2008 apply only to a participant in the plan who is in active service after June 30, 2008.

As added by P.L.220-2011, SEC.64.

IC 5-10-5.5-1

Definitions

Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(1) "Board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

(2) "Department" means the Indiana department of natural resources.

(3) "Commission" means the alcohol and tobacco commission.

(4) "Officer" means any Indiana state excise police officer, any Indiana state conservation enforcement officer, any gaming agent, or any gaming control officer.

(5) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(6) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal

Revenue Code.

(7) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(8) "Public employees' retirement act" means IC 5-10.3.

(9) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(10) "Interest" means the rate of interest specified by rule by the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

(11) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(12) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.25-1986, SEC.27; P.L.5-1992, SEC.3; P.L.4-1992, SEC.5; P.L.204-2001, SEC.10; P.L.170-2005, SEC.11; P.L.227-2007, SEC.51; P.L.16-2011, SEC.1; P.L.23-2011, SEC.3; P.L.6-2012, SEC.25; P.L.35-2012, SEC.23.

IC 5-10-5.5-2

Creation; investment of plan assets

Sec. 2. (a) There is hereby created a state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan to establish a means of providing special retirement, disability and survivor benefits to employees of the department, the Indiana gaming commission, and the commission who are engaged exclusively in the performance of law enforcement duties.

(b) The assets of the retirement plan created by this section may be commingled for investment purposes with the assets of other funds administered by the board.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.170-2005, SEC.12; P.L.227-2007, SEC.52; P.L.193-2016, SEC.1.

IC 5-10-5.5-2.5

Qualification of plan under Internal Revenue Code

Sec. 2.5. (a) As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

(b) The state excise police, gaming agent, gaming control officer,

and conservation officers' retirement plan shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the retirement plan. In order to meet those requirements, the retirement plan is subject to the following provisions, notwithstanding any other provision of this chapter:

(1) The board shall distribute the corpus and income of the retirement plan to participants and their beneficiaries in accordance with this chapter.

(2) No part of the corpus or income of the retirement plan may be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter.

(4) If the retirement plan is terminated, or if all contributions to the retirement plan are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the retirement plan shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the retirement plan is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination, for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

As added by P.L.55-1989, SEC.1. Amended by P.L.170-2005, SEC.13; P.L.227-2007, SEC.53.

IC 5-10-5.5-3

Management; confidentiality of retirement plan records

Sec. 3. (a) The management administration of the retirement plan created by this chapter is hereby vested in the board.

(b) Records of individual participants in the retirement plan created by this chapter and participants' information are confidential, except for the name and years of service of a retirement plan participant.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.94-2004, SEC.3; P.L.23-2011, SEC.4.

IC 5-10-5.5-3.5

Administration of retirement plan consistent with Americans with Disabilities Act

Sec. 3.5. The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement plan shall be administered in a manner that is consistent with the Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.4-1992, SEC.6. Amended by P.L.170-2005, SEC.14; P.L.227-2007, SEC.54.

IC 5-10-5.5-4

Participants' saving fund; creation

Sec. 4. (a) A participants' savings fund is hereby created. This fund shall be maintained by the board as a trust fund, separate and distinct from all other entities for the purpose of securing payment of benefits to participants and their surivors, as hereinafter provided.

(b) The participants' savings fund shall consist of the following:

(1) each participant's contributions to the fund;

(2) all gifts, grants, devises and bequests in money, property, or other form which may be made to the fund;

(3) all interest on investments or on deposits of the fund;

(4) all contributions or payments to the fund made in any manner provided by the General Assembly, including appropriations from the general fund of the state; and

(5) any funds transferred to the fund from the public employees' retirement fund under the provisions of section 6 of this chapter.

(Formerly: Acts 1972, P.L.1, SEC.1.)

IC 5-10-5.5-5
Participants; eligibility

Sec. 5. (a) Every person who is an officer on September 2, 1971, shall become a participant, unless the officer files a written notice of his election not to participate with the board within twenty (20) days prior to September 2, 1971.

(b) Every person who becomes an officer after September 2, 1971 shall become a participant as a condition of his employment.

(c) Any officer who elects not to become a participant shall thereafter be forever ineligible to become a participant.

(Formerly: Acts 1972, P.L.1, SEC.1.)

IC 5-10-5.5-6
Transfer of funds to savings fund

Sec. 6. (a) Upon election to become a participant by any officer who is a member of the public employees' retirement fund, the board shall transfer all funds standing to the credit of the electing officer in the public employees' retirement fund to the participants' savings fund created by this chapter.

(b) Except as otherwise provided in this chapter, a transfer of funds under the provisions of subsection (a) of this section constitutes a full and complete discharge of all of the rights of the electing officer under the public employees' retirement fund.

(Formerly: Acts 1972, P.L.1, SEC.1.)

IC 5-10-5.5-7
Transfer of creditable service; credit during disability

Sec. 7. (a) Upon election to become a participant by any officer who is a member of the public employees' retirement fund, the board shall transfer all creditable service standing to the credit of the electing officer under the public employees' retirement fund to the credit of the electing officer under the retirement plan created by this chapter.

(b) Creditable service under this chapter, including credit for military service, shall accrue and be computed and credited to participants in the same manner and in the same amount as creditable service accrues, is computed and credited under the public employees' retirement law.

(c) In addition to creditable service computed under subsection (b), a participant is entitled to receive creditable service under this chapter for the time the participant receives disability benefits under a disability plan established under IC 5-10-8-7.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.180-2007, SEC.1.

IC 5-10-5.5-7.5
Purchase of service credit earned in certain Indiana public retirement funds

Sec. 7.5. (a) As used in this section, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

(b) As used in this section, "public retirement fund" refers collectively to:

(1) the public employees' retirement fund (IC 5-10.3);

(2) the Indiana state teachers' retirement fund (IC 5-10.4);

(3) the state police pension trust (IC 10-12); and

(4) the 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).

(c) Subject to this section, a participant may purchase and claim service credit for the participant's prior service in a position covered by a public retirement fund.

(d) To purchase the service credit described in subsection (c), a participant must meet the following requirements:

(1) The participant has at least one (1) year of creditable service in the retirement plan created by this chapter.

(2) The participant has not attained vested status in and is not an active participant in the public retirement fund from which the participant is purchasing the service credit.

(3) Before the participant retires, the participant makes contributions to the retirement plan created by this chapter as follows:

(A) Contributions that are equal to the product of the following:

(i) The participant's salary at the time the participant actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary for the retirement plan created by this chapter, based on the age of the participant at the time the participant actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the participant intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the retirement plan created by this chapter, for the period from the participant's initial participation in the retirement plan created by this chapter to the date payment is made by the participant.

(e) At the request of the participant purchasing service credit under this section, the amount a participant is required to contribute under subsection (d)(3) may be reduced by a trustee to trustee transfer from a public retirement fund in which the participant has an account that contains amounts attributable to member contributions (plus any credited earnings) to the retirement plan created by this chapter. The participant may direct the transfer of an amount only to

the extent necessary to fund the service purchase under subsection (d)(3). The participant shall complete any forms required by the public retirement fund from which the participant is requesting a transfer or the retirement plan created by this chapter before the transfer is made.

(f) At least ten (10) years of service in the retirement plan created by this chapter is required before a participant may receive a benefit based on service credit purchased under this section.

(g) A participant who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive an annual retirement allowance; or

(2) receives an annual retirement allowance for the same service from another tax supported governmental retirement plan other than under the federal Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the retirement plan created by this chapter.

(h) The following may apply to the purchase of service credit under this section:

(1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A participant may not claim the service credit for purposes of determining eligibility for a benefit or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter

may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

As added by P.L.180-2007, SEC.2. Amended by P.L.23-2011, SEC.5; P.L.8-2015, SEC.1.

IC 5-10-5.5-8

Contributions; rate; payroll deductions; employer pick-up of contributions

Sec. 8. (a) Except as provided in subsection (c), every participant shall contribute four percent (4%) of the participant's annual salary to the participants' savings fund.

(b) Contributions shall be made in the form of payroll deductions from each and every payment of salary received by the participant. Every participant shall, as a condition precedent to becoming a participant, consent to the payroll deductions.

(c) An employer may pay all or a part of the contributions for the participant. All contributions made by an employer under this subsection shall be treated as pick-up contributions under Section 414(h)(2) of the Internal Revenue Code.

(d) After December 31, 2011, an employer shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 8.5 of this chapter.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.180-2007, SEC.3; P.L.13-2011, SEC.1.

IC 5-10-5.5-8.5

Submission of contributions, reports, and records electronically

Sec. 8.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2011.

(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

(c) An employer shall submit through the use of electronic funds transfer:

(1) employer contributions, determined by the board, to fund the retirement, disability, and survivor benefits described in this chapter; and

(2) contributions paid by or on behalf of a participant under section 8 of this chapter.

(d) An employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter.

(e) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter.
As added by P.L.13-2011, SEC.2.

IC 5-10-5.5-9
Retirement provisions

Sec. 9. (a) Except as provided in subsection (b), every participant is required to retire on the first day of the month following the participant's sixty-fifth birthday.

(b) An officer who becomes a participant after becoming fifty (50) years of age is required to retire on the earlier of:

(1) the first day of the month following the participant's sixty-fifth birthday; or

(2) the first day of the month following the completion of fifteen (15) years of service.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.38-1986, SEC.1; P.L.55-1987, SEC.1; P.L.55-1989, SEC.2; P.L.128-2008, SEC.2.

IC 5-10-5.5-10
Retirement allowance

Sec. 10. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on the participant's normal retirement date, shall be a percentage of the participant's average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of the participant's average annual salary for each completed year of creditable service more than ten (10) years. However, the annual retirement allowance computed under this subsection may not exceed seventy-five percent (75%) of the participant's average annual salary.

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.
(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.55-1989, SEC.3; P.L.180-2007, SEC.4; P.L.128-2008, SEC.3.

IC 5-10-5.5-11
Early retirement

Sec. 11. (a) Any participant who has attained the age of forty-five (45) years and has accrued at least fifteen (15) years of creditable service may retire and become eligible for benefits as provided in section 12(a) of this chapter.

(b) If:

(1) a participant is at least fifty-five (55) years of age; and

(2) the sum of the participant's years of creditable service and age in years equals at least eighty-five (85);

the participant may retire and become eligible for benefits as

provided in section 12(b) of this chapter.

(c) A participant who:

(1) is at least fifty (50) years of age; and

(2) has accrued at least twenty-five (25) years of creditable service;

may retire and become eligible for benefits under section 12(b) of this chapter.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.10-1995, SEC.2; P.L.180-2007, SEC.5.

IC 5-10-5.5-12

Early retirement allowance; monthly installments

Sec. 12. (a) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(a) of this chapter (relating to early retirement) shall be determined in accordance with section 10 of this chapter (relating to normal retirement). However, the amount of annual retirement allowance otherwise payable upon early retirement shall be reduced by one-quarter percent (1/4%) for each full month that the date of early retirement precedes the attainment of the participant's sixtieth birthday.

(b) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(b) or 11(c) of this chapter (relating to early retirement) shall be determined in accordance with section 10 of this chapter (relating to normal retirement).

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.10-1995, SEC.3; P.L.180-2007, SEC.6; P.L.3-2008, SEC.23.

IC 5-10-5.5-12.5

Repealed

(Repealed by P.L.25-1994, SEC.12.)

IC 5-10-5.5-12.7

Determinations by board of trustees; impairment standards; transcripts, reports, records, and other materials

Sec. 12.7. (a) Upon a petition from a participant, the department, or the commission, the board of trustees of the Indiana public retirement system, or its designee, shall make the determinations required by section 13 of this chapter and shall also determine:

(1) the degree of impairment of any officer determined to have a disability; and

(2) whether the disability arose in the line of duty (as defined in section 13.5 of this chapter).

(b) The impairment standards contained in the United States Department of Veterans Affairs Schedule for Rating Disabilities in effect at the time the application for disability benefits is filed with the board of trustees shall be used to determine the degree of

impairment.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated as a result of a hearing, a review, or an appeal conducted under this chapter to determine the existence of a disability, the cause of a disability, or the degree of impairment shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

As added by P.L.56-1987, SEC.2. Amended by P.L.1-1990, SEC.57; P.L.4-1992, SEC.7; P.L.25-1994, SEC.1; P.L.99-2007, SEC.12; P.L.35-2012, SEC.24.

IC 5-10-5.5-13

Permanent or temporary disability

Sec. 13. Any participant who becomes permanently or temporarily disabled from performing all suitable and available work on the force for which he is or may be capable of becoming qualified, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, shall be entitled to disability benefits in the amount provided by this chapter. Benefits may not be provided under this section for any disability:

(1) resulting from an intentionally self-inflicted injury or attempted suicide while sane or insane;

(2) resulting from the member's commission or attempted commission of a felony; or

(3) which begins within two (2) years after a member's entry or reentry into active service on the force and which was caused or contributed to by a mental or physical condition which manifested itself before the member entered or reentered active service.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by Acts 1981, P.L.48, SEC.1; P.L.56-1987, SEC.3; P.L.4-1992, SEC.8.

IC 5-10-5.5-13.5

Disability occurring after June 30, 1987; presumption for line of duty disability; monthly benefits

Sec. 13.5. (a) This section applies to participants whose disability occurred after June 30, 1987.

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

(c) As used in this section, a disability is to be considered to have arisen in the line of duty if the disability is the direct result of:

(1) a personal injury that occurs while the participant is on duty; or

(2) a personal injury that occurs while the participant is off duty and responding to an offense or an emergency or a reported offense or emergency;

or if the disability is presumed incurred in the line of duty under

IC 5-10-13.

(d) A participant whose disability arose in the line of duty is entitled to a monthly benefit equal to the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage impairment of the person as a whole). However, the monthly benefit under this subsection must be at least:

(1) twenty percent (20%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or

(2) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(e) A participant whose disability did not arise in the line of duty is entitled to a monthly benefit equal to one-half (1/2) of the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage of the person as a whole). However, the monthly benefit under this subsection must be at least:

(1) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or

(2) five percent (5%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(f) A participant who is receiving a disability benefit under subsection (d) is entitled:

(1) to receive a disability benefit for the remainder of the participant's life; and

(2) to have the participant's benefit recomputed under section 10 of this chapter (relating to normal retirement) when the participant becomes sixty (60) years of age.

As added by P.L.56-1987, SEC.4. Amended by P.L.55-1989, SEC.4; P.L.185-2002, SEC.1; P.L.180-2007, SEC.7.

IC 5-10-5.5-14

Disability occurring before July 1, 1987; allowance; monthly installments; cessation

Sec. 14. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) This subsection applies to participants who were disabled before July 1, 1987. Any participant eligible to receive disability benefits under section 13 of this chapter is entitled to an annual disability allowance payable in equal monthly installments and equal to a percentage of his average annual salary determined in accordance with the provisions of section 10(a) of this chapter (relating to normal retirement).

(c) Payment of disability benefits shall begin with the month next succeeding the month in which the participant is determined to be

disabled and shall cease:

(1) with the last payment prior to the participant's death; or

(2) with the last payment before the time the participant is no longer disabled;

whichever occurs first. However, after becoming forty-five (45) years of age, a participant receiving a disability benefit may request that the disability benefit payments cease and that any retirement benefit for which the participant is eligible begin.

(d) If a member receives disability or retirement benefits from another state funded pension fund, he is not entitled to receive disability benefits under this section.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by Acts 1977, P.L.2, SEC.4; Acts 1981, P.L.48, SEC.2; P.L.56-1987, SEC.5; P.L.55-1989, SEC.5; P.L.41-1991, SEC.1.

IC 5-10-5.5-15

Surviving mothers, fathers, spouses, or unmarried children; eligibility for benefits

Sec. 15. Surviving mothers, fathers, surviving spouses or unmarried children under the age of eighteen (18) years, of participants who have accrued at least fifteen (15) years of creditable service and who die, shall be entitled to receive survivors' benefits in the amount hereinafter provided. Survivor's benefits shall be paid to such of the above enumerated persons as the participant shall nominate by written direction duly acknowledged and filed with the board.

(Formerly: Acts 1972, P.L.1, SEC.1; Acts 1975, P.L.21, SEC.2.)

IC 5-10-5.5-16

Survivors benefits; amount

Sec. 16. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) A surviving mother or father nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance for life equal to fifty percent (50%) of the amount the participant would have been entitled to if he had retired.

(c) A surviving spouse nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if he or she had retired. In the case of a surviving spouse who is more than five (5) years younger than the deceased participant at the time of the participant's death, the amount of the annual survivors' allowance shall be reduced actuarially, without regard to the sex of the spouse or the participant. In all cases the survivors' allowance to a surviving spouse shall cease with the last payment prior to the surviving spouse's death.

(d) A surviving child eligible and nominated by the participant to receive survivors' benefits under the provisions of this chapter shall be entitled to an annual survivors' allowance equal to fifty percent (50%) of the amount the participant would have been entitled to if he had retired. If more than one (1) surviving child is eligible and nominated to receive survivors' benefits, the annual allowance shall be divided equally between or among such children. In all cases, the survivors' allowance to a child shall cease when the child attains the age of eighteen (18) years or marries, whichever occurs first. Where a survivors' allowance is divided between or among more than one (1) child, and payments to one (1) or more children cease, the total annual allowance payable shall be divided evenly among or between such of the remaining children who are eligible therefor.

(e) In the event that no nomination is made by an eligible participant, or in the event that the nominated survivor predeceases the participant and no contingent survivor is nominated and an eligible participant dies, no survivors' allowance shall be payable. In such case, the board shall make a lump sum payment to the estate of the deceased participant equal to the total of all funds standing to the credit of the participant in the participant's savings fund plus accumulated interest thereon.

(f) A survivor's allowance under this section that was terminated because of a surviving spouse's remarriage shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(Formerly: Acts 1972, P.L.1, SEC.1; Acts 1975, P.L.21, SEC.3.) As amended by P.L.55-1989, SEC.6; P.L.40-1997, SEC.1.

IC 5-10-5.5-17

Lump sum refund of contributions or payments

Sec. 17. Any participant whose employment as an officer is terminated before accumulating fifteen (15) years of creditable service and before attaining the age of forty-five (45) years shall be entitled to a lump-sum refund of all contributions standing to his credit in the participants' savings fund plus accumulated interest thereon.

(b) If a participant dies before accumulating fifteen (15) years of creditable service, all contributions standing to his credit in the participants' savings fund plus the accumulated interest thereon shall be paid by the board to the person the participant shall nominate by written direction duly acknowledged and filed with the board. The payment may be in the form of a lump sum or a series of payments, at the discretion of the board.

(c) If a participant dies before accumulating fifteen (15) years of creditable service and has nominated no beneficiary, or in the event that the participant's nominee predeceases him, all contributions standing to his credit in the participants' savings fund, plus accumulated interest thereon shall be paid by the board to the estate of the deceased participant. The payment may be in the form of a

lump sum or a series of payments, at the discretion of the board.

(d) If a participant terminates his employment after accumulating fifteen (15) years of creditable service, but before becoming eligible for any benefits under this chapter, no refund of contributions and interest shall be allowed. In such case, the participant's contributions shall be retained by the board until the participant becomes eligible for benefits. At that time, benefits shall be paid to, or on behalf of the participant in the same manner and in the same amount as all similar benefits are paid.

(Formerly: Acts 1972, P.L.1, SEC.1.)

IC 5-10-5.5-18

Termination of service before accumulating 15 years of creditable service

Sec. 18. Any participant who terminates his service as an officer before accumulating fifteen (15) years of creditable service may, in the manner and under the conditions provided in the public employees' retirement law, again become a member of the public employees' retirement fund. Upon payment of contributions and interest required by the board, the withdrawing participant shall be entitled to transfer creditable service standing to his credit under this chapter to his credit under the public employees' retirement law.

(Formerly: Acts 1972, P.L.1, SEC.1.)

IC 5-10-5.5-19

Public employees retirement fund law; applicability

Sec. 19. The retirement plan created by this chapter shall, in all respects to the extent applicable and except as otherwise specifically enumerated in this chapter, be governed by the law creating the public employees' retirement fund, and for that purpose, the provisions of IC 5-10.3 are hereby incorporated into this chapter by reference.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.25-1986, SEC.28.

IC 5-10-5.5-20

Old age and survivors benefits; supplemental retirement benefits; rights and liabilities not affected

Sec. 20. Participation in the retirement plan created by this chapter shall not affect the participant's rights and liabilities under the provisions of IC 5-10.1, IC 5-10.2, and IC 5-10.3.

(Formerly: Acts 1972, P.L.1, SEC.1.) As amended by P.L.25-1986, SEC.29.

IC 5-10-5.5-21

Increase in monthly benefits

Sec. 21. (a) Except as provided in subsection (d), the monthly benefit payable after June 30, 1987, to a participant, or a survivor or

beneficiary of a participant, who retired or was disabled before July 2, 1986, shall be increased by an amount determined by the board. The board shall determine the amount for each participant, survivor, and beneficiary so that the monthly benefit is increased by one-half (1/2) the amount that the monthly benefit would have been increased if the participant had been a member of the public employees' retirement fund on the date of retirement or disability.

(b) Except as provided in subsection (d), the monthly benefit payable after June 30, 1988, to a participant, or a survivor or beneficiary of a participant, who retired or was disabled before July 2, 1987, shall be increased by an amount determined by the board. The board shall determine the amount for each participant, survivor, and beneficiary so that the monthly benefit is increased to the amount that the monthly benefit would have equaled if the participant had been a member of the public employees' retirement fund on the date of retirement or disability.

(c) Except as provided in subsection (d), the monthly benefit payable after June 30, 1989, to participants, survivors, and beneficiaries shall be increased by the same percentages and under the same conditions as monthly benefits are increased under IC 5-10.2-5 for members of the public employees' retirement fund and their survivors and beneficiaries.

(d) This section is applicable only if the general assembly provides sufficient funding for the increased cost of the benefits provided by this section.

As added by P.L.56-1987, SEC.6. Amended by P.L.4-1990, SEC.4.

IC 5-10-5.5-22

Deferred retirement option plan

Sec. 22. (a) As used in this section, "DROP" refers to a deferred retirement option plan established under this section.

(b) As used in this section, "DROP entry date" means the date that a participant's election to enter a DROP becomes effective.

(c) As used in this section, "DROP frozen benefit" refers to an annual retirement allowance computed under section 10 of this chapter based on a participant's:

(1) average annual salary; and

(2) years of creditable service;

on the date the participant enters the DROP.

(d) As used in this section, "DROP retirement date" means the future retirement date selected by a participant at the time the participant elects to enter the DROP.

(e) Only a participant who is eligible to receive an unreduced annual retirement allowance immediately upon termination of employment may elect to enter a DROP. A participant who elects to enter the DROP must agree to the following:

(1) The participant shall execute an irrevocable election to retire on the DROP retirement date and must remain in active service

until that date.

(2) While in the DROP, the participant shall continue to make contributions under section 8 of this chapter.

(3) The participant shall select a DROP retirement date not less than twelve (12) months and not more than thirty-six (36) months after the participant's DROP entry date.

(4) The participant may not remain in the DROP after the date the participant reaches the mandatory retirement age under section 9 of this chapter.

(5) The participant may make an election to enter the DROP only once in the participant's lifetime.

(f) Contributions or payments provided by the general assembly under section 4(b)(4) of this chapter continue for a participant while the participant is in the DROP.

(g) A participant shall exit the DROP on the earliest of the following:

(1) The participant's DROP retirement date.

(2) Thirty-six (36) months after the participant's DROP entry date.

(3) The participant's mandatory retirement age.

(4) The date the participant retires because of a disability as provided by subsection (k).

(h) A participant who retires on the participant's DROP retirement date or on the date the participant retires because of a disability as provided by subsection (k) may elect to receive an annual retirement allowance:

(1) computed under section 10 of this chapter as if the participant had never entered the DROP; or

(2) consisting of:

(A) the DROP frozen benefit; plus

(B) an additional amount, paid as the participant elects under subsection (i), determined by multiplying:

(i) the DROP frozen benefit; by

(ii) the number of months the participant was in the DROP.

(i) The participant shall elect, at the participant's retirement, to receive the additional amount calculated under subsection (h)(2)(B) in one (1) of the following ways:

(1) A lump sum paid on:

(A) the participant's DROP retirement date; or

(B) the date the participant retires because of a disability as provided by subsection (k).

(2) Three (3) equal annual payments:

(A) commencing on:

(i) the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k); and

(B) thereafter paid on:

(i) the anniversary of the participant's DROP retirement date; or

(ii) the date the participant retires because of a disability as provided by subsection (k).

(j) A cost of living increase determined under section 21(c) of this chapter does not apply to the additional amount calculated under subsection (h)(2)(B) at the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k). No cost of living increase is applied to a DROP frozen benefit while the participant is in the DROP. After the participant's DROP retirement date or the date the participant retires because of a disability as provided by subsection (k), cost of living increases determined under section 21(c) of this chapter apply to the participant's annual retirement allowance computed under this section.

(k) If a participant becomes disabled, in the line of duty or other than in the line of duty while in the DROP, the participant's annual retirement allowance is computed as follows:

(1) If the participant retires because of a disability less than twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated as if the participant had never entered the DROP.

(2) If the participant retires because of a disability at least twelve (12) months after the date the participant enters the DROP, the participant's annual retirement allowance is calculated under this section, and the participant's retirement date is the date the member retires because of a disability rather than the participant's DROP retirement date.

(l) If, before payment of the participant's annual retirement allowance begins, the participant dies in the line of duty or other than in the line of duty, death benefits are payable as follows:

(1) The benefit calculated under subsection (h)(2)(B) is paid in a lump sum to the participant's surviving spouse. If there is no surviving spouse, the lump sum must be divided equally among the participant's surviving children. If there are no surviving children, the lump sum is paid to the participant's parents. If there are no surviving parents, the lump sum is paid to the participant's estate.

(2) A benefit is paid on the DROP frozen benefit under the terms of the retirement plan created by this chapter.

(m) Except as provided under subsections (k) and (l), the annual retirement allowance for a participant who exits the DROP for any reason other than retirement on the participant's DROP retirement date is calculated as if the participant had never entered the DROP.

As added by P.L.128-2008, SEC.4.

IC 5-10-6

Chapter 6. Vacations and Other Benefits for Certain Public Employees

IC 5-10-6-1

Vacation pay and paid holidays; sick leave

Sec. 1. (a) Retroactive to January 1, 1969, employees of the state who are compensated for their services on an hourly basis may be granted a vacation with pay and paid holidays by executive order of the governor.

(b) Employees of the political subdivisions of the state may be granted a vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance of the legislative body of a county, city, town, township, or controlling board of a municipally owned utility, board of directors or regents of a cemetery, or board of trustees of any library district.

(c) Payment of vacation benefits so granted may be made in advance of any vacation taken by such an employee.

(Formerly: Acts 1961, c.237, s.1; Acts 1963, c.355, s.1; Acts 1965, c.166, s.1; Acts 1969, c.89, s.1; Acts 1975, P.L.43, SEC.1.) As amended by P.L.8-1987, SEC.8; P.L.8-1989, SEC.18.

IC 5-10-6-2

Paid breaks for expressing breast milk

Sec. 2. (a) The state and political subdivisions of the state shall provide reasonable paid break time each day to an employee who needs to express breast milk for the employee's infant child. The break time must, if possible, run concurrently with any break time already provided to the employee. The state and political subdivisions are not required to provide break time under this section if providing break time would unduly disrupt the operations of the state or political subdivisions.

(b) The state and political subdivisions of the state shall make reasonable efforts to provide a room or other location, other than a toilet stall, in close proximity to the work area, where an employee described in subsection (a) can express the employee's breast milk in privacy. The state and political subdivisions shall make reasonable efforts to provide a refrigerator or other cold storage space for keeping milk that has been expressed. The state or a political subdivision is not liable if the state or political subdivision makes a reasonable effort to comply with this subsection.

As added by P.L.13-2008, SEC.2.

IC 5-10-7

Chapter 7. Employee Interchange Programs

IC 5-10-7-1

Intergovernmental cooperation

Sec. 1. The State of Indiana recognizes that intergovernmental cooperation is an essential factor in resolving problems affecting this state and that the interchange of personnel between and among governmental agencies at the same or different levels of government is a significant factor in achieving such cooperation.

(Formerly: Acts 1969, c.384, s.1.)

IC 5-10-7-2

Definitions

Sec. 2. For the purposes of this chapter:

(a) "Sending agency" means any department or agency of the federal government or a state or local government which sends any employee thereof to another government agency under this chapter.

(b) "Receiving agency" means any department or agency of the federal government or a state or local government which receives an employee of another government agency under this chapter.

(Formerly: Acts 1969, c.384, s.2.) As amended by P.L.25-1986, SEC.30.

IC 5-10-7-3

Participating entities; periods of individual assignment

Sec. 3. (a) Any department, agency, or instrumentality of the state, county, city, municipality, land-grant college, or college or university operated by the state or any local government may participate in a program of interchange of employees with departments, agencies, or instrumentalities of the federal government, another state or locality, or other agencies, municipalities, or instrumentalities of this state as a sending and/or receiving agency.

(b) The period of individual assignment or detail under an interchange program shall not exceed two (2) years. However, the sending agency may extend the period of assignment for not more than two (2) additional years. Details relating to any matter covered in this chapter may be the subject of an agreement between the sending and receiving agencies.

(Formerly: Acts 1969, c.384, s.3.) As amended by P.L.25-1986, SEC.31.

IC 5-10-7-4

Status of employees

Sec. 4. (a) Employees of a sending agency participating in an exchange of personnel as authorized in section 3 of this chapter may be considered during such participation to be:

(1) on detail to regular work assignments of the sending agency;

or

(2) in a status of leave of absence from their positions in the sending agency.

(b) Employees who are on detail shall be entitled to the same salary and benefits to which they would otherwise be entitled and shall remain employees of the sending agency for all other purposes except that the supervision of their duties during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(c) Employees who are in a leave of absence status as provided in this section shall be carried on leave without pay; provided, that they may be granted annual leave or other time off with pay to the extent authorized by law applicable to the sending agency. Except as otherwise provided in this chapter, employees who are in a leave of absence status shall have the same rights, benefits, and obligations as employees generally who are in such leave status but notwithstanding any other provision of law such employees may be entitled to credit the period of such assignment toward benefits as employees of the sending agency.

(d) Any employee who participates in an exchange under the terms of this section who suffers disability or death as a result of personal injury arising out of and in the course of an exchange or sustained in performance of duties in connection therewith shall be treated for the purposes of the sending agency's employee compensation program as an employee, as defined in such statute, who has sustained such injury in the performance of such duty, but shall not receive benefits under that statute for any period for which he is entitled to and elects to receive similar benefits under the receiving agency's employee compensation program.

(Formerly: Acts 1969, c.384, s.4.) As amended by P.L.25-1986, SEC.32.

IC 5-10-7-5

Sending agencies; travel expenses; per diem allowance

Sec. 5. A sending agency in this state may, in accordance with the travel regulations of such agency, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees incurred in connection with their work assignments at the receiving agency. If the assignment or detail will be for a period of time exceeding eight (8) months, travel expenses may include expenses of transportation of immediate family, household goods and personal effects to and from the location of the receiving agency. If the period of assignment is less than eight (8) months, the sending agency may pay a per diem allowance to the employee on assignment or detail.

(Formerly: Acts 1969, c.384, s.5.)

IC 5-10-7-6

Receiving agencies; compensation; status of employees

Sec. 6. (a) When any unit of government of this state acts as a receiving agency, employees of the sending agency who are assigned under authority of this chapter may:

(1) be given appointments in the receiving agency covering the periods of such assignments, with compensation to be paid from receiving agency funds or without compensation; or

(2) be considered to be on detail to the receiving agency.

(b) Appointments of persons so assigned may be made without regard to the statutes or rules governing the selection of employees of the receiving agency.

(c) Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subsection (d), nor shall they be paid a salary or wage by the receiving agency during the period of their detail, except in special cases upon written permission by the state board of accounts such employee or employees shall be paid fully by special appropriation approved by the county council and the department of local government finance. The supervision of the duties of such employees during the period of detail may be governed by agreement between the sending agency and the receiving agency.

(d) Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment or sustained in the performance of duties in connection therewith shall be treated for the purpose of receiving agency's employee compensation program as an employee, as defined in such statute, who has sustained such injury in the performance of such duty, but shall not receive benefits under that statute for any period for which he elects to receive similar benefits as an employee under the sending agency's employee compensation program.

(Formerly: Acts 1969, c.384, s.6.) As amended by P.L.25-1986, SEC.33; P.L.90-2002, SEC.15.

IC 5-10-7-7

Receiving agencies; travel expenses

Sec. 7. A receiving agency in this state may, in accordance with the travel rules of such agency, pay travel expenses of persons assigned thereto under this chapter during the period of such assignments on the same basis as if they were regular employees of the receiving agency.

(Formerly: Acts 1969, c.384, s.7.) As amended by P.L.25-1986, SEC.34.

IC 5-10-7-8

Department of administration; implementation of chapter

Sec. 8. The department of administration shall explore means of implementing this chapter and assist departments, agencies, and

instrumentalities of the state and its political subdivisions in participating in employee interchange programs.

(Formerly: Acts 1969, c.384, s.8.) As amended by P.L.25-1986, SEC.35.

IC 5-10-8

Chapter 8. Group Insurance for Public Employees

IC 5-10-8-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 2 of this chapter (before its repeal) and section 3 of this chapter (before its repeal) by P.L.46-1985 do not affect contracts:

(A) entered into before; and

(B) in effect on;

July 1, 1986.

(2) The addition of section 7.2 of this chapter by P.L.35-1992 applies to a contract between the state and a prepaid health care delivery plan that is entered into or renewed after June 30, 1992.

(3) The amendments made to section 7.2 of this chapter by P.L.170-1999 apply to a self-insurance program or a contract between the state and a health maintenance organization established, entered into, or renewed after June 30, 1999.

(4) The addition of section 7.5 of this chapter by P.L.170-1999 applies to a self-insurance program or a contract between the state and a health maintenance organization established, entered into, or renewed after June 30, 1999.

(5) The addition of section 13 of this chapter by P.L.251-2003 applies to an employee health benefit plan that is entered into, issued, delivered, amended, or renewed after June 30, 2003.

(6) The amendments made to section 7.7 of this chapter by P.L.196-2005 apply to a self-insurance program or a contract with a prepaid health care delivery plan that is established, entered into, delivered, amended, or renewed after June 30, 2005.

(7) The addition of section 14 of this chapter by P.L.109-2008 applies to a state employee health plan that is established, entered into, delivered, amended, or renewed after June 30, 2008.

As added by P.L.220-2011, SEC.65.

IC 5-10-8-0.3

Use of certain accrued benefits by state employees

Sec. 0.3. The benefits accrued by an employee under 31 IAC 1-9-5 (before its repeal) or 31 IAC 2-11-6 (before its repeal) that are unused after June 30, 1989, may be used by the employee after June 30, 1989, in accordance with the rules required by section 7(d) of this chapter, as amended by P.L.27-1988. The rules required by section 7(d) of this chapter, as amended by P.L.27-1988, must provide that an employee who:

(1) is subject to section 7(d) of this chapter; and
(2) has less than five (5) years of continuous full-time employment after June 30, 1989;
will be credited with special sick leave on a pro rata basis after June 30, 1989.
As added by P.L.220-2011, SEC.66.

IC 5-10-8-0.4
Legalization of certain payments of deductible portion of group health insurance
Sec. 0.4. Payment of the deductible portion of group health insurance by a public employer before July 1, 1989, is legalized.
As added by P.L.220-2011, SEC.67.

IC 5-10-8-0.5
Repealed
(As added by P.L.220-2011, SEC.68. Repealed by P.L.91-2014, SEC.8.)

IC 5-10-8-1
Definitions
Sec. 1. The following definitions apply in this chapter:
(1) "Employee" means:
(A) an elected or appointed officer or official, or a full-time employee;
(B) if the individual is employed by a school corporation, a full-time or part-time employee;
(C) for a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period; or
(D) a senior judge appointed under IC 33-24-3-7;
whose services have continued without interruption at least thirty (30) days.
(2) "Group insurance" means any of the kinds of insurance fulfilling the definitions and requirements of group insurance contained in IC 27-1.
(3) "Insurance" means insurance upon or in relation to human life in all its forms, including life insurance, health insurance, disability insurance, accident insurance, hospitalization insurance, surgery insurance, medical insurance, and supplemental medical insurance.
(4) "Local unit" includes a city, town, county, township, public library, municipal corporation (as defined in IC 5-10-9-1), school corporation, or charter school.
(5) "New traditional plan" means a self-insurance program established under section 7(b) of this chapter to provide health care coverage.
(6) "Public employer" means the state or a local unit, including

any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of either, having a payroll in relation to persons it immediately employs, even if it is not a separate taxing unit. With respect to the legislative branch of government, "public employer" or "employer" refers to the following:

(A) The president pro tempore of the senate, with respect to former members or employees of the senate.

(B) The speaker of the house, with respect to former members or employees of the house of representatives.

(C) The legislative council, with respect to former employees of the legislative services agency.

(7) "Public employer" does not include a state educational institution.

(8) "Retired employee" means:

(A) in the case of a public employer that participates in the public employees' retirement fund, a former employee who qualifies for a benefit under IC 5-10.3-8 or IC 5-10.2-4;

(B) in the case of a public employer that participates in the teachers' retirement fund under IC 5-10.4, a former employee who qualifies for a benefit under IC 5-10.4-5; and

(C) in the case of any other public employer, a former employee who meets the requirements established by the public employer for participation in a group insurance plan for retired employees.

(9) "Retirement date" means the date that the employee has chosen to receive retirement benefits from the employees' retirement fund.

As added by Acts 1980, P.L.8, SEC.41. Amended by P.L.39-1986, SEC.1; P.L.56-1989, SEC.1; P.L.39-1990, SEC.1; P.L.40-1990, SEC.1; P.L.233-1999, SEC.1; P.L.50-2000, SEC.1; P.L.13-2001, SEC.7; P.L.98-2004, SEC.65; P.L.2-2006, SEC.14; P.L.2-2007, SEC.81; P.L.194-2007, SEC.1; P.L.91-2011, SEC.1.

IC 5-10-8-2
Repealed

(Repealed by P.L.24-1985, SEC.25(c).)

IC 5-10-8-2.1
Repealed

(Repealed by P.L.1-1991, SEC.32.)

IC 5-10-8-2.2
Public safety employees; surviving spouses; dependents

Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

(1) is less than eighteen (18) years of age;

(2) is at least eighteen (18) years of age and has a physical or

mental disability (using disability guidelines established by the Social Security Administration); or

(3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) If the local unit public employer is a school corporation, by electing to provide the coverage through a state employee health plan under section 6.7 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

(1) Retired public safety employees.

(2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.

(3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A public safety employee who is retired or has a disability and is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

(1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;

(2) must file a written request for insurance coverage with the

employer within ninety (90) days after the person retires or begins receiving disability benefits; and

(3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), IC 36-8-8-14.1(h), and IC 36-8-10-16.5 for a surviving spouse or dependent of a public safety employee who dies in the line of duty, a surviving spouse or dependent who is eligible for group health insurance under subsection (g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) The eligibility for group health insurance under this section for a public safety employee who is retired or has a disability ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

As added by P.L.58-1989, SEC.2. Amended by P.L.41-1990, SEC.2; P.L.286-2001, SEC.1; P.L.86-2003, SEC.1; P.L.2-2005, SEC.15; P.L.99-2007, SEC.13; P.L.3-2008, SEC.24; P.L.182-2009(ss), SEC.65; P.L.91-2014, SEC.9.

IC 5-10-8-2.5
Repealed

(Repealed by P.L.14-1986, SEC.19.)

IC 5-10-8-2.6
Local unit public employers and employees; programs; self-insurance; payment of part of cost; noncancelability; retired employees

Sec. 2.6. (a) This section applies only to local unit public employers and their employees. This section does not apply to public safety employees, surviving spouses, and dependents covered by section 2.2 of this chapter.

(b) A public employer may provide programs of group insurance for its employees and retired employees. The public employer may, however, exclude part-time employees and persons who provide services to the unit under contract from any group insurance coverage that the public employer provides to the employer's full-time employees. A public employer may provide programs of group health insurance under this section through one (1) of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(3) If the local unit public employer is a school corporation, by electing to provide the coverage through a state employee health

plan under section 6.7 of this chapter.

A public employer may provide programs of group insurance other than group health insurance under this section by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(c) A public employer may pay a part of the cost of group insurance, but shall pay a part of the cost of group life insurance for local employees. A public employer may pay, as supplemental wages, an amount equal to the deductible portion of group health insurance as long as payment of the supplemental wages will not result in the payment of the total cost of the insurance by the public employer.

(d) An insurance contract for local employees under this section may not be canceled by the public employer during the policy term of the contract.

(e) After June 30, 1986, a public employer shall provide a group health insurance program under subsection (g) to each retired employee:

(1) whose retirement date is:

(A) after May 31, 1986, for a retired employee who was a teacher (as defined in IC 20-18-2-22) for a school corporation; or

(B) after June 30, 1986, for a retired employee not covered by clause (A);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which must have been completed immediately preceding the retirement date; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(f) A group health insurance program required by subsection (e) must be equal in coverage to that offered active employees and must permit the retired employee to participate if the retired employee pays an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active employee and if the employee, within ninety (90) days after the employee's retirement date, files a written request with the employer for insurance coverage. However, the employer may elect to pay any part of the retired employee's premiums.

(g) A retired employee's eligibility to continue insurance under subsection (e) ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when

the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under subsection (e) may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-28-10-2(b). An employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the public employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(i) A public employer may provide group health insurance for retired employees or their spouses not covered by subsections (e) through (g) and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by subsections (e) through (g). A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

As added by P.L.1-1991, SEC.33. Amended by P.L.286-2001, SEC.2; P.L.1-2005, SEC.76; P.L.182-2009(ss), SEC.66; P.L.91-2014, SEC.10.

IC 5-10-8-2.7

Insurance of rostered volunteers

Sec. 2.7. (a) As used in this section, "rostered volunteer" means a volunteer:

(1) whose name has been entered on a roster of volunteers for a volunteer program operated by a local unit; and

(2) who has been approved by the proper authorities of the local unit.

The term does not include a volunteer firefighter (as defined in IC 36-8-12-2) or an inmate assigned to a correctional facility operated by the state or a local unit.

(b) As used in this section, "local unit" does not include a school

corporation.

(c) The fiscal body of a local unit may elect to provide insurance for rostered volunteers for life, accident, or sickness coverage.

As added by P.L.51-1993, SEC.1.

IC 5-10-8-3

Repealed

(Repealed by P.L.24-1985, SEC.25(c).)

IC 5-10-8-3.1

Employees withholding from salaries or wages; retired employees; assignment of part of retirement benefit

Sec. 3.1. (a) A public employer that contracts for a group insurance plan or establishes a self-insurance plan for its employees may withhold or cause to be withheld from participating employees' salaries or wages whatever part of the cost of the plan the employees are required to pay. The chief fiscal officer responsible for issuing paychecks or warrants to the employees shall make deductions from the individual employees' paychecks or warrants to pay the premiums for the insurance. Except as provided by section 7(d) of this chapter, the fiscal officer shall require written authorization from state employees, and may require written authorization from local employees, to make the deductions. One (1) authorization signed by an employee is sufficient authorization for the fiscal officer to continue to make deductions for this purpose until revoked in writing by the employee.

(b) A public employer that contracts for a group insurance plan or establishes a self-insurance plan for its retired employees may require that the retired employees pay any part of the cost of the plan that is not paid by the public employer. A retired employee may assign part or all of the retired employee's benefit payable under IC 5-10.3-8, IC 5-10.4-5, or any other retirement program for this required payment.

As added by P.L.24-1985, SEC.10. Amended by P.L.27-1988, SEC.3; P.L.2-2006, SEC.15.

IC 5-10-8-4

Discrimination as to form of insurance between certain employees; exception

Sec. 4. Self-insurance plans for state employees involving income disability insurance, principal amount accident insurance, or both, must not, as to the form or forms of the insurance, discriminate between the employees of any department, commission, board, division, facility, institution, authority, or other establishment, except that the contributions for the insurance and benefits from the insurance may be equitably graduated in relation to:

(1) the employment compensation schedule; and

(2) if actuarially justified, the employee's age.

As added by Acts 1980, P.L.8, SEC.41. Amended by P.L.24-1985, SEC.11; P.L.27-1988, SEC.4.

IC 5-10-8-5
Establishment of common and unified plan of group insurance

Sec. 5. Two (2) or more local public employers may establish a common and unified plan of group insurance for their employees, including retired local employees. The plan shall be effected through a trust, agency, or any other legal arrangement with careful accounting and fiscal responsibility.

As added by Acts 1980, P.L.8, SEC.41. Amended by P.L.24-1985, SEC.12.

IC 5-10-8-6
Establishment of common and unified plans by state law enforcement agencies; trust fund for prefunding state contributions and OPEB liability

Sec. 6. (a) The state police department, conservation officers of the department of natural resources, and the state excise police may establish common and unified plans of self-insurance for their employees, including retired employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation. Any modification to:

(1) eligibility requirements;
(2) required premiums; or
(3) any other plan provisions;

that increases the amount of the state's contribution to the plan or that increases the post-employment liability under the plan may not be made unless the modification is approved by the budget agency with an annual review of the modifications by the budget committee.

(b) Except as provided in this section and IC 5-10-14, the state agencies listed in subsection (a) may not pay as the employer part of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

(c) This subsection applies to a health benefit plan for an individual described in subsection (a). After June 30, 2011, at least one (1) time in each state fiscal year, the budget agency shall determine the average amount of contributions made under IC 5-10-8.5-15 and IC 5-10-8.5-16 to participants in a health reimbursement arrangement or other separate fund under IC 5-10-8.5 in the immediately preceding state fiscal year. In the state fiscal year beginning July 1, 2011, the amount determined under this section must exclude contributions made to persons described in IC 5-10-8.5-15(c) and IC 5-10-8.5-16(f). An amount equal to the average amount determined under this subsection multiplied by the number of participants (other than retired participants) in the plans described in subsection (a) shall be transferred to the plans described

in subsection (a). The amount transferred under this subsection shall be proportionally allocated to each plan relative to the number of members in each plan. The amount allocated to a plan under this subsection shall be allocated among the participants in the plan in the same manner as other employer contributions. Funds shall be used only to reduce unfunded other post-employment benefit (OPEB) liability and not to increase benefits or reduce premiums.

(d) Trust funds may be established to carry out the purposes of this section. A trust fund established under this subsection is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from a trust fund established under this subsection by the state board of finance, the budget agency, or any other state agency. Money in a trust fund established under this subsection does not revert to the state general fund at the end of any state fiscal year. A trust fund established under this subsection consists of appropriations, revenues, or transfers to the trust fund under IC 4-12-1. Contributions to a trust fund established under this subsection are irrevocable. A trust fund established under this subsection must be limited to providing prefunding of annual required contributions and to cover OPEB liability for covered individuals. Funds may be used only for these purposes and not to increase benefits or reduce premiums. A trust fund established under this subsection shall be established to comply with and be administered in a manner that satisfies the Internal Revenue Code requirements concerning a trust fund for prefunding annual required contributions and for covering OPEB liability for covered individuals. All assets in a trust fund established under this subsection:

(1) are dedicated exclusively to providing benefits to covered individuals and their beneficiaries according to the terms of the health plan; and

(2) are exempt from levy, sale, garnishment, attachment, or other legal process.

A trust fund established under this subsection shall be administered by the agency employing the covered individuals. The expenses of administering a trust fund established under this subsection shall be paid from money in the trust fund. The treasurer of state shall invest the money in a trust fund established under this subsection not currently needed to meet the obligations of the trust fund in the same manner as other public money may be invested.

As added by Acts 1980, P.L.8, SEC.41. Amended by Acts 1982, P.L.36, SEC.1; P.L.24-1985, SEC.13; P.L.14-1986, SEC.11; P.L.8-1993, SEC.53; P.L.24-2005, SEC.1; P.L.170-2005, SEC.15; P.L.1-2006, SEC.95; P.L.227-2007, SEC.55; P.L.229-2011, SEC.68; P.L.138-2012, SEC.2.

IC 5-10-8-6.5
General assembly members and former members

Sec. 6.5. (a) A member of the general assembly may elect to participate in either:

(1) the plan of self-insurance established by the state police department under section 6 of this chapter;

(2) the plan of self-insurance established by the state personnel department under section 7 of this chapter; or

(3) a prepaid health care delivery plan established under section 7 of this chapter.

(b) A former member of the general assembly who meets the criteria for participation in a group health insurance program provided under section 8(e) or 8.1 of this chapter may elect to participate in either:

(1) the plan of self-insurance established by the state police department under section 6 of this chapter; or

(2) a group health insurance program provided under section 8(e) or 8.1 of this chapter.

(c) A member of the general assembly or former member of the general assembly who chooses a plan described in subsection (a)(1) or (b)(1) shall pay any amount of both the employer and the employee share of the cost of the coverage that exceeds the cost of the coverage under the new traditional plan.

As added by P.L.233-1999, SEC.2.

IC 5-10-8-6.6

Repealed

(As added by P.L.286-2001, SEC.3. Amended by P.L.91-2014, SEC.11. Repealed by P.L.121-2016, SEC.7.)

IC 5-10-8-6.7

Election of state employee health care program by school corporation

Sec. 6.7. (a) As used in this section, "state employee health plan" means a:

(1) self-insurance program established under section 7(b) of this chapter; or

(2) contract with a prepaid health care delivery plan entered into under section 7(c) of this chapter;

to provide group health coverage for state employees.

(b) The state personnel department shall allow a school corporation or charter school to elect to provide coverage of health care services for active and retired employees of the school corporation under any state employee health plan. If a school corporation or charter school elects to provide coverage of health care services for active and retired employees of the school corporation or charter school under a state employee health plan, it must provide coverage for all active and retired employees of the school corporation or charter school under the state employee health plan (other than any employees covered by an Indiana

comprehensive health insurance association policy or individuals who retire from the school corporation before July 1, 2010, or charter school before July 1, 2011) if coverage was provided for these employees under the prior policies.

(c) The following apply if a school corporation or charter school elects to provide coverage for active and retired employees of the school corporation or charter school under subsection (b):

(1) The state shall not pay any part of the cost of the coverage.

(2) The coverage provided to an active or retired school corporation or charter school employee under this section must be the same as the coverage provided to an active or retired state employee under the state employee health plan.

(3) Notwithstanding sections 2.2 and 2.6 of this chapter:

(A) the school corporation or charter school shall pay for the coverage provided to an active or retired school corporation or charter school employee under this section an amount not more than the amount paid by the state for coverage provided to an active or retired state employee under the state employee health plan; and

(B) an active or retired school corporation or charter school employee shall pay for the coverage provided to the active or retired school corporation or charter school employee under this section an amount that is at least equal to the amount paid by an active or retired state employee for coverage provided to the active or retired state employee under the state employee health plan.

However, this subdivision does not apply to contractual commitments made by a school corporation to individuals who retire before July 1, 2010, or by a charter school to individuals who retire before July 1, 2011.

(4) The school corporation or charter school shall pay any administrative costs of the school corporation's or charter school's participation in the state employee health plan.

(5) The school corporation or charter school shall provide the coverage elected under subsection (b) for a period of at least three (3) years beginning on the date the coverage of the school corporation or charter school employees under the state employee health plan begins.

(d) The state personnel department shall provide an enrollment period at least every thirty (30) days for a school corporation or charter school that elects to provide coverage under subsection (b).

(e) The state personnel department may adopt rules under IC 4-22-2 to implement this section.

(f) Neither this section nor a school corporation's or charter school's election to participate in a state employee health plan as provided in this section impairs the rights of an exclusive representative of the certificated or noncertificated employees of the school corporation or charter school to collectively bargain all

matters related to school employee health insurance programs and benefits.

As added by P.L.182-2009(ss), SEC.67. Amended by P.L.182-2009(ss), SEC.515; P.L.109-2010, SEC.1; P.L.91-2011, SEC.2; P.L.6-2012, SEC.26.

IC 5-10-8-6.8

Consolidation of certain school corporations; state employee health plan

Sec. 6.8. (a) This section applies to a school corporation that results from the consolidation, reorganization, or merger, after May 1, 2012, of:

(1) a school corporation that has elected to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan; and

(2) a school corporation that has not elected to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan.

(b) A school corporation that results from a consolidation, reorganization, or merger described in subsection (a) must allow an individual for whom the school corporation described in subsection (a)(1) had (as of the effective date of the consolidation, reorganization, or merger) health insurance liability under a state employee health plan to continue the individual's coverage under the state employee health plan for at least five (5) years, as long as the individual otherwise remains eligible for coverage under the plan.

(c) This SECTION expires January 1, 2018.

As added by P.L.145-2012, SEC.2.

IC 5-10-8-7

Group insurance; self-insurance; health services; disability plans; trust fund for prefunding state contributions and OPEB liability

Sec. 7. (a) The state, excluding state educational institutions, may not purchase or maintain a policy of group insurance, except:

(1) life insurance for the state's employees;

(2) long term care insurance under a long term care insurance policy (as defined in IC 27-8-12-5), for the state's employees; or

(3) an insurance policy that provides coverage that supplements coverage provided under a United States military health care plan.

(b) With the consent of the governor, the state personnel department may establish self-insurance programs to provide group insurance other than life or long term care insurance for state employees and retired state employees. The state personnel department may contract with a private agency, business firm, limited liability company, or corporation for administrative services. A commission may not be paid for the placement of the contract. The

department may require, as part of a contract for administrative services, that the provider of the administrative services offer to an employee terminating state employment the option to purchase, without evidence of insurability, an individual policy of insurance.

(c) Notwithstanding subsection (a), with the consent of the governor, the state personnel department may contract for health services for state employees through one (1) or more prepaid health care delivery plans.

(d) The state personnel department shall adopt rules under IC 4-22-2 to establish long term and short term disability plans for state employees (except employees who hold elected offices (as defined by IC 3-5-2-17)). The plans adopted under this subsection may include any provisions the department considers necessary and proper and must:

(1) require participation in the plan by employees with six (6) months of continuous, full-time service;

(2) require an employee to make a contribution to the plan in the form of a payroll deduction;

(3) require that an employee's benefits under the short term disability plan be subject to a thirty (30) day elimination period and that benefits under the long term plan be subject to a six (6) month elimination period;

(4) prohibit the termination of an employee who is eligible for benefits under the plan;

(5) provide, after a seven (7) day elimination period, eighty percent (80%) of base biweekly wages for an employee disabled by injuries resulting from tortious acts, as distinguished from passive negligence, that occur within the employee's scope of state employment;

(6) provide that an employee's benefits under the plan may be reduced, dollar for dollar, if the employee derives income from:

(A) Social Security;

(B) the public employees' retirement fund;

(C) the Indiana state teachers' retirement fund;

(D) pension disability;

(E) worker's compensation;

(F) benefits provided from another employer's group plan; or

(G) remuneration for employment entered into after the disability was incurred.

(The department of state revenue and the department of workforce development shall cooperate with the state personnel department to confirm that an employee has disclosed complete and accurate information necessary to administer subdivision (6).);

(7) provide that an employee will not receive benefits under the plan for a disability resulting from causes specified in the rules; and

(8) provide that, if an employee refuses to:

(A) accept work assignments appropriate to the employee's medical condition;

(B) submit information necessary for claim administration; or

(C) submit to examinations by designated physicians;

the employee forfeits benefits under the plan.

(e) This section does not affect insurance for retirees under IC 5-10.3 or IC 5-10.4.

(f) The state may pay part of the cost of self-insurance or prepaid health care delivery plans for its employees.

(g) A state agency may not provide any insurance benefits to its employees that are not generally available to other state employees, unless specifically authorized by law.

(h) The state may pay a part of the cost of group medical and life coverage for its employees.

(i) To carry out the purposes of this section, a trust fund may be established. The trust fund established under this subsection 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 trust fund established under this subsection by the state board of finance, the budget agency, or any other state agency. Money in a trust fund established under this subsection does not revert to the state general fund at the end of any state fiscal year. The trust fund established under this subsection consists of appropriations, revenues, or transfers to the trust fund under IC 4-12-1. Contributions to the trust fund are irrevocable. The trust fund must be limited to providing prefunding of annual required contributions and to cover OPEB liability for covered individuals. Funds may be used only for these purposes and not to increase benefits or reduce premiums. The trust fund shall be established to comply with and be administered in a manner that satisfies the Internal Revenue Code requirements concerning a trust fund for prefunding annual required contributions and for covering OPEB liability for covered individuals. All assets in the trust fund established under this subsection:

(1) are dedicated exclusively to providing benefits to covered individuals and their beneficiaries according to the terms of the health plan; and

(2) are exempt from levy, sale, garnishment, attachment, or other legal process.

The trust fund established under this subsection shall be administered by the state personnel department. The expenses of administering the trust fund shall be paid from money in the trust fund. The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the trust fund in the same manner as other public money may be invested.

As added by P.L.28-1983, SEC.50. Amended by P.L.24-1985, SEC.14; P.L.39-1986, SEC.4; P.L.14-1986, SEC.12; P.L.27-1988, SEC.5; P.L.8-1993, SEC.54; P.L.21-1995, SEC.10; P.L.14-1996,

SEC.5; P.L.41-1997, SEC.1; P.L.286-2001, SEC.4; P.L.2-2006, SEC.16; P.L.158-2006, SEC.2; P.L.2-2007, SEC.82; P.L.138-2012, SEC.3; P.L.91-2014, SEC.12; P.L.121-2016, SEC.8.

IC 5-10-8-7.1
Coverage for autism spectrum disorder

Sec. 7.1. (a) As used in this section, "covered individual" means an individual who is:

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or
(2) entitled to health services under a contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(b) As used in this section, "autism spectrum disorder" means a neurological condition, including Asperger's syndrome and autism, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(c) A self-insurance program established under section 7(b) of this chapter to provide health care coverage must provide a covered individual with coverage for the treatment of an autism spectrum disorder. Coverage provided under this section is limited to treatment that is prescribed by the covered individual's treating physician in accordance with a treatment plan. A self-insurance program may not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew, refuse to reissue, or otherwise terminate or restrict coverage on, an individual under an insurance policy or health plan solely because the individual is diagnosed with an autism spectrum disorder.

(d) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter must provide a covered individual with services for the treatment of an autism spectrum disorder. Services provided under this section are limited to treatment that is prescribed by the covered individual's treating physician in accordance with a treatment plan. A prepaid health care delivery plan may not deny or refuse to provide services to, or refuse to renew, refuse to reissue, or otherwise terminate or restrict services to, an individual solely because the individual is diagnosed with an autism spectrum disorder.

(e) The coverage required by subsection (c) and services required by subsection (d) may not be subject to dollar limits, deductibles, copayments, or coinsurance provisions that are less favorable to a covered individual than the dollar limits, deductibles, copayments, or coinsurance provisions that apply to physical illness generally under the self-insurance program or contract with a prepaid health care delivery plan.

As added by P.L.148-2001, SEC.1. Amended by P.L.188-2013, SEC.2.

IC 5-10-8-7.2

Breast cancer; definitions; self-insurance programs; health maintenance organizations; diagnostic services

Sec. 7.2. (a) As used in this section, "breast cancer diagnostic service" means a procedure intended to aid in the diagnosis of breast cancer. The term includes procedures performed on an inpatient basis and procedures performed on an outpatient basis, including the following:

(1) Breast cancer screening mammography.

(2) Surgical breast biopsy.

(3) Pathologic examination and interpretation.

(b) As used in this section, "breast cancer outpatient treatment services" means procedures that are intended to treat cancer of the human breast and that are delivered on an outpatient basis. The term includes the following:

(1) Chemotherapy.

(2) Hormonal therapy.

(3) Radiation therapy.

(4) Surgery.

(5) Other outpatient cancer treatment services prescribed by a physician.

(6) Medical follow-up services related to the procedures set forth in subdivisions (1) through (5).

(c) As used in this section, "breast cancer rehabilitative services" means procedures that are intended to improve the results of or to ameliorate the debilitating consequences of the treatment of breast cancer and that are delivered on an inpatient or outpatient basis. The term includes the following:

(1) Physical therapy.

(2) Psychological and social support services.

(3) Reconstructive plastic surgery.

(d) As used in this section, "breast cancer screening mammography" means a standard, two (2) view per breast, low-dose radiographic examination of the breasts that is:

(1) furnished to an asymptomatic woman; and

(2) performed by a mammography services provider using equipment designed by the manufacturer for and dedicated specifically to mammography in order to detect unsuspected breast cancer.

The term includes the interpretation of the results of a breast cancer screening mammography by a physician.

(e) As used in this section, "covered individual" means a female individual who is:

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) entitled to services under a contract with a health maintenance organization (as defined in IC 27-13-1-19) that is entered into or renewed under section 7(c) of this chapter.

(f) As used in this section, "mammography services provider" means an individual or facility that:

(1) has been accredited by the American College of Radiology;

(2) meets equivalent guidelines established by the state department of health; or

(3) is certified by the federal Department of Health and Human Services for participation in the Medicare program (42 U.S.C. 1395 et seq.).

(g) As used in this section, "woman at risk" means a woman who meets at least one (1) of the following descriptions:

(1) A woman who has a personal history of breast cancer.

(2) A woman who has a personal history of breast disease that was proven benign by biopsy.

(3) A woman whose mother, sister, or daughter has had breast cancer.

(4) A woman who is at least thirty (30) years of age and has not given birth.

(h) A self-insurance program established under section 7(b) of this chapter to provide health care coverage must provide covered individuals with coverage for breast cancer diagnostic services, breast cancer outpatient treatment services, and breast cancer rehabilitative services. The coverage must provide reimbursement for breast cancer screening mammography at a level at least as high as:

(1) the limitation on payment for screening mammography services established in 42 CFR 405.534(b)(3) according to the Medicare Economic Index at the time the breast cancer screening mammography is performed; or

(2) the rate negotiated by a contract provider according to the provisions of the insurance policy;

whichever is lower. The costs of the coverage required by this subsection may be paid by the state or by the employee or by a combination of the state and the employee.

(i) A contract with a health maintenance organization that is entered into or renewed under section 7(c) of this chapter must provide covered individuals with breast cancer diagnostic services, breast cancer outpatient treatment services, and breast cancer rehabilitative services.

(j) The coverage required by subsection (h) and services required by subsection (i) may not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to covered individuals than the dollar limits, deductibles, or coinsurance provisions applying to physical illness generally under the self-insurance program or contract with a health maintenance organization.

(k) The coverage for breast cancer diagnostic services required by subsection (h) and the breast cancer diagnostic services required by subsection (i) must include the following:

(1) In the case of a covered individual who is at least thirty-five (35) years of age but less than forty (40) years of age, at least

one (1) baseline breast cancer screening mammography performed upon the individual before she becomes forty (40) years of age.

(2) In the case of a covered individual who is:

(A) less than forty (40) years of age; and

(B) a woman at risk;

at least one (1) breast cancer screening mammography performed upon the covered individual every year.

(3) In the case of a covered individual who is at least forty (40) years of age, at least one (1) breast cancer screening mammography performed upon the individual every year.

(4) Any additional mammography views that are required for proper evaluation.

(5) Ultrasound services, if determined medically necessary by the physician treating the covered individual.

(l) The coverage for breast cancer diagnostic services required by subsection (h) and the breast cancer diagnostic services required by subsection (i) shall be provided in addition to any benefits specifically provided for x-rays, laboratory testing, or wellness examinations.

As added by P.L.35-1992, SEC.1. Amended by P.L.26-1994, SEC.1; P.L.170-1999, SEC.1.

IC 5-10-8-7.3

Early intervention services for first steps children

Sec. 7.3. (a) As used in this section, "covered individual" means an individual who is:

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) entitled to services under a contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(b) As used in this section, "early intervention services" means services provided to a first steps child under IC 12-12.7-2 and 20 U.S.C. 1432(4).

(c) As used in this section, "first steps child" means an infant or toddler from birth through two (2) years of age who is enrolled in the Indiana first steps program and is a covered individual.

(d) As used in this section, "first steps program" refers to the program established under IC 12-12.7-2 and 20 U.S.C. 1431 et seq. to meet the needs of:

(1) children who are eligible for early intervention services; and

(2) their families.

The term includes the coordination of all available federal, state, local, and private resources available to provide early intervention services within Indiana.

(e) As used in this section, "health benefits plan" means a:

(1) self-insurance program established under section 7(b) of this

chapter to provide group health coverage; or

(2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(f) A health benefits plan that provides coverage for early intervention services shall reimburse the first steps program a monthly fee established by the division of disability and rehabilitative services established by IC 12-9-1-1. The monthly fee shall be provided instead of claims processing of individual claims.

(g) The reimbursement required under subsection (f) may not be applied to any annual or aggregate lifetime limit on the first steps child's coverage under the health benefits plan.

(h) The first steps program may pay required deductibles, copayments, or other out-of-pocket expenses for a first steps child directly to a provider. A health benefits plan shall apply any payments made by the first steps program to the health benefits plan's deductibles, copayments, or other out-of-pocket expenses according to the terms and conditions of the health benefits plan.

As added by P.L.121-1999, SEC.1. Amended by P.L.246-2005, SEC.47; P.L.93-2006, SEC.2; P.L.229-2011, SEC.69.

IC 5-10-8-7.5

Prostate specific antigen test

Sec. 7.5. (a) As used in this section, "covered individual" means a male individual who is:

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) entitled to services under a contract with a health maintenance organization (as defined in IC 27-13-1-19) that is entered into or renewed under section 7(c) of this chapter.

(b) As used in this section, "prostate specific antigen test" means a standard blood test performed to determine the level of prostate specific antigen in the blood.

(c) A self-insurance program established under section 7(b) of this chapter to provide health care coverage must provide covered individuals with coverage for prostate specific antigen testing.

(d) A contract with a health maintenance organization that is entered into or renewed under section 7(c) of this chapter must provide covered individuals with prostate specific antigen screening.

(e) The coverage required under subsections (c) and (d) must include the following:

(1) At least one (1) prostate specific antigen test annually for a covered individual who is at least fifty (50) years of age.

(2) At least one (1) prostate specific antigen test annually for a covered individual who is less than fifty (50) years of age and who is at high risk for prostate cancer according to the most recent published guidelines of the American Cancer Society.

(f) The coverage required under this section may not be subject to dollar limits, deductibles, copayments, or coinsurance provisions that

are less favorable to covered individuals than the dollar limits, deductibles, copayments, or coinsurance provisions applying to physical illness generally under the self-insurance program or contract with a health maintenance organization.

(g) The coverage for prostate specific antigen screening shall be provided in addition to benefits specifically provided for x-rays, laboratory testing, or wellness examinations.

As added by P.L.170-1999, SEC.2.

IC 5-10-8-7.7

Surgical treatment for morbid obesity

Sec. 7.7. (a) As used in this section, "covered individual" means an individual who is covered under a health care plan.

(b) As used in this section, "health care plan" means:

(1) a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) a contract entered into under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan.

(c) As used in this section, "health care provider" means a:

(1) physician licensed under IC 25-22.5; or

(2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(d) As used in this section, "morbid obesity" means:

(1) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or

(2) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

(e) Except as provided in subsection (f), the state shall provide coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

(1) that has persisted for at least five (5) years; and

(2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least six (6) consecutive months.

(f) The state may not provide coverage for surgical treatment of morbid obesity for a covered individual who is less than twenty-one (21) years of age unless two (2) physicians licensed under IC 25-22.5 determine that the surgery is necessary to:

(1) save the life of the covered individual; or

(2) restore the covered individual's ability to maintain a major life activity (as defined in IC 4-23-29-6);

and each physician documents in the covered individual's medical

record the reason for the physician's determination.
As added by P.L.78-2000, SEC.1. Amended by P.L.196-2005, SEC.1; P.L.102-2006, SEC.1.

IC 5-10-8-7.8
Colorectal cancer testing coverage

Sec. 7.8. (a) As used in this section, "covered individual" means an individual who is:

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or

(2) entitled to services under a contract with a health maintenance organization (as defined in IC 27-13-1-19) that is entered into or renewed under section 7(c) of this chapter.

(b) A:

(1) self-insurance program established under section 7(b) of this chapter to provide health care coverage; or

(2) contract with a health maintenance organization that is entered into or renewed under section 7(c) of this chapter;

must provide coverage for colorectal cancer examinations and laboratory tests for cancer for any nonsymptomatic covered individual, in accordance with the current American Cancer Society guidelines.

(c) For a covered individual who is:

(1) at least fifty (50) years of age; or

(2) less than fifty (50) years of age and at high risk for colorectal cancer according to the most recent published guidelines of the American Cancer Society;

the coverage required under this section must meet the requirements set forth in subsection (d).

(d) A covered individual may not be required to pay an additional deductible or coinsurance for the colorectal cancer examination and laboratory testing benefit that is greater than an annual deductible or coinsurance established for similar benefits under a self-insurance program or contract with a health maintenance organization. If the program or contract does not cover a similar benefit, a deductible or coinsurance may not be set at a level that materially diminishes the value of the colorectal cancer examination and laboratory testing benefit required under this section.
As added by P.L.54-2000, SEC.1.

IC 5-10-8-8
Retired employees; ability of employer to pay premiums

Sec. 8. (a) This section applies only to the state and employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;
(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or
(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);
(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
(3) who:
(A) for an employee who retires before January 1, 2007, will have completed:
(i) twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and
(ii) at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date; or
(B) for an employee who retires after December 31, 2006, will have completed fifteen (15) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement.

(c) The state shall provide a group health insurance program to each retired employee:
(1) who is a retired judge;
(2) whose retirement date is after June 30, 1990;
(3) who is at least sixty-two (62) years of age;
(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

(d) The state shall provide a group health insurance program to each retired employee:
(1) who is a retired participant under the prosecuting attorneys retirement fund;
(2) whose retirement date is after January 1, 1990;
(3) who is at least sixty-two (62) years of age;
(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and
(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

(e) The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member, if the former member:

(1) is no longer a member of the general assembly;

(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(3) has at least ten (10) years of service credit as a member in the general assembly.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

(f) The group health insurance program required under subsections (b) through (e) and subsection (k) must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the employer's and the employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. Except as provided in subsection (l), the employer may elect to pay any part of the retired employee's premium with respect to insurance coverage under this chapter.

(g) Except as provided in subsection (j), a retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) Two (2) years after the date of the employee's death.

(4) The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-28-10-2(b). An employee who is on leave without pay is entitled to participate for ninety (90) days in any health insurance program maintained by the employer for active employees if the employee pays an amount equal to the total

of the employer's and the employee's premiums for the insurance.

(i) An employer may provide group health insurance for retired employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h).

(j) An employer may elect to permit former employees and their spouses, including surviving spouses, to continue to participate in a group health insurance program under this chapter after the former employee (who is otherwise qualified under this chapter to participate in a group insurance program) or spouse has become eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(k) The state shall provide a group health insurance program to each retired employee:

(1) who was employed as a teacher in a state institution under:
- (A) IC 11-10-5;
- (B) IC 12-24-3;
- (C) IC 16-33-3;
- (D) IC 16-33-4;
- (E) IC 20-21-2-1; or
- (F) IC 20-22-2-1;

(2) who is at least fifty-five (55) years of age on or before the employee's retirement date;

(3) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(4) who:
- (A) has at least fifteen (15) years of service credit as a participant in the retirement fund of which the employee is a member on or before the employee's retirement date; or
- (B) completes at least ten (10) years of service credit as a participant in the retirement fund of which the employee is a member immediately before the employee's retirement.

(l) The president pro tempore of the senate and the speaker of the house of representatives may not elect to pay any part of the premium for insurance coverage under this chapter for a former member of the general assembly or the spouse of a former member of the general assembly whose last day of service as a member of the general assembly is after July 31, 2007.

As added by P.L.39-1986, SEC.5. Amended by P.L.42-1990, SEC.1; P.L.67-1995, SEC.1; P.L.233-1999, SEC.3; P.L.13-2001, SEC.8; P.L.1-2005, SEC.77; P.L.178-2006, SEC.3; P.L.43-2007, SEC.12; P.L.91-2014, SEC.13.

IC 5-10-8-8.1
Retired legislators

Sec. 8.1. (a) This section applies only to the state and former legislators.

(b) As used in this section, "legislator" means a member of the general assembly.

(c) After June 30, 1988, the state shall provide to each retired legislator:

(1) whose retirement date is after June 30, 1988;

(2) who is not participating in a group health insurance coverage plan:

(A) including Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; but

(B) not including a group health insurance plan provided by the state or a health insurance plan provided under IC 27-8-10;

(3) who served as a legislator for at least ten (10) years; and

(4) who participated in a group health insurance plan provided by the state on the legislator's retirement date;

a group health insurance program that is equal to that offered active employees.

(d) A retired legislator who qualifies under subsection (c) may participate in the group health insurance program if the retired legislator:

(1) pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee; and

(2) within ninety (90) days after the legislator's retirement date files a written request for insurance coverage with the employer.

(e) Except as provided in section 8(j) of this chapter, a retired legislator's eligibility to continue insurance under this section ends when the member becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program.

(f) A retired legislator who is eligible for insurance coverage under this section may elect to have the legislator's spouse covered under the health insurance program at the time the legislator retires. If a retired legislator's spouse pays the amount the retired legislator would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired legislator and is not affected by the retired legislator's eligibility for Medicare. Except as provided in section 8(j) of this chapter, the spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) The date of the spouse's remarriage.

(g) The surviving spouse of a legislator who dies or has died in office may elect to participate in the group health insurance program if all of the following apply:

(1) The deceased legislator would have been eligible to participate in the group health insurance program under this section had the legislator retired on the day of the legislator's death.

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee.

(h) Except as provided in section 8(j) of this chapter, the eligibility of the surviving spouse of a legislator to purchase group health insurance under subsection (g) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

(3) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

As added by P.L.43-1988, SEC.2. Amended by P.L.36-1992, SEC.1; P.L.22-1998, SEC.2; P.L.233-1999, SEC.4; P.L.13-2001, SEC.9.

IC 5-10-8-8.2

Former legislators

Sec. 8.2. (a) As used in this section, "former legislator" means a former member of the general assembly.

(b) As used in this section, "dependent" means an unmarried person who:

(1) is:

(A) a dependent child, stepchild, foster child, or adopted child of a former legislator or spouse of a former legislator; or

(B) a child who resides in the home of a former legislator or spouse of a former legislator who has been appointed legal guardian for the child; and

(2) is:

(A) less than twenty-three (23) years of age;

(B) at least twenty-three (23) years of age, incapable of self-sustaining employment by reason of mental or physical disability, and is chiefly dependent on a former legislator or spouse of a former legislator for support and maintenance; or

(C) at least twenty-three (23) years of age and less than twenty-five (25) years of age and is enrolled in and is a full-time student at an accredited college or university.

(c) As used in this section, "spouse" means a person who is or was

married to a former legislator.

(d) After June 30, 2001, the state shall provide to a former legislator:

(1) whose last day of service as a member of the general assembly was after December 31, 2000;

(2) who served in all or part of at least four (4) terms of the general assembly (as defined in IC 2-2.1-1-1);

(3) who pays an amount equal to the employee's and employer's premium for the group health insurance for an active employee; and

(4) who files a written request for insurance coverage with the employer within ninety (90) days after the former legislator's:

(A) last day of service as a member of the general assembly; or

(B) retirement date;

a group health insurance program that is equal to that offered to active employees.

(e) Except as provided by section 8(j) of this chapter, the eligibility of a former legislator to continue insurance under this section ends when the former legislator becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or when the employer terminates the health insurance program.

(f) A former legislator who is eligible for insurance coverage under this section may elect to have a spouse or dependent of the former legislator covered under the health insurance program. A former legislator who makes an election under this subsection must pay the employee's and employer's premium for the group health insurance program for an active employee that is attributable to the inclusion of a spouse or dependent.

(g) A spouse or dependent may continue insurance under this section after the death of the former legislator if the spouse or dependent pays the amount the former legislator would have been required to pay for coverage selected by the spouse or dependent.

(h) Except as provided under section 8(j) of this chapter, the eligibility of a spouse to continue insurance under this section ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the legislative spouse's remarriage.

(3) When the required amount for coverage is not paid with respect to the spouse.

(4) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(i) The eligibility of a dependent to continue insurance under this section ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date the dependent no longer meets the definition of a

dependent.

(3) When the required amount for coverage is not paid with respect to the dependent.

(j) The spouse of a deceased former legislator may elect to participate in the group health insurance program under this section if all of the following apply:

(1) The deceased legislator:

(A) died after December 31, 2000, while serving as a member of the general assembly; and

(B) served in all or part of at least four (4) terms of the general assembly (as defined in IC 2-2.1-1-1).

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the employee's and employer's premium for the group health insurance for an active employee, including any amount with respect to covered dependents of the former legislator.

(k) Except as provided under section 8(j) of this chapter, the eligibility of the surviving spouse under subsection (j) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

(3) When the required amount for coverage is not paid with respect to the spouse and any covered dependent.

(4) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

As added by P.L.13-2001, SEC.10. Amended by P.L.1-2007, SEC.26.

IC 5-10-8-8.3

Former state and legislative employees; health benefit plans

Sec. 8.3. (a) As used in this section, "department" refers to the state personnel department.

(b) The department shall establish, or contract for the establishment of, at least two (2) retiree health benefit plans to be available for former employees of:

(1) the state; and

(2) the legislative branch of government;

whose employer elects under section 8(j) of this chapter to permit its former employees to continue to participate in a health insurance program under this chapter after the employees have become eligible for Medicare coverage. At least one (1) of the plans offered to former employees must include coverage for prescription drugs comparable to a Medicare plan that provides prescription drug benefits. This subsection expires July 1, 2014.

(c) The department shall not, after June 30, 2014, amend or renew a retiree health benefit plan described in subsection (b) that is in effect on June 30, 2014.

(d) A retiree health benefit plan described in subsection (b) that is in effect on June 30, 2014, terminates on the first plan renewal date occurring after June 30, 2014.
As added by P.L.13-2001, SEC.11. Amended by P.L.91-2014, SEC.14.

IC 5-10-8-8.4
Revocation or alteration by employer

Sec. 8.4. Except as provided by an enactment of the general assembly, an election by an employer under:

(1) section 8(f) of this chapter concerning the payment of a retired employee's premium; or

(2) section 8(j) of this chapter concerning Medicare coverage and program eligibility;

may not be revoked or altered at any time by the employer or a subsequent employer to the detriment of a person entitled to benefits under section 8.2 of this chapter.
As added by P.L.184-2001, SEC.6.

IC 5-10-8-8.5
Establishment of retiree health benefit trust fund

Sec. 8.5. (a) The retiree health benefit trust fund is established to provide funding for a retiree health benefit plan developed under IC 5-10-8.5.

(b) The trust fund shall be administered by the budget agency. The expenses of administering the trust fund shall be paid from money in the trust fund. The trust fund consists of cigarette tax revenues deposited in the fund under IC 6-7-1-28.1(7) and other appropriations, revenues, or transfers to the trust fund under IC 4-12-1.

(c) The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the trust fund in the same manner as other public money may be invested.

(d) The trust 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 trust fund by the state board of finance, the budget agency, or any other state agency.

(e) The trust fund shall be established and administered in a manner that complies with Internal Revenue Code requirements concerning health reimbursement arrangement (HRA) trusts. Contributions by the state to the trust fund are irrevocable. All assets held in the trust fund must be held for the exclusive benefit of participants of the retiree health benefit plan developed under IC 5-10-8.5 and their beneficiaries. All assets in the trust fund:

(1) are dedicated exclusively to providing benefits to participants of the plan and their beneficiaries according to the terms of the plan; and

(2) are exempt from levy, sale, garnishment, attachment, or

other legal process.

(f) Money in the trust fund does not revert to the state general fund at the end of any state fiscal year.

(g) The money in the trust fund is appropriated to the budget agency for providing the retiree health benefit plan developed under IC 5-10-8.5.

As added by P.L.182-2009(ss), SEC.68.

IC 5-10-8-9

Coverage of services for mental illness

Sec. 9. (a) This section does not apply if the application of this section would increase the premiums of the health services policy or plan, as certified under IC 27-8-5-15.7, by more than four percent (4%) as a result of complying with subsection (c).

(b) As used in this section, "coverage of services for mental illness" includes benefits with respect to mental health services as defined by the contract, policy, or plan for health services. The term includes services for the treatment of substance abuse and chemical dependency when the services are required in the treatment of a mental illness.

(c) If the state enters into a contract for health services through prepaid health care delivery plans, medical self-insurance, or group health insurance for state employees, the contract may not permit treatment limitations or financial requirements on the coverage of services for mental illness if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(d) This section applies to a contract for health services through prepaid health care delivery plans, medical self-insurance, or group medical coverage for state employees that is issued, entered into, or renewed after June 30, 1997.

(e) This section does not require the contract for health services to offer mental health benefits.

As added by P.L.42-1997, SEC.1. Amended by P.L.81-1999, SEC.1; P.L.291-2001, SEC.230.

IC 5-10-8-10

Examining infants for HIV; payment

Sec. 10. (a) The state shall cover the testing required under IC 16-41-6-4 and the examinations required under IC 16-41-17-2 under a:

(1) self-insurance program established or maintained under section 7(b) of this chapter to provide group health coverage; and

(2) contract entered into or renewed under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan.

(b) Payment to a hospital for a test required under IC 16-41-6-4

must be in an amount equal to the hospital's actual cost of performing the test.
As added by P.L.91-1999, SEC.1. Amended by P.L.237-2003, SEC.1.

IC 5-10-8-10.5
Dental care provisions required

Sec. 10.5. (a) As used in this section, "child" means an individual who is less than nineteen (19) years of age.

(b) As used in this section, "covered individual" means a child or an individual:

(1) with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual; or

(2) who:

(A) has a record of; or

(B) is regarded as;

having an impairment described in subdivision (1).

(c) If the state enters into a contract for basic health care services (as defined in IC 27-13-1-4) through prepaid health care delivery plans, medical self-insurance, or group health insurance for state employees, the contract must include coverage for anesthesia and hospital charges for dental care for a covered individual if the mental or physical condition of the covered individual requires dental treatment to be rendered in a hospital or an ambulatory outpatient surgical center. The Indications for General Anesthesia, as published in the reference manual of the American Academy of Pediatric Dentistry, are the utilization standards for determining whether performing dental procedures necessary to treat the covered individual's condition under general anesthesia constitutes appropriate treatment.

(d) A health care contractor that issues a contract for basic health care services as described in subsection (c) may:

(1) require prior authorization for hospitalization or treatment in an ambulatory outpatient surgical center for dental care procedures in the same manner that prior authorization is required for hospitalization or treatment of other covered medical conditions; and

(2) restrict coverage to include only procedures performed by a licensed dentist who has privileges at the hospital or ambulatory outpatient surgical center.

(e) This section does not apply to treatment rendered for temporal mandibular joint disorders (TMJ).
As added by P.L.189-1999, SEC.1.

IC 5-10-8-11
Use of diagnostic or procedure codes

Sec. 11. (a) As used in this section, "administrator" means:

(1) the state personnel department;

(2) an entity with which the state contracts to administer health coverage under section 7(b) of this chapter; or

(3) a prepaid health care delivery plan with which the state contracts under section 7(c) of this chapter.

(b) As used in this section, "health care plan" has the meaning set forth in section 7.7 of this chapter.

(c) As used in this section, "provider" has the meaning set forth in IC 27-8-11-1.

(d) Not more than ninety (90) days after the effective date of a diagnostic or procedure code described in this subsection:

(1) an administrator shall begin using the most current version of the:

(A) current procedural terminology (CPT);

(B) international classification of diseases (ICD);

(C) American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM);

(D) current dental terminology (CDT);

(E) Healthcare common procedure coding system (HCPCS); and

(F) third party administrator (TPA);

codes under which the administrator pays claims for services provided under a health care plan; and

(2) a provider shall begin using the most current version of the:

(A) current procedural terminology (CPT);

(B) international classification of diseases (ICD);

(C) American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM);

(D) current dental terminology (CDT);

(E) Healthcare common procedure coding system (HCPCS); and

(F) third party administrator (TPA);

codes under which the provider submits claims for payment for services provided under a health care plan.

(e) If a provider provides services that are covered under a health care plan:

(1) after the effective date of the most current version of a diagnostic or procedure code described in subsection (d); and

(2) before the administrator begins using the most current version of the diagnostic or procedure code;

the administrator shall reimburse the provider under the version of the diagnostic or procedure code that was in effect on the date that the services were provided.

As added by P.L.161-2001, SEC.1. Amended by P.L.66-2002, SEC.1.

IC 5-10-8-12

Department report of the number of stimulant medication prescriptions for covered children diagnosed with certain disorders

Sec. 12. (a) As used in this section, "covered individual" means

an individual who is covered under an employee health plan.

(b) As used in this section, "employee health plan" means:

(1) a self-insurance program established under section 7(b) of this chapter; or

(2) a contract with a prepaid health care delivery plan entered into under section 7(c) of this chapter;

that provides a prescription drug benefit.

(c) The state personnel department may report to the drug utilization review board established by IC 12-15-35-19, not later than October 1 of each calendar year, the number of covered individuals who are:

(1) less than eighteen (18) years of age; and

(2) prescribed a stimulant medication approved by the federal Food and Drug Administration for the treatment of attention deficit disorder or attention deficit hyperactivity disorder.

As added by P.L.107-2002, SEC.3.

IC 5-10-8-13

Mail order or Internet based pharmacy

Sec. 13. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under an employee health benefit plan.

(b) As used in this section, "employee health benefit plan" means a group plan of self-insurance, policy, or contract that:

(1) provides coverage for prescription drugs; and

(2) is established, purchased, or entered into by an employer for the benefit of the employer's employees.

(c) As used in this section, "employer" means the following:

(1) A public employer.

(2) A state educational institution.

(d) As used in this section, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

(e) An employee health benefit plan that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to a covered individual.

(f) An employee health benefit plan may not require a covered individual to obtain a prescription drug from a pharmacy designated under subsection (e) as a condition of coverage.

As added by P.L.251-2003, SEC.1. Amended by P.L.2-2007, SEC.83.

IC 5-10-8-14

Coverage for prosthetic devices

Sec. 14. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under a state employee health plan.

(b) As used in this section, "orthotic device" means a medically necessary custom fabricated brace or support that is designed as a component of a prosthetic device.

(c) As used in this section, "prosthetic device" means an artificial leg or arm.

(d) As used in this section, "state employee health plan" means a:

(1) self-insurance program established under section 7(b) of this chapter; or

(2) contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter;

to provide group health coverage. The term does not include a dental or vision plan.

(e) A state employee health plan must provide coverage for orthotic devices and prosthetic devices, including repairs or replacements, that:

(1) are provided or performed by a person that is:

(A) accredited as required under 42 U.S.C. 1395m(a)(20); or

(B) a qualified practitioner (as defined in 42 U.S.C. 1395m(h)(1)(F)(iii));

(2) are determined by the covered individual's physician to be medically necessary to restore or maintain the covered individual's ability to perform activities of daily living or essential job related activities; and

(3) are not solely for comfort or convenience.

(f) The:

(1) coverage required under subsection (e) must be equal to the coverage that is provided for the same device, repair, or replacement under the federal Medicare program (42 U.S.C. 1395 et seq.); and

(2) reimbursement under the coverage required under subsection (e) must be equal to the reimbursement that is provided for the same device, repair, or replacement under the federal Medicare reimbursement schedule, unless a different reimbursement rate is negotiated.

This subsection does not require a deductible under a state employee health plan to be equal to a deductible under the federal Medicare program.

(g) Except as provided in subsections (h) and (i), the coverage required under subsection (e):

(1) may be subject to; and

(2) may not be more restrictive than;

the provisions that apply to other benefits under the state employee health plan.

(h) The coverage required under subsection (e) may be subject to utilization review, including periodic review, of the continued medical necessity of the benefit.

(i) Any lifetime maximum coverage limitation that applies to prosthetic devices and orthotic devices:

(1) must not be included in; and

(2) must be equal to;

the lifetime maximum coverage limitation that applies to all other

items and services generally under the state employee health plan.

(j) For purposes of this subsection, "items and services" does not include preventive services for which coverage is provided under a high deductible health plan (as defined in 26 U.S.C. 220(c)(2) or 26 U.S.C. 223(c)(2)). The coverage required under subsection (e) may not be subject to a deductible, copayment, or coinsurance provision that is less favorable to a covered individual than the deductible, copayment, or coinsurance provisions that apply to other items and services generally under the state employee health plan.

As added by P.L.109-2008, SEC.1.

IC 5-10-8-14.8

Employee health plan providing coverage for prescription eye drops

Sec. 14.8. (a) This section applies to an employee health plan that provides coverage for prescription eye drops.

(b) As used in this section, "covered individual" means an individual who is entitled to coverage under a state employee health plan.

(c) As used in this section, "state employee health plan" means one (1) of the following:

(1) A self-insurance program established under section 7(b) of this chapter to provide group health coverage.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(d) A state employee health plan must provide coverage for a refill of prescription eye drops if the following are met:

(1) For a thirty (30) day supply, the covered individual requests the refill not earlier than twenty-five (25) days after the date the prescription eye drops were last dispensed to the covered individual.

(2) For a ninety (90) day supply, the covered individual requests the refill not earlier than seventy-five (75) days after the date the prescription eye drops were last dispensed to the covered individual.

(3) The prescribing practitioner has indicated on the prescription that the prescription eye drops are refillable and the refill requested by the covered individual does not exceed the refillable amount remaining on the prescription.

(e) The coverage required by subsection (d) must not be subject to dollar limits, copayments, deductibles, or coinsurance provisions that are less favorable to a covered individual than the dollar limits, copayments, deductibles, or coinsurance provisions that apply to coverage for prescription drugs generally under the state employee health plan.

(f) This section applies to a state employee health plan issued, delivered, amended, or renewed after December 31, 2015.

As added by P.L.43-2015, SEC.1.

IC 5-10-8-14.9
Coverage of methadone

Sec. 14.9. (a) This section applies to an employee health plan that is established, entered into, amended, or renewed after June 30, 2015.

(b) As used in this section, "state employee health plan" means one (1) of the following:

(1) A self-insurance program established under section 7(b) of this chapter to provide group health coverage.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(c) A state employee health plan may provide coverage for methadone if the drug is prescribed for the treatment of pain or pain management as follows:

(1) If the daily dosage is not more than sixty (60) milligrams.

(2) If the daily dosage is more than sixty (60) milligrams, only if:

(A) prior authorization is obtained; and

(B) a determination of medical necessity has been shown by the provider.

As added by P.L.209-2015, SEC.1. Amended by P.L.149-2016, SEC.18.

IC 5-10-8-15
Coverage for care related to cancer clinical trials

Sec. 15. (a) As used in this section, "care method" means the use of a particular drug or device in a particular manner.

(b) As used in this section, "clinical trial" means a Phase I, II, III, or IV research study:

(1) that is conducted:

(A) using a particular care method to prevent, diagnose, or treat a cancer for which:

(i) there is no clearly superior, noninvestigational alternative care method; and

(ii) available clinical or preclinical data provides a reasonable basis from which to believe that the care method used in the research study is at least as effective as any noninvestigational alternative care method;

(B) in a facility where personnel providing the care method to be followed in the research study have:

(i) received training in providing the care method;

(ii) expertise in providing the type of care required for the research study; and

(iii) experience providing the type of care required for the research study to a sufficient volume of patients to maintain expertise; and

(C) to scientifically determine the best care method to prevent, diagnose, or treat the cancer; and

(2) that is approved or funded by one (1) of the following:

(A) A National Institutes of Health institute.

(B) A cooperative group of research facilities that has an established peer review program that is approved by a National Institutes of Health institute or center.

(C) The federal Food and Drug Administration.

(D) The United States Department of Veterans Affairs.

(E) The United States Department of Defense.

(F) The institutional review board of an institution located in Indiana that has a multiple project assurance contract approved by the National Institutes of Health Office for Protection from Research Risks as provided in 45 CFR 46.103.

(G) A research entity that meets eligibility criteria for a support grant from a National Institutes of Health center.

(c) As used in this section, "covered individual" means an individual entitled to coverage under a state employee plan.

(d) As used in this section, "nonparticipating provider" means a health care provider that has not entered into a contract with a state employee plan to serve as a participating provider.

(e) As used in this section, "participating provider" means a health care provider that has entered into a contract with a state employee plan to provide health care services to covered individuals with an expectation of directly or indirectly receiving payment from the state employee plan.

(f) As used in this section, "routine care cost" means the cost of medically necessary services related to the care method that is under evaluation in a clinical trial. The term does not include the following:

(1) The health care service, item, or investigational drug that is the subject of the clinical trial.

(2) Any treatment modality that is not part of the usual and customary standard of care required to administer or support the health care service, item, or investigational drug that is the subject of the clinical trial.

(3) Any health care service, item, or drug provided solely to satisfy data collection and analysis needs that are not used in the direct clinical management of the patient.

(4) An investigational drug or device that has not been approved for market by the federal Food and Drug Administration.

(5) Transportation, lodging, food, or other expenses for the patient or a family member or companion of the patient that are associated with travel to or from a facility where a clinical trial is conducted.

(6) A service, item, or drug that is provided by a clinical trial sponsor free of charge for any new patient.

(7) A service, item, or drug that is eligible for reimbursement from a source other than a covered individual's state employee plan, including the sponsor of the clinical trial.

(g) As used in this section, "state employee plan" means one (1) of the following:

(1) A self-insurance program established under section 7(b) of this chapter to provide group health coverage.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

(h) A state employee plan must provide coverage for routine care costs that are incurred in the course of a clinical trial if the state employee plan would provide coverage for the same routine care costs not incurred in a clinical trial.

(i) The coverage that must be provided under this section is subject to the terms, conditions, restrictions, exclusions, and limitations that apply generally under the state employee plan, including terms, conditions, restrictions, exclusions, or limitations that apply to health care services rendered by participating providers and nonparticipating providers.

(j) This section does not do any of the following:

(1) Require a state employee plan to provide coverage for clinical trial services rendered by a participating provider.

(2) Prohibit a state employee plan from providing coverage for clinical trial services rendered by a participating provider.

(3) Require reimbursement under a state employee plan for services that are rendered in a clinical trial by a nonparticipating provider at the same rate of reimbursement that would apply to the same services rendered by a participating provider.

(k) This section does not create a cause of action against a person for any harm to a covered individual resulting from a clinical trial.

As added by P.L.109-2009, SEC.1.

IC 5-10-8-16

High breast density

Sec. 16. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under a state employee health plan.

(b) As used in this section, "high breast density" means a condition in which there is a greater amount of breast and connective tissue in comparison to fat in the breast.

(c) A state employee health plan must provide coverage for an appropriate medical screening, test, or examination for a female covered individual who is at least forty (40) years of age and who has been determined to have high breast density.

As added by P.L.126-2013, SEC.1.

IC 5-10-8-17

Step therapy protocol

Sec. 17. (a) As used in this section, "covered individual" means an individual entitled to coverage under a state employee health plan.

(b) As used in this section, "preceding prescription drug" means

a prescription drug that, according to a step therapy protocol, must be:

(1) first used to treat a covered individual's condition; and

(2) as a result of the treatment under subdivision (1), determined to be inappropriate to treat the covered individual's condition;

as a condition of coverage under a state employee health plan for succeeding treatment with another prescription drug.

(c) As used in this section, "protocol exception" means a determination by a state employee health plan that, based on a review of a request for the determination and any supporting documentation:

(1) a step therapy protocol is not medically appropriate for treatment of a particular covered individual's condition; and

(2) the state employee health plan will:

(A) not require the covered individual's use of a preceding prescription drug under the step therapy protocol; and

(B) provide immediate coverage for another prescription drug that is prescribed for the covered individual.

(d) As used in this section, "state employee health plan" refers to the following that provide coverage for prescription drugs:

(1) A self-insurance program established under section 7(b) of this chapter.

(2) A contract with a prepaid health care delivery plan that is entered into or renewed under section 7(c) of this chapter.

The term includes a person that administers prescription drug benefits on behalf of a state employee health plan.

(e) As used in this section, "step therapy protocol" means a protocol that specifies, as a condition of coverage under a state employee health plan, the order in which certain prescription drugs must be used to treat a covered individual's condition.

(f) As used in this section, "urgent care situation" means a covered individual's injury or condition about which the following apply:

(1) If medical care or treatment is not provided earlier than the time frame generally considered by the medical profession to be reasonable for a nonurgent situation, the injury or condition could seriously jeopardize the covered individual's:

(A) life or health; or

(B) ability to regain maximum function;

based on a prudent layperson's judgment.

(2) If medical care or treatment is not provided earlier than the time frame generally considered by the medical profession to be reasonable for a nonurgent situation, the injury or condition could subject the covered individual to severe pain that cannot be adequately managed, based on the covered individual's treating health care provider's judgment.

(g) A state employee health plan shall publish on the state employee health plan's Internet web site, and provide to a covered

individual in writing, a procedure for the covered individual's use in requesting a protocol exception. The procedure must include the following provisions:

(1) A description of the manner in which a covered individual may request a protocol exception.

(2) That the state employee health plan shall make a determination concerning a protocol exception request, or an appeal of a denial of a protocol exception request, not more than:

(A) in an urgent care situation, one (1) business day after receiving the request or appeal; or

(B) in a nonurgent care situation, three (3) business days after receiving the request or appeal.

(3) That a protocol exception will be granted if any of the following apply:

(A) A preceding prescription drug is contraindicated or will likely cause an adverse reaction or physical or mental harm to the covered individual.

(B) A preceding prescription drug is expected to be ineffective, based on both of the following:

(i) The known clinical characteristics of the covered individual.

(ii) Known characteristics of the preceding prescription drug, as found in sound clinical evidence.

(C) The covered individual has previously received:

(i) a preceding prescription drug; or

(ii) another prescription drug that is in the same pharmacologic class or has the same mechanism of action as a preceding prescription drug;

and the prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event.

(D) Based on clinical appropriateness, a preceding prescription drug is not in the best interest of the covered individual because the covered individual's use of the preceding prescription drug is expected to:

(i) cause a significant barrier to the covered individual's adherence to or compliance with the covered individual's plan of care;

(ii) worsen a comorbid condition of the covered individual; or

(iii) decrease the covered individual's ability to achieve or maintain reasonable functional ability in performing daily activities.

(4) That when a protocol exception is granted, the state employee health plan shall notify the covered individual and the covered individual's health care provider of the authorization for coverage of the prescription drug that is the subject of the

protocol exception.

(5) That if:

(A) a protocol exception request; or

(B) an appeal of a denied protocol exception request;

results in a denial of the protocol exception, the state employee health plan shall provide to the covered individual and the treating health care provider notice of the denial, including a detailed, written explanation of the reason for the denial and the clinical rationale that supports the denial.

(6) That the state employee health plan may request a copy of relevant documentation from the covered individual's medical record in support of a protocol exception.

As added by P.L.19-2016, SEC.1.

IC 5-10-8-18

Prescription drug coverage

Sec. 18. (a) The definitions in section 17 of this chapter apply throughout this section.

(b) This section applies to a state employee health plan that uses a formulary, cost sharing, or utilization review for prescription drug coverage.

(c) A state employee health plan shall not remove a prescription drug from the state employee health plan's formulary, change the cost sharing requirements that apply to a prescription drug, or change the utilization review requirements that apply to a prescription drug unless the state employee health plan does at least one (1) of the following:

(1) At least sixty (60) days before the removal or change is effective, send written notice of the removal or change to each covered individual for whom the prescription drug has been prescribed during the preceding twelve (12) month period.

(2) At the time a covered individual for whom the prescription drug has been prescribed during the preceding twelve (12) month period requests a refill of the prescription drug, provide to the covered individual:

(A) written notice of the removal or change; and

(B) a sixty (60) day supply of the prescription drug under the terms that applied before the removal or change.

As added by P.L.19-2016, SEC.2.

IC 5-10-8.1

Chapter 8.1. State Employee Health Benefits; Provider Payment

IC 5-10-8.1-1

"Administrator" defined

Sec. 1. As used in this chapter, "administrator" means:

(1) the state personnel department;

(2) an entity with which the state contracts to administer health coverage under IC 5-10-8-7(b); or

(3) a prepaid health care delivery plan with which the state contracts under IC 5-10-8-7(c).

As added by P.L.162-2001, SEC.1.

IC 5-10-8.1-2

"Clean claim" defined

Sec. 2. As used in this chapter, "clean claim" means a claim submitted by a provider for payment under a health benefit plan that has no defect, impropriety, or particular circumstance requiring special treatment preventing payment.

As added by P.L.162-2001, SEC.1.

IC 5-10-8.1-3

"Covered individual" defined

Sec. 3. As used in this chapter, "covered individual" means an individual who is:

(1) covered under a self-insurance program established under IC 5-10-8-7(b) to provide group health coverage; or

(2) entitled to services under a contract for health services entered into or renewed under IC 5-10-8-7(c).

As added by P.L.162-2001, SEC.1.

IC 5-10-8.1-4

"Health benefit plan" defined

Sec. 4. As used in this chapter, "health benefit plan" means a self-insurance program established to provide group health coverage as described in IC 5-10-8-7(b), or a contract for health services as described in IC 5-10-8-7(c).

As added by P.L.162-2001, SEC.1.

IC 5-10-8.1-5

"Provider" defined

Sec. 5. As used in this chapter, "provider" has the meaning set forth in IC 27-8-11-1.

As added by P.L.162-2001, SEC.1.

IC 5-10-8.1-6

Notice of deficiencies in claims

Sec. 6. (a) The administrator shall pay or deny each clean claim in accordance with section 7 of this chapter.

(b) An administrator shall notify a provider of any deficiencies in a submitted claim not more than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of an administrator to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim.

As added by P.L.162-2001, SEC.1. Amended by P.L.137-2002, SEC.1.

IC 5-10-8.1-7

Payment or denial of claims; interest

Sec. 7. (a) The administrator shall pay or deny each clean claim as follows:

(1) If the claim is filed electronically, not more than thirty (30) days after the date the claim is received by the administrator.

(2) If the claim is filed on paper, not more than forty-five (45) days after the date the claim is received by the administrator.

(b) If:

(1) the administrator fails to pay or deny a clean claim in the time required under subsection (a); and

(2) the administrator subsequently pays the claim;

the administrator shall pay the provider that submitted the claim interest on the health benefit plan allowable amount of the claim paid under this section.

(c) Interest paid under subsection (b):

(1) accrues beginning:

(A) thirty-one (31) days after the date the claim is filed under subsection (a)(1); or

(B) forty-six (46) days after the date the claim is filed under subsection (a)(2); and

(2) stops accruing on the date the claim is paid.

(d) In paying interest under subsection (b), the administrator shall use the same interest rate as provided in IC 12-15-21-3(7)(A).

As added by P.L.162-2001, SEC.1.

IC 5-10-8.1-8

Permitted forms

Sec. 8. A provider shall submit only the following forms for payment by an administrator:

(1) HCFA-1500.

(2) HCFA-1450 (UB-92).

(3) American Dental Association (ADA) claim form.

As added by P.L.162-2001, SEC.1.

IC 5-10-8.5

Chapter 8.5. Retirement Medical Benefits Account

IC 5-10-8.5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 18 of this chapter by P.L.124-2008 apply to premiums paid after July 31, 2007, for individual or group health coverage for a retired participant and the spouse and dependents of a retired participant.

As added by P.L.220-2011, SEC.69.

IC 5-10-8.5-1

Application of chapter

Sec. 1. (a) Except as provided in this section, this chapter applies to an individual who is one (1) of the following:

(1) An employee of the executive, legislative, or judicial branch of state government.

(2) A state elected or appointed officer.

(3) A member of the general assembly.

(4) An elected officer paid by the state.

(5) An officer paid by the state under IC 33-23-5-10, IC 33-38-5-7, or IC 33-39-6-2.

(b) An individual described in subsection (a) other than the following is a participant in the retirement medical benefits account:

(1) A conservation officer of the department of natural resources.

(2) An employee of the state excise police.

(3) An employee of the state police department, other than the following:

(A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.

(B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.

(C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.

As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.70.

IC 5-10-8.5-2

"Account"

Sec. 2. As used in this chapter, "account" refers to the retirement medical benefits account established by section 11 of this chapter.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-3

"Budget agency"

Sec. 3. As used in this chapter, "budget agency" refers to the

budget agency established under IC 4-12-1-3.
As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-4
"Department"

Sec. 4. As used in this chapter, "department" refers to the state personnel department established under IC 4-15-2.2.
As added by P.L.44-2007, SEC.1. Amended by P.L.6-2012, SEC.27.

IC 5-10-8.5-5
"Employer"

Sec. 5. As used in this chapter, "employer" means the following:

(1) For an elected officer, appointed officer, or employee of the executive branch of state government who is a participant in the retirement medical benefits account, the state, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the state, having a payroll in relation to persons it immediately employs.

(2) For a member of the general assembly or an employee of the legislative branch of state government:

(A) the president pro tempore of the senate, for a member or an employee of the senate;

(B) the speaker of the house, for a member or an employee of the house of representatives; or

(C) the personnel subcommittee of the legislative council, for an employee of the legislative services agency.

(3) For:

(A) a justice;

(B) a judge;

(C) a prosecuting attorney;

(D) an officer described under section 1(a)(5) of this chapter; or

(E) an employee of the judicial branch of state government, including an employee of any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of the judicial branch, having a payroll in relation to persons it immediately employs;

the Indiana supreme court.

As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.71.

IC 5-10-8.5-6
"Fund"

Sec. 6. As used in this chapter, "fund" refers to the public employees' retirement fund established under IC 5-10.3-2-1.
As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-7
"Internal Revenue Code"

Sec. 7. As used in this chapter, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-8
"Participant"

Sec. 8. As used in this chapter, "participant" means an individual for whom a subaccount is established under section 14 of this chapter.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-9
"Retired participant"

Sec. 9. (a) As used in this chapter, "retired participant" means:

(1) A participant who is eligible for and has applied to receive a normal, unreduced or disability retirement benefit (as determined by the Indiana public employee retirement fund of which the participant is a member) on the participant's last day of service.

(2) A participant who has completed at least ten (10) years of service as an elected or appointed officer on the participant's last day of service as an elected or appointed officer. For purposes of determining whether a participant has completed at least ten (10) years of service on the participant's last day of service for purposes of this subdivision, any partial year of service completed by the participant in the year in which the participant is appointed to fill a vacant elected office shall be considered to be one (1) complete year of service.

(b) For a participant described in subsection (a)(2) who has service with more than one (1) employer, the participant's years of service is the sum of all of the participant's years of service.

As added by P.L.44-2007, SEC.1. Amended by P.L.205-2013, SEC.75.

IC 5-10-8.5-9.5
Transfer of service credit; eligible employee

Sec. 9.5. (a) This section applies only to a person who:

(1) was an employee of the executive, legislative, or judicial branch of state government (other than an employee described in section 1(b)(1) through 1(b)(3) of this chapter);

(2) after June 30, 2007, and before July 1, 2011, left employment in the position described in subdivision (1) and

was employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3); and (3) on July 1, 2011, is employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3).

(b) A person who satisfies the conditions of subsection (a) may after June 30, 2011, and before September 1, 2011, make a one (1) time irrevocable election to become a participant in the retirement medical benefits account. A person who makes an election under this subsection to become a participant in the retirement medical benefits account may not also be a participant in the state police retiree medical benefit plan.

As added by P.L.229-2011, SEC.72.

IC 5-10-8.5-9.6

Transfer of service credit; position other than eligible employee

Sec. 9.6. (a) This section applies only to a person who:

(1) is an employee of the executive, legislative, or judicial branch of state government (other than an employee described in section 1(b)(1) through 1(b)(3) of this chapter); and

(2) after June 30, 2011, leaves employment in the position described in subdivision (1) and becomes employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3).

(b) A person who satisfies the conditions of subsection (a) may, not more than sixty (60) days after leaving employment as described in subsection (a)(1) and becoming employed by the state police department in a position other than as an eligible employee (as defined in IC 10-12-1-3), make a one (1) time irrevocable election to remain a participant in the retirement medical benefits account. A person who makes an election under this subsection to remain a participant in the retirement medical benefits account may not also be a participant in the state police retiree medical benefit plan.

As added by P.L.229-2011, SEC.73.

IC 5-10-8.5-10

"Subaccount"

Sec. 10. As used in this chapter, "subaccount" means a participant's allocable share of the account.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-11

Account established; administered by budget agency; specific appropriation required

Sec. 11. (a) The budget agency shall adopt provisions to establish a retirement medical benefits account as a health reimbursement arrangement or as a separate fund under another applicable section of the Internal Revenue Code for the purpose of funding by an

employer on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for a participant and the spouse and dependents of a participant after the participant's retirement.

(b) The budget agency shall administer the account and may request the assistance of the department, the fund, and other state agencies. The account shall be maintained as a separate account to pay benefits for sickness, accident, hospitalization, and medical expenses for retired participants and their spouses and dependents.

(c) Notwithstanding any other provision of this chapter, the budget agency may not establish the account or implement the health reimbursement arrangement unless the general assembly makes a specific appropriation to implement the health reimbursement arrangement.

(d) The budget agency may adopt rules under IC 4-22-2 that it considers appropriate or necessary to administer the account.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-12

Authorization to request Internal Revenue Service rulings

Sec. 12. The budget agency may request from the Internal Revenue Service any rulings or determination letters that the budget agency considers necessary or appropriate in order to implement or administer the account.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-13

Management and pooling of account assets; confidentiality of account records

Sec. 13. (a) The budget agency may designate the board of trustees of the fund to manage the assets in the account in the same manner and with the same limitations that apply to the management of the assets in the fund.

(b) The assets in the account may be commingled or pooled with other public funds for investment purposes.

(c) The account and subaccount records of individual participants and participants' information are confidential, except for the name and contributions made on behalf of the participant.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-14

Account; subaccounts; administrative costs

Sec. 14. (a) The account consists of the following:

(1) Contributions made by a participant's employer to the account under section 15 or 16 of this chapter.

(2) All earnings on investments or deposits of the account.

(3) All contributions or payments to the account made in a manner provided by the general assembly.

(b) The administrative costs of the account shall be paid from the earnings of the account before the earnings are credited to participants' subaccounts.

(c) The budget agency shall establish a subaccount for each participant. Each participant's subaccount shall be credited with:

(1) the contributions made to the account on behalf of the participant under this chapter; and

(2) after the costs described in subsection (b) are paid, the earnings attributable to the balance of the subaccount.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-15

Annual employer contributions; limits for certain participants

Sec. 15. (a) Except as provided in subsections (c), (d), and (e), a participant's employer shall make contributions annually to the account on behalf of the participant. The amount of the contribution each fiscal year must equal the following, based on the participant's age on the last day of the calendar year that is in the fiscal year in which the contribution is made:

Participant's Age in Years	Annual Contribution Amount
Less than 30	$ 500
At least 30, but less than 40	$ 800
At least 40, but less than 50	$1,100
At least 50	$1,400

(b) The budget agency shall determine by rule the date on which the contributions are credited to participants' subaccounts.

(c) A contribution under this section shall not be made after June 30, 2011, to any of the following participants:

(1) A conservation officer of the department of natural resources.

(2) An employee of the state excise police.

(3) An employee of the state police department, other than the following:

(A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.

(B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.

(C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.

(d) For individuals who are employed on June 30, 2011, the accrued annual contributions made in accordance with subsection (a) to an account described in section 14 of this chapter on behalf of the individuals for any years the individuals were employed as described in section 1(b)(1) through 1(b)(3) of this chapter shall be transferred to the respective plans described in IC 5-10-8-6(a) for those individuals and shall be used only to reduce the unfunded other post-employment benefit (OPEB) liability of those plans and not to

increase benefits or reduce premiums.

(e) A contribution under this section shall not be made after June 30, 2017, to a participant who on June 30, 2017:

(1) is eligible for a normal, unreduced retirement benefit from the public employee retirement fund of which the participant is a member; and

(2) has completed:

(A) fifteen (15) years of service with the participant's employer; or

(B) ten (10) years of service as an elected or appointed officer.

As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011, SEC.74; P.L.213-2015, SEC.59.

IC 5-10-8.5-16

Employer additional contribution; eligibility; computation

Sec. 16. (a) Except as provided in subsection (f), if a participant meets all of the following conditions the participant is entitled to receive an additional contribution credited to the participant's subaccount and computed as described in subsection (b):

(1) The participant is, on the earlier of the participant's last day of service with the participant's employer, or July 1, 2017:

(A) eligible for a normal, unreduced retirement benefit from the public employee retirement fund of which the participant is a member; or

(B) an elected or appointed officer.

(2) The participant has terminated service:

(A) from the employer; or

(B) as an elected or appointed officer.

(3) By the earlier of the participant's last day of service or July 1, 2017, the participant has completed:

(A) fifteen (15) years of service with the employer; or

(B) ten (10) years of service as an elected or appointed officer.

(4) This subdivision does not apply to an elected or appointed officer. By the participant's last day of service with the participant's employer, the participant has applied to receive a normal, unreduced retirement benefit from the public employee retirement fund of which the participant is a member.

(b) The amount of the contribution to a participant's subaccount under this section is the product of:

(1) the participant's years of service (rounded down to the nearest whole year):

(A) with the participant's employer, determined on the earlier of:

(i) the participant's last day of service with the participant's employer; or

(ii) July 1, 2017; or

(B) as an elected or appointed officer, determined on the earlier of:

(i) the participant's last day of service as an elected or appointed officer; or

(ii) July 1, 2017; multiplied by

(2) one thousand dollars ($1,000).

(c) For a participant who has service with more than one (1) employer, the participant's years of service used in the computation under subsection (b)(1) is the sum of all of the participant's years of service determined on the earlier of:

(1) the participant's last day of service; or

(2) July 1, 2017.

(d) The participant's employer must credit the additional contribution made under this section to the participant's subaccount not later than sixty (60) days after the participant's last day of service.

(e) A participant who meets the requirements to receive an additional contribution under this section may receive the additional contribution only once, regardless of the participant's employment after the payment of the additional contribution.

(f) An additional contribution under this section shall not be made after June 30, 2011, to any of the following participants:

(1) A conservation officer of the department of natural resources.

(2) An employee of the state excise police.

(3) An employee of the state police department, other than the following:

(A) An employee of the state police department who waived coverage under a common and unified plan of self-insurance under IC 5-10-8-6 before July 1, 2011.

(B) An employee of the state police department who makes an election under IC 5-10-8.5-9.5.

(C) An employee of the state police department who makes an election under IC 5-10-8.5-9.6.

As added by P.L.44-2007, SEC.1. Amended by P.L.3-2008, SEC.25; P.L.229-2011, SEC.75; P.L.213-2015, SEC.60.

IC 5-10-8.5-17

Eligibility for benefits

Sec. 17. (a) A retired participant is entitled to receive a benefit from the account.

(b) A participant who is not a retired participant is not entitled to receive a benefit from the account when the participant separates from service.

(c) Years of service that accrued to an individual during the individual's service as an employee described in section 1(b)(1) through 1(b)(3) of this chapter may not be included in determining the individual's eligibility for the retirement medical benefits account under this chapter, regardless of whether the individual is a retired participant described in section 9 of this chapter.

As added by P.L.44-2007, SEC.1. Amended by P.L.229-2011,

SEC.76.

IC 5-10-8.5-18
Account benefits; coverage

Sec. 18. The balance in a retired participant's subaccount may be used by the retired participant and the spouse and dependents of the retired participant to pay premiums for individual or group health coverage.

As added by P.L.44-2007, SEC.1. Amended by P.L.124-2008, SEC.1.

IC 5-10-8.5-19
Surviving spouse or dependent use of account; forfeiture

Sec. 19. (a) The surviving spouse or dependent of a retired participant may use amounts credited to the retired participant to pay health insurance and other health care related expenses to the same extent and in the same manner as the retired participant.

(b) If a retired participant dies without a surviving spouse or dependents, unused amounts credited to the retired participant are forfeited.

(c) Any forfeited amount may be used to reduce the contributions required under this chapter.

As added by P.L.44-2007, SEC.1.

IC 5-10-8.5-20
Budget committee annual review

Sec. 20. The budget committee shall annually review the financial status of the account.

As added by P.L.44-2007, SEC.1.

IC 5-10-9

Chapter 9. Deposits on Behalf of Local Employees

IC 5-10-9-1

"Municipal corporation" defined

Sec. 1. As used in this chapter:

"Municipal corporation" means county, city, town, township, school corporation, library district, fire protection district, public transportation corporation, local hospital authority or corporation, local airport authority district, special service district, or other separate local governmental entity that may sue and be sued. The term does not include special taxing district.

As added by Acts 1980, P.L.8, SEC.43.

IC 5-10-9-2

Deposits

Sec. 2. An employee of a municipal corporation may make a written request that any compensation due him from the municipal corporation be deposited to his account in a bank or trust company. Upon receipt of request, the officer responsible for making the disbursements may:

(1) draw a check in favor of the bank or trust company set forth in the request for the credit of the employee; or

(2) in the event more than one (1) employee of the same municipal corporation designates the same bank or trust company, draw a single check in favor of the bank or trust company for the total amount due the employees and transmit the check to the bank or trust company identifying each employee and the amount to be deposited in each employee's account.

As added by Acts 1980, P.L.8, SEC.43.

IC 5-10-9-3

Payments

Sec. 3. Payment by a municipal corporation of a check properly endorsed and drawn in accordance with this chapter constitutes full payment for the amount due the employee.

As added by Acts 1980, P.L.8, SEC.43.

IC 5-10-10
Chapter 10. Special Death Benefit Fund

IC 5-10-10-1
"Board"
Sec. 1. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system.
As added by P.L.44-1988, SEC.1. Amended by P.L.35-2012, SEC.25.

IC 5-10-10-1.5
"Correctional officer"
Sec. 1.5. As used in this chapter, "correctional officer" includes:
(1) a county jail officer under IC 11-12-4-4;
(2) a person who has received a correctional officer training certificate under IC 11-8-2-8;
(3) a prison matron or an assistant prison matron under IC 36-8-10-5;
(4) any other person whose duties include the daily or ongoing supervision and care of persons who are lawfully detained (as defined in IC 35-31.5-2-186) in a facility operated by the state or a political subdivision of the state; and
(5) a hazardous duty employee of the department of correction who:
(A) works within a prison or juvenile facility; or
(B) performs parole or emergency response operations and functions.
As added by P.L.42-1991, SEC.1. Amended by P.L.8-2006, SEC.1; P.L.114-2012, SEC.13.

IC 5-10-10-2
"Dies in the line of duty"
Sec. 2. (a) Except as provided in subsection (b), as used in this chapter, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that the public safety officer, in the public safety officer's capacity as a public safety officer, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of controlling or reducing crime or enforcing the criminal law. For purposes of a public safety officer who is an employee (as defined in IC 5-10-13-2), the term includes a death presumed incurred in the line of duty under IC 5-10-13.
(b) This subsection applies to a public safety officer who is eligible for a special death benefit under section 4.8 of this chapter. "Dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness caused by an incident, accident, or violence that results from any action that the public safety officer, in the public safety officer's capacity as a public safety officer:
(1) is obligated or authorized by rule, regulation, condition of

employment or service, or law to perform; or

(2) performs during an emergency run.

As added by P.L.44-1988, SEC.1. Amended by P.L.52-1993, SEC.1; P.L.185-2002, SEC.2; P.L.62-2015, SEC.1.

IC 5-10-10-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the special death benefit fund.

As added by P.L.44-1988, SEC.1.

IC 5-10-10-4

"Public safety officer"

Sec. 4. As used in this chapter, "public safety officer" means any of the following:

(1) A state police officer.

(2) A county sheriff.

(3) A county police officer.

(4) A correctional officer.

(5) An excise police officer.

(6) A county police reserve officer.

(7) A city police reserve officer.

(8) A conservation enforcement officer.

(9) A town marshal.

(10) A deputy town marshal.

(11) A probation officer.

(12) A state educational institution police officer appointed under IC 21-39-4.

(13) A police officer whose employer purchases coverage under section 4.5 of this chapter.

(14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(15) A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

(17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

(18) A gaming agent of the Indiana gaming commission.

(19) A person who is:

(A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) appointed as a special deputy under IC 36-8-10-10.6.

(20) A school corporation police officer appointed under

IC 20-26-16.

(21) A gaming control officer of the Indiana gaming commission.

(22) An eligible chaplain who meets the requirements of section 4.7 of this chapter.

(23) A community corrections officer.

(24) An eligible emergency medical services provider who meets the requirements of section 4.8 of this chapter.

As added by P.L.44-1988, SEC.1. Amended by P.L.42-1991, SEC.2; P.L.52-1993, SEC.2; P.L.66-2000, SEC.1; P.L.246-2001, SEC.1; P.L.56-2003, SEC.1; P.L.10-2005, SEC.1; P.L.227-2005, SEC.3; P.L.170-2005, SEC.16; P.L.1-2006, SEC.96; P.L.43-2006, SEC.1; P.L.2-2007, SEC.84; P.L.132-2007, SEC.4; P.L.227-2007, SEC.56; P.L.3-2008, SEC.26; P.L.115-2008, SEC.2; P.L.158-2013, SEC.78; P.L.62-2015, SEC.2.

IC 5-10-10-4.5

Special death benefits coverage purchased for eligible officers

Sec. 4.5. (a) As used in this section, "eligible officer" means a police officer or firefighter whose employer purchases coverage under this section.

(b) As used in this section, "employer" means:

(1) with respect to a police officer:

(A) a postsecondary educational institution, other than a state educational institution, that appoints a police officer under IC 21-17-5; or

(B) an operator that employs the police officer under IC 8-22-3-34(b); or

(2) with respect to a firefighter:

(A) a postsecondary educational institution, other than a state educational institution, located in Indiana that:

(i) maintains a fire department;

(ii) employs firefighters for the fire department; and

(iii) is accredited by the North Central Association; or

(B) an operator that enters into an operating agreement under IC 5-23 for the operation of a public use airport that:

(i) maintains a fire department; and

(ii) employs firefighters for the fire department.

(c) If an employer purchases coverage for an eligible officer, the eligible officer is eligible for a special death benefit from the fund in the same manner that any other public safety officer is eligible for a special death benefit from the fund. The cost of the coverage shall be one hundred dollars ($100) for each eligible officer annually. The cost of the coverage shall be paid to the board for deposit in the fund.

(d) If an employer elects to provide coverage under this section, the employer must purchase coverage for all eligible officers of the employer. The board shall allow an employer to purchase coverage by making quarterly payments on dates prescribed by the board.

As added by P.L.10-2005, SEC.2. Amended by P.L.43-2006, SEC.2; P.L.2-2007, SEC.85.

IC 5-10-10-4.7
Special death benefit for eligible chaplain

Sec. 4.7. (a) As used in this section, "eligible chaplain" means an individual who is appointed or officially designated to serve, with or without compensation, as a chaplain of any of the following:

(1) A law enforcement agency (as defined in IC 4-33-2-11.6).
(2) A full-time police department of a political subdivision (as defined in IC 36-1-2-13).
(3) A full-time fire department of a political subdivision (as defined in IC 36-1-2-13).
(4) A volunteer fire department (as defined in IC 36-8-12-2).
(5) A sheriff's department of a county.

(b) An eligible chaplain who dies as a direct result of personal injury or illness resulting from the eligible chaplain's performance of duties as a chaplain for the agency or department that the eligible chaplain was appointed or officially designated to serve is eligible for a special death benefit from the fund in the same manner as any other public safety officer is eligible for a benefit from the fund.
As added by P.L.115-2008, SEC.3.

IC 5-10-10-4.8
Special death benefits coverage purchased for eligible emergency medical services providers

Sec. 4.8. (a) As used in this section, "eligible emergency medical services provider" means an emergency medical services provider who is employed by a person that has contracted with a political subdivision to provide emergency medical services for the political subdivision.

(b) As used in this section, "emergency medical services" has the meaning set forth in IC 16-49-1-5.

(c) As used in this section, "emergency medical services provider" has the meaning set forth in IC 16-41-10-1.

(d) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(e) If an employer purchases coverage for an eligible emergency medical services provider, the eligible emergency medical services provider who dies as a direct result of personal injury or illness resulting from the eligible emergency medical services provider's performance of duties under a contract entered into by the emergency medical services provider's employer to provide emergency medical services for a political subdivision is eligible for a special death benefit from the fund in the same manner as any other public safety officer is eligible for a benefit from the fund. The cost of the coverage must be one hundred dollars ($100) annually for each eligible emergency medical services provider paid by the emergency

medical services provider's employer. The cost of the coverage shall be paid to the board for deposit into the fund.

(f) If an employer elects to provide coverage under this section, the employer must purchase coverage for all eligible emergency medical services providers of the employer. An employer who elects to purchase coverage under this section must purchase coverage by making annual payments as prescribed by the board.

As added by P.L.62-2015, SEC.3. Amended by P.L.193-2016, SEC.2.

IC 5-10-10-5

Establishment of fund; source of funding; administration; investments; reversion

Sec. 5. (a) The special death benefit fund is established for the purpose of paying lump sum death benefits under section 6 of this chapter. The fund consists of the fees remitted to the board under IC 35-33-8-3.2 and section 4.5 of this chapter. The fund shall be administered by the board. The expenses of administering the fund shall be paid from money in the fund.

(b) The board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the board's other 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 state fiscal year does not revert to the state general fund.

As added by P.L.44-1988, SEC.1. Amended by P.L.1-1990, SEC.58; P.L.107-1998, SEC.1; P.L.10-2005, SEC.3; P.L.1-2006, SEC.97.

IC 5-10-10-6

Special death benefits; suspension of payment

Sec. 6. (a) Except as provided in subsection (b), a special death benefit of seventy-five thousand dollars ($75,000) for a public safety officer who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars ($150,000) for a public safety officer who dies in the line of duty after December 31, 1997, shall be paid in a lump sum from the fund to the following relative of a public safety officer who dies in the line of duty:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.

(b) If the fund would be reduced below two hundred fifty thousand dollars ($250,000) by payment in full of all claims that become final in any month, the board shall proceed as follows:

(1) The board shall suspend payment of the claims that become final during that month and the following two (2) months.

(2) At the end of the suspension period, the board shall pay all suspended claims. If the fund would be exhausted by payment

in full of all suspended claims, the amount paid to each claimant shall be prorated.

As added by P.L.44-1988, SEC.1. Amended by P.L.42-1991, SEC.3; P.L.53-1993, SEC.1; P.L.49-1998, SEC.1.

IC 5-10-10-6.5

Payment of special death benefits to surviving spouse

Sec. 6.5. Notwithstanding section 6 of this chapter, the amount of the special death benefit payable under this chapter, as amended by P.L.66-2000, to the surviving spouse of a probation officer who died in the line of duty after April 27, 1997, and before January 1, 1998, is one hundred fifty thousand dollars ($150,000).

As added by P.L.220-2011, SEC.70.

IC 5-10-10-7

Other benefits; effect

Sec. 7. The special death benefit provided by this chapter is in addition to any other benefits provided by state or federal law.

As added by P.L.44-1988, SEC.1.

IC 5-10-11

Chapter 11. State Employees' Death Benefit

IC 5-10-11-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system.

As added by P.L.49-1989, SEC.7. Amended by P.L.35-2012, SEC.26.

IC 5-10-11-2

"Dies in the line of duty"

Sec. 2. As used in this chapter, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from a state employee's performance of the duties of the employee's job.

As added by P.L.49-1989, SEC.7.

IC 5-10-11-3

"State employee"

Sec. 3. As used in this chapter, "state employee" means an employee of a state agency, except a state educational institution. "State employee" does not include a public safety officer who receives benefits under IC 5-10-10.

As added by P.L.49-1989, SEC.7. Amended by P.L.2-2007, SEC.86.

IC 5-10-11-4

Establishment of program and fund

Sec. 4. The state shall establish and operate a death benefit program for the payment of lump sum death benefits to the survivors of a state employee who dies in the line of duty. The state may provide these benefits by purchasing group life insurance or by establishing a program of self-insurance. If the state establishes a program of self-insurance, the state shall establish a fund to be managed by the board and funded by such contributions as considered necessary by the board. The board shall pay benefits out of the fund established by the state under this section.

As added by P.L.49-1989, SEC.7. Amended by P.L.25-1994, SEC.2.

IC 5-10-11-5

Lump sum payment; dependency of children and stepchildren defined

Sec. 5. (a) The board shall pay a death benefit of:

(1) fifty thousand dollars ($50,000) for a state employee who dies in the line of duty before July 1, 2013; and

(2) one hundred thousand dollars ($100,000) for a state employee who dies in the line of duty after June 30, 2013.

(b) The death benefit shall be paid in a lump sum as follows:

(1) To the surviving spouse.

(2) If there is no surviving spouse, to the surviving dependent children and surviving dependent stepchildren in equal shares.

For purposes of this subsection, a child or stepchild is dependent on a state employee if the state employee claimed the child or stepchild as a dependent on the federal income tax return filed by the state employee in the year before the year in which the state employee died.

As added by P.L.49-1989, SEC.7. Amended by P.L.245-2013, SEC.1.

IC 5-10-11-6

Additional benefit

Sec. 6. The death benefit provided by this chapter is in addition to any other benefits provided by state or federal law.

As added by P.L.49-1989, SEC.7.

IC 5-10-12

Chapter 12. Cafeteria Plan Benefits for Certain Unused Vacation, Sick, or Personal Days

IC 5-10-12-1

"Department" defined

Sec. 1. As used in this chapter, "department" means the state personnel department.

As added by P.L.195-1999, SEC.8.

IC 5-10-12-2

"State agency" defined

Sec. 2. As used in this chapter, "state agency" means an authority, board, branch, commission, committee, department, division, or other instrumentality of state government, but does not include:

(1) a state educational institution;

(2) a state elected official's office; and

(3) the legislative and judicial branches of state government.

As added by P.L.195-1999, SEC.8. Amended by P.L.2-2007, SEC.87.

IC 5-10-12-3

Eligibility

Sec. 3. (a) Subject to subsections (b) and (c), an employee who:

(1) has at least ten (10) years of creditable service with a state agency;

(2) retires after June 30, 2000; and

(3) has accrued and unused sick days, vacation days, or personal days on the employee's retirement date;

is entitled to have the amounts specified in section 5 of this chapter deposited by the state into a cafeteria plan under Section 125 of the Internal Revenue Code.

(b) The provisions of this chapter requiring the department to make deposits into a cafeteria plan on behalf of retired employees described in subsection (a) apply only if the department has received from the Internal Revenue Service any approvals or rulings that the department considers necessary or appropriate for the cafeteria plan.

(c) The provisions of this chapter requiring the department to make deposits into a cafeteria plan on behalf of retired employees described in subsection (a) do not apply if the plan described in IC 5-10-1.1-7.5(b) is implemented and the deferred compensation committee has received from the Internal Revenue Service any rulings or determination letters that the committee considers necessary or appropriate for the plan described in IC 5-10-1.1-7.5(b).

As added by P.L.195-1999, SEC.8. Amended by P.L.184-2001, SEC.7.

IC 5-10-12-4

Payments to plan

Sec. 4. (a) The department shall adopt rules under IC 4-22-2 that it considers necessary to make periodic payments to a cafeteria plan under Section 125 of the Internal Revenue Code on behalf of retired employees described in section 3 of this chapter and to otherwise carry out this chapter.

(b) The rules adopted by the department may include provisions setting forth the following:

(1) The minimum or maximum total amount or annual amount that may be deposited by the state under this chapter on behalf of retired employees.

(2) The period of years of deposits.

(3) Payment provisions.

As added by P.L.195-1999, SEC.8.

IC 5-10-12-5

Calculation of deposits

Sec. 5. The amount that shall be deposited on behalf of a participating retired employee may not exceed five thousand dollars ($5,000) and is based on:

(1) the hourly rate the employee was paid on the employee's retirement date; and

(2) the following provisions concerning the employee's accrued and unused vacation days, sick days, or personal days:

(A) An employee with at least ten (10) years of creditable service but less than fifteen (15) years of creditable service is entitled to an amount based on twenty percent (20%) of the employee's accrued days.

(B) An employee with at least fifteen (15) years of creditable service but less than twenty (20) years of creditable service is entitled to an amount based on thirty-five percent (35%) of the employee's accrued days.

(C) An employee with at least twenty (20) years of creditable service is entitled to an amount based on not more than fifty percent (50%) of the employee's accrued days.

As added by P.L.195-1999, SEC.8.

IC 5-10-12-6

Application procedure

Sec. 6. Within ninety (90) days after an employee's retirement date, an employee who wishes to participate in a cafeteria plan as provided under this chapter must file with the department a written application and any information required by the department.

As added by P.L.195-1999, SEC.8.

IC 5-10-13

Chapter 13. Emergency and Public Safety Employee Death and Disability Presumed Incurred in the Line of Duty

IC 5-10-13-1

"Exposure risk disease"

Sec. 1. As used in this chapter, "exposure risk disease" refers to:

(1) acquired immune deficiency syndrome (AIDS);
(2) anthrax;
(3) hepatitis;
(4) human immunodeficiency virus (HIV);
(5) meningococcal meningitis;
(6) smallpox; and
(7) tuberculosis.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-2

"Employee"

Sec. 2. As used in this chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:
    (A) a member of a fire department (as defined in IC 36-8-1-8);
    (B) an emergency medical services provider (as defined in IC 16-41-10-1);
    (C) a member of a police department (as defined in IC 36-8-1-9);
    (D) a correctional officer (as defined in IC 5-10-10-1.5);
    (E) a state police officer;
    (F) a county police officer;
    (G) a county sheriff;
    (H) an excise police officer;
    (I) a conservation enforcement officer;
    (J) a town marshal;
    (K) a deputy town marshal; or
    (L) a member of a consolidated law enforcement department established under IC 36-3-1-5.1;
(2) in the course of the individual's employment is at high risk for occupational exposure to an exposure risk disease; and
(3) is not employed elsewhere in a similar capacity.

As added by P.L.185-2002, SEC.3. Amended by P.L.227-2005, SEC.4.

IC 5-10-13-3

"High risk for occupational exposure"

Sec. 3. As used in this chapter, "high risk for occupational exposure" means that risk is incurred by an individual in performing

the basic duties of the individual's employment, including:

(1) providing emergency medical treatment in a nonhealth care setting where there is a potential for transfer of body fluids between individuals;

(2) working at the scene of an accident, a fire, or other rescue or public safety operation or in an emergency rescue vehicle or public safety vehicle during which the individual has contact with body fluids, containers of body fluids, hypodermic needles, or other materials that have been exposed to body fluids;

(3) engaging in the pursuit, apprehension, and arrest of law violators or suspected law violators during which the individual may be exposed to body fluids; or

(4) maintaining custody and physical restraint of prisoners or inmates of a prison, a jail, or other criminal detention facility during which the individual may be exposed to body fluids.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-4 Version a
"Political subdivision"

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 4. As used in this chapter, "political subdivision" has the meaning set forth in IC 6-3.5-2-1.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-4 Version b
"Political subdivision"

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 4. As used in this chapter, "political subdivision" means a county, township, town, city, separate municipal corporation, special taxing district, or public school corporation.

As added by P.L.185-2002, SEC.3. Amended by P.L.197-2016, SEC.2.

IC 5-10-13-5
Presumption that disability or death incurred in the line of duty

Sec. 5. (a) Except as provided in section 6 of this chapter, an employee who:

(1) is diagnosed with a health condition caused by an exposure risk disease that:

(A) requires medical treatment; and

(B) results in total or partial disability or death;

(2) by written affidavit has provided to the employee's employer a verification described in subsection (b), (c), (d), (e), or (f); and

(3) before the employee is diagnosed with a health condition

caused by hepatitis or tuberculosis, tests negative for evidence of hepatitis or tuberculosis through medical testing;

is presumed to have a disability or death incurred in the line of duty.

(b) An employee who is diagnosed with a health condition caused by hepatitis and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not:

(1) outside the scope of the employee's current employment, been exposed through transfer of body fluids to an individual known to have a medical condition caused by hepatitis;

(2) received blood products other than a transfusion received because of an injury to the employee that occurred in the scope of the employee's current employment;

(3) received blood products for the treatment of a coagulation disorder since testing negative for hepatitis;

(4) engaged in sexual practices or other behavior identified as high risk by the Centers for Disease Control and Prevention or the Surgeon General of the United States;

(5) had sexual relations with another individual known to the employee to have engaged in sexual practices or other behavior described in subdivision (4); or

(6) used intravenous drugs that were not prescribed by a physician.

(c) An employee who is diagnosed with a health condition caused by meningococcal meningitis and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee, in the ten (10) days immediately preceding the diagnosis, was not exposed to another individual known to:

(1) have meningococcal meningitis; or

(2) be an asymptomatic carrier of meningococcal meningitis;

outside the scope of the employee's current employment.

(d) An employee who is diagnosed with a health condition caused by tuberculosis and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's current employment, been exposed to another individual known to have tuberculosis.

(e) An employee who is diagnosed with a health condition caused by AIDS or HIV and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not:

(1) outside the scope of the employee's current employment, been exposed through transfer of body fluids to an individual known to have a medical condition caused by AIDS or HIV;
(2) received blood products other than a transfusion received because of an injury to the employee that occurred in the scope of the employee's current employment;
(3) received blood products for the treatment of a coagulation disorder since testing negative for AIDS or HIV;
(4) engaged in sexual practices or other behavior identified as high risk by the Centers for Disease Control and Prevention or the Surgeon General of the United States;
(5) had sexual relations with another individual known to the employee to have engaged in sexual practices or other behavior described in subdivision (4); or
(6) used intravenous drugs that were not prescribed by a physician.

(f) An employee who is diagnosed with a health condition caused by smallpox and, if the health condition results in disability or death, wishes to have a presumption of disability or death incurred in the line of duty apply to the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's current employment, been exposed to another individual known to have smallpox.

(g) A presumption of disability or death incurred in the line of duty may be rebutted by competent evidence.

(h) A meeting or hearing held to rebut a presumption of disability or death incurred in the line of duty may be held as an executive session under IC 5-14-1.5-6.1(b)(1).

As added by P.L.185-2002, SEC.3.

IC 5-10-13-6

Exception to presumption for vaccine or prevention measure

Sec. 6. If a standard, medically recognized vaccine or other measure exists for the prevention of an exposure risk disease and the vaccine or other measure is medically indicated for an employee according to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, the following apply:

(1) If:
(A) the employee receives the vaccine or other measure as required by the employee's employer; or
(B) the employee's physician provides written notice to the employer that the vaccine or other measure would pose a significant risk to the employee's health;

and the employee meets the other requirements of this chapter, a presumption of disability or death incurred in the line of duty under this chapter applies to the employee.

(2) If:

(A) the employee does not receive the vaccine or other measure as required by the employee's employer; and

(B) the employee's physician has not provided written notice that the vaccine or other measure would pose a significant risk to the employee's health;

a presumption of disability or death incurred in the line of duty under this chapter does not apply to the employee.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-7

Employee report

Sec. 7. (a) An employee shall file a report with the employee's employer of each known or reasonably suspected exposure to an exposure risk disease in the scope of the employee's employment.

(b) The employer shall maintain a permanent record of a report filed by an employee under subsection (a).

As added by P.L.185-2002, SEC.3.

IC 5-10-13-8

Insurance coverage for disability or death presumed incurred in the line of duty

Sec. 8. (a) The state or a political subdivision of the state may provide, in the life and disability insurance that covers employees of the state or political subdivision, accidental death coverage or double indemnity coverage for a health condition caused by a communicable disease that results in total or partial disability or death that is presumed to be a disability or death incurred in the line of duty under this chapter.

(b) This chapter does not require an insurer that issues a noncompulsory life insurance policy or a noncompulsory disability insurance policy to include in the policy coverage for a disability or death presumed incurred in the line of duty as described in this chapter.

As added by P.L.185-2002, SEC.3.

IC 5-10-13-9

Other requirements for disability benefits not affected

Sec. 9. This chapter does not affect the requirements for determining eligibility for disability benefits provided by the state or a political subdivision of the state except to the extent of determining whether an employee incurred a disability in the line of duty.

As added by P.L.185-2002, SEC.3.

IC 5-10-14

Chapter 14. State Police Officer Survivor Health Coverage

IC 5-10-14-1

"Dies in the line of duty"

Sec. 1. As used in this chapter, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from an action that an employee, in the employee's capacity as an employee, is obligated or authorized to perform by rule, regulation, law, or condition of employment.

As added by P.L.24-2005, SEC.2.

IC 5-10-14-2

"Employee"

Sec. 2. As used in this chapter, "employee" means an individual who is employed full time by the state as a state police officer.

As added by P.L.24-2005, SEC.2.

IC 5-10-14-3

Health coverage for survivors of employees who die in line of duty

Sec. 3. (a) If the state police department offers health coverage for active employees, the state police department shall offer to provide and pay for health coverage under the health coverage plan provided for active employees for:

(1) the surviving spouse; and

(2) each natural child, stepchild, and adopted child;

of an employee who dies in the line of duty, regardless of whether the death occurs before July 1, 2005, or on or after July 1, 2005.

(b) The health coverage for a surviving natural child, stepchild, or adopted child provided under subsection (a) continues:

(1) until the child becomes eighteen (18) years of age;

(2) if the child is:

(A) enrolled in and regularly attending a secondary school; or

(B) a full-time student at an accredited college or university;

until the child becomes twenty-three (23) years of age; or

(3) if the child has a physical or mental disability, until the end of the physical or mental disability;

whichever period is longest.

(c) If the state police department offers health coverage to active employees, the health coverage that the state police department provides to a surviving spouse or a natural child, a stepchild, or an adopted child under this section must be equal to that offered to active employees.

(d) The state police department's offer to provide and pay for health coverage under subsection (a) must remain open as long as the state police department continues to offer the health coverage for active employees, and:

(1) a surviving spouse is eligible for the health coverage under subsection (a); or

(2) a natural child, a stepchild, or an adopted child is eligible for the health coverage under subsections (a) and (b).

As added by P.L.24-2005, SEC.2. Amended by P.L.99-2007, SEC.14.

IC 5-10-15

Chapter 15. Emergency and Public Safety Employee Disability From Certain Cancers or Heart or Lung Disease Presumed Incurred in the Line of Duty

IC 5-10-15-1

Application of chapter

Sec. 1. This chapter does not apply to an individual who, at any time during the individual's employment by the state or a political subdivision of the state as:

(1) a member of a fire department (as defined in IC 36-8-1-8);

(2) an emergency medical services provider (as defined in IC 16-41-10-1); or

(3) a member of a police department (as defined in IC 36-8-1-9);

used tobacco products in any form in the five (5) years before the time the individual is diagnosed under section 9(a) of this chapter.

As added by P.L.62-2006, SEC.1. Amended by P.L.109-2015, SEC.21.

IC 5-10-15-2

"At risk for occupational exposure"

Sec. 2. As used in this chapter, "at risk for occupational exposure" means that an individual incurs risk in performing the basic duties of the individual's employment, including:

(1) providing emergency medical treatment in a nonhealth care setting where there is a potential for contact with;

(2) working at the scene of an accident, a fire, or another rescue or public safety operation, or working in an emergency rescue vehicle or a public safety vehicle, during which the individual has contact with;

(3) engaging in the pursuit, apprehension, and arrest of law violators, during which the individual may be exposed to; or

(4) maintaining custody and physical restraint of prisoners or inmates of a prison, a jail, or another criminal detention facility during which the individual may be exposed to;

a known carcinogen, or a substance or condition that adversely affects an individual's cardiovascular, neurological, or respiratory system.

As added by P.L.62-2006, SEC.1. Amended by P.L.59-2009, SEC.1.

IC 5-10-15-3

"Employee"

Sec. 3. As used in this chapter, "employee" means an individual who:

(1) is employed full time by the state or a political subdivision of the state as:

(A) a member of a fire department (as defined in

IC 36-8-1-8);
(B) an emergency medical services provider (as defined in IC 16-41-10-1); or
(C) a member of a police department (as defined in IC 36-8-1-9);
(2) in the course of the individual's employment, is at risk for occupational exposure; and
(3) is not employed elsewhere by the state or a political subdivision of the state in a similar capacity.
As added by P.L.62-2006, SEC.1.

IC 5-10-15-4
"Exposure related cancer"
Sec. 4. As used in this chapter, "exposure related cancer" refers to a cancer that is caused by a known carcinogen to which an individual is at risk for occupational exposure.
As added by P.L.62-2006, SEC.1.

IC 5-10-15-5
"Exposure related heart or lung disease"
Sec. 5. As used in this chapter, "exposure related heart or lung disease" refers to a disease or impairment of the cardiovascular or respiratory system caused by a substance or condition to which an individual is at risk for occupational exposure.
As added by P.L.62-2006, SEC.1.

IC 5-10-15-5.5
"Exposure related Parkinson's disease"
Sec. 5.5. As used in this chapter, "exposure related Parkinson's disease" refers to Parkinson's disease that is caused by a toxin or head trauma:
(1) known to increase the risk for the development of Parkinson's disease; and
(2) to which an individual is at risk for occupational exposure.
As added by P.L.59-2009, SEC.2.

IC 5-10-15-6
"Known carcinogen"
Sec. 6. As used in this chapter, "known carcinogen" refers to a substance or agent the exposure to which is recognized by:
(1) the International Agency for Research on Cancer; or
(2) the National Institute for Occupational Safety and Health;
as creating a high risk for the development of cancer.
As added by P.L.62-2006, SEC.1.

IC 5-10-15-7 Version a
"Political subdivision"
Note: This version of section effective until 1-1-2017. See also

following version of this section, effective 1-1-2017.

Sec. 7. As used in this chapter, "political subdivision" has the meaning set forth in IC 6-3.5-2-1.

As added by P.L.62-2006, SEC.1.

IC 5-10-15-7 Version b

"Political subdivision"

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 7. As used in this chapter, "political subdivision" means a county, township, town, city, separate municipal corporation, special taxing district, or public school corporation.

As added by P.L.62-2006, SEC.1. Amended by P.L.197-2016, SEC.3.

IC 5-10-15-8

"Substance or condition that adversely affects an individual's cardiovascular, neurological, or respiratory system"

Sec. 8. As used in this chapter, "substance or condition that adversely affects an individual's cardiovascular, neurological, or respiratory system" refers to a substance or condition the exposure to which is recognized by the National Institute for Occupational Safety and Health as creating a high risk for the development of heart, lung, or Parkinson's disease.

As added by P.L.62-2006, SEC.1. Amended by P.L.59-2009, SEC.3.

IC 5-10-15-9

Presumption of disability in line of duty; rebutting of presumption

Sec. 9. (a) An employee or former employee who:

(1) is diagnosed with an exposure related cancer, exposure related heart or lung disease, or exposure related Parkinson's disease that:

(A) requires medical treatment; or

(B) results in total or partial disability; and

(2) at the time of the diagnosis:

(A) is actively employed; or

(B) has terminated employment not more than sixty (60) months earlier;

is presumed to have a disability incurred in the line of duty.

(b) The presumption described in subsection (a) may be rebutted by competent evidence.

(c) A meeting or hearing held to rebut the presumption described in subsection (a) may be held as an executive session under IC 5-14-1.5-6.1(b)(1).

As added by P.L.62-2006, SEC.1. Amended by P.L.59-2009, SEC.4.

IC 5-10-15-10

Effect of chapter on determination of eligibility for disability benefits

Sec. 10. This chapter does not affect the requirements for determining eligibility for disability benefits provided by the state or a political subdivision of the state except to the extent of determining whether an employee incurred a disability in the line of duty.
As added by P.L.62-2006, SEC.1.

IC 5-10-16
Chapter 16. OPEB Reports

IC 5-10-16-1
Application of chapter
Sec. 1. This chapter applies to a state agency that provides or sponsors a post-employment benefit.
As added by P.L.138-2012, SEC.4.

IC 5-10-16-2
"GASB"
Sec. 2. As used in this chapter, "GASB" refers to the Governmental Accounting Standards Board.
As added by P.L.138-2012, SEC.4.

IC 5-10-16-3
"OMB"
Sec. 3. As used in this chapter, "OMB" refers to the office of management and budget established by IC 4-3-22-3.
As added by P.L.138-2012, SEC.4.

IC 5-10-16-4
"OPEB"
Sec. 4. As used in this chapter, "OPEB" refers to a post-employment benefit.
As added by P.L.138-2012, SEC.4.

IC 5-10-16-5
"Post-employment benefit"
Sec. 5. As used in this chapter, "post-employment benefit" means any of the following:
(1) Health, prescription drug, dental, vision, and life insurance coverage for retired employees.
(2) Long term care coverage, life insurance, and death benefits that are not offered as part of a pension or retirement plan.
(3) Long term disability insurance for employees.
(4) Any other benefit, other than a pension or retirement plan, or a termination incentive, provided to a former employee.
As added by P.L.138-2012, SEC.4.

IC 5-10-16-6
"State agency"
Sec. 6. As used in this section, "state agency" has the meaning set forth in IC 6-1.1-1-18.
As added by P.L.138-2012, SEC.4.

IC 5-10-16-7
OMB to prepare OPEB report for state agencies; GASB

Statements 43 and 45 information required

Sec. 7. Each state agency shall cooperate with the OMB and provide to the OMB the information necessary for the OMB to prepare an OPEB report for state agencies. Each state agency shall provide information required under GASB Statements 43 and 45 and any other information requested by the OMB or the budget committee.

As added by P.L.138-2012, SEC.4.

IC 5-10-17

Chapter 17. Emergency Medical Services Provider Disability Benefits

IC 5-10-17-1

Application of chapter

Sec. 1. This chapter applies to an emergency medical services provider who is:

(1) employed by a municipal corporation; and

(2) not eligible for a disability benefit under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, or IC 36-8-8.

As added by P.L.20-2014, SEC.1.

IC 5-10-17-2

"Emergency medical services provider"

Sec. 2. As used in this chapter, "emergency medical services provider" has the meaning set forth in IC 16-41-10-1.

As added by P.L.20-2014, SEC.1.

IC 5-10-17-3

"Fiscal body"

Sec. 3. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

As added by P.L.20-2014, SEC.1.

IC 5-10-17-4

"Municipal corporation"

Sec. 4. As used in this chapter, "municipal corporation" has the meaning set forth in IC 5-10-9-1.

As added by P.L.20-2014, SEC.1.

IC 5-10-17-5

Disability insurance programs authorized; elimination period; self-insurance; exclusions; fiscal body approval

Sec. 5. (a) A municipal corporation may provide programs of disability insurance to its emergency medical services providers who become disabled as the result of an injury or illness:

(1) that is not covered by:

(A) worker's compensation (IC 22-3-2 through IC 22-3-6); or

(B) worker's occupational diseases compensation (IC 22-3-7); or

(2) for which coverage under worker's compensation or worker's occupational diseases compensation has been exhausted.

(b) A program established under subsection (a) may not have an elimination or waiting period of greater than the following before a benefit begins:

(1) Thirty (30) days, for a short term disability program.

(2) One hundred twenty (120) days, for a long term disability program.

(c) A municipal corporation may provide the programs of disability insurance described in subsection (a) through either of the following:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

(d) A municipal corporation may exclude from coverage under a program of disability insurance an emergency medical services provider who:

(1) is a part-time employee (as defined by the municipal corporation); or

(2) provides services to the municipal corporation under a contract.

(e) The establishment of a self-insurance program under this section is subject to the approval of the municipal corporation's fiscal body.

As added by P.L.20-2014, SEC.1.

IC 5-10.1

ARTICLE 10.1. SOCIAL SECURITY COVERAGE FOR PUBLIC EMPLOYEES

IC 5-10.1-1

Chapter 1. Definitions

IC 5-10.1-1-1

"Employee"

Sec. 1. "Employee" as used in this article includes:

(1) an elected or appointed officer of the state and of a political subdivision;

(2) a senior judge appointed under IC 33-24-3-7; and

(3) a duly elected prosecuting attorney of a judicial circuit.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.40-1990, SEC.2; P.L.98-2004, SEC.66.

IC 5-10.1-1-2

"Employee tax" and "employee contribution"

Sec. 2. "Employee tax" and "employee contribution", as used in this article, means the tax imposed by section 3101 of the Internal Revenue Code.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.2-1987, SEC.10.

IC 5-10.1-1-3

"Employer contribution" and "matching contribution"

Sec. 3. "Employer contribution" and "matching contribution", as used in this article, means the tax imposed by section 3111 of the Internal Revenue Code.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.2-1987, SEC.11.

IC 5-10.1-1-4

"Federal Insurance Contributions Act"

Sec. 4. "Federal Insurance Contributions Act", as used in this article, means subchapters A and B of chapter 21 of the Internal Revenue Code.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.2-1987, SEC.12.

IC 5-10.1-1-5

"Federal administrator"

Sec. 5. Federal Administrator. "Federal administrator" as used in this article means the federal security administrator and includes the secretary of health, education, and welfare of the United States and any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act with

respect to coverage of employees of a state and its political subdivisions.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-1-6
"Governing body"

Sec. 6. "Governing body" means the fiscal body of a county, city, town, or township, trustee, the township board, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of, or associated with, a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.
As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.8-1987, SEC.9; P.L.8-1989, SEC.19.

IC 5-10.1-1-7
"Political subdivision"

Sec. 7. Political Subdivision. "Political subdivision" as used in this article means a county, city, town, township, political body corporate, political entity, local housing authority, public school corporation, public library, public utility of a county, city, town, or township whether the public utility is operated by the city or town or under the terms of a trusteeship for the benefit of the city or town, and a department of, or associated with, a county, city, town, or township, which department receives revenue independently of, or in addition to, funds obtained through taxation. A state agency or a judicial circuit may not be construed as a political subdivision.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-1-8
"State agency"

Sec. 8. "State agency" as used in this article means the Indiana public retirement system.
As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.35-2012, SEC.27.

IC 5-10.1-1-9
"Social Security Act"

Sec. 9. Social Security Act. "Social Security Act" as used in this article means the act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620 (42 U.S.C. 301), as amended, and any rules or regulations issued pursuant to it.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-1-10
"Agreement"

Sec. 10. Agreement. "Agreement" as used in this article means the federal-state agreement specified in chapter 2 of this article.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-1-11
Gender; number

Sec. 11. Gender; Number. (a) When a masculine pronoun is used in this article, it refers to the masculine, feminine, or neuter, as appropriate.

(b) The singular form of any noun used in this article includes the plural, and the plural includes the singular, as appropriate.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2

Chapter 2. The Federal-State Agreement

IC 5-10.1-2-1

Intent

Sec. 1. Intent. The procedures of this article are established to provide the basic protection of the Social Security Act to public employees and their dependents and survivors on as broad a basis as is permitted by the Social Security Act.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-2

Authorization

Sec. 2. Authorization. The state agency with the approval of the governor may enter into a federal-state agreement with the federal administrator to extend the benefits of the Social Security Act to the employees of the state and its political subdivisions.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-3

Coverage

Sec. 3. Coverage. (a) The agreement must cover services which are performed by an employee for the state or political subdivision and which are covered by a plan which conforms to the agreement and has been approved by the state agency.

(b) The agreement may not cover services which are covered by the Social Security Act without an agreement or which may not be included in an agreement under the Social Security Act.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-4

Effective date

Sec. 4. Effective Date. The agreement or a modification to it must contain an effective date for the coverage of services. The effective date of the agreement may not be earlier than permitted by the Social Security Act or earlier than January 1 of the year in which the agreement is entered into.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-5

Payment to Secretary of Treasury

Sec. 5. Payment to the Secretary of Treasury. The state shall pay to the secretary of the treasury, as prescribed under the Social Security Act, contributions equal to the sum of taxes which would be imposed by the Federal Insurance Contributions Act if the act applied to services covered by the agreement.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-6
Permissible provisions

Sec. 6. Permissible Provisions. The agreement may contain such provisions concerning coverage, benefits, contributions, effective date, modification and termination of the agreement, administrative, and other appropriate matters as the state agency and federal administrator agree upon.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-7
Termination of coverage

Sec. 7. Termination of Coverage. Coverage by the Social Security Act may be terminated by sending a written notice of termination to the federal administrator. The termination is effective if:

(1) the notice is filed two (2) years before the time of termination; and

(2) the employees have been covered for five (5) years or more before the date on which the federal administrator receives the notice.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-8
Rules and regulations

Sec. 8. Rules and Regulations. The state agency may make and publish such rules and regulations as it finds appropriate for the implementation of this article.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-2-9
Exclusion of election workers

Sec. 9. (a) The agreement shall be modified to exclude services performed by an election official or an election worker for calendar year 2007 in which the remuneration paid for such services is less than one thousand three hundred dollars ($1,300), and for each calendar year after 2007 in which the remuneration paid is less than the adjusted amount, as described in subsection (b), beginning with services performed in the year that this modification was mailed or delivered by other means to the Commissioner of Social Security.

(b) The one thousand three hundred dollar ($1,300) limit on the excludable amount of remuneration paid in a calendar year for the services specified in this modification will be subject to adjustment for calendar years after 2007 to reflect changes in wages in the economy without any further modification of the agreement, with respect to such services performed during such calendar years, in accordance with Section 218(c)(8)(B) of the Social Security Act.

(c) This exclusion applies to all coverage groups of the state and its political subdivisions currently (as of the date this modification is executed), including under this agreement and to which the

agreement is hereafter made applicable.
As added by P.L.234-2007, SEC.208.

IC 5-10.1-2.5

Chapter 2.5. Public Employee Sick Pay Plan

IC 5-10.1-2.5-1

Definition

Sec. 1. As used in this chapter, "sick pay plan" means a plan that:

(1) provides for an employer to make payments in lieu of wages to employees on account of sickness or accident disability; and

(2) meets the requirements of 42 U.S.C. 409(b) or (d).

As added by Acts 1979, P.L.34, SEC.1.

IC 5-10.1-2.5-2

State employees; establishment; appropriations; authorization

Sec. 2. The governor may establish a sick pay plan for state employees. If the governor establishes a sick pay plan, the general assembly may make separate appropriations for the money needed to fund the payments required under the plan.

As added by Acts 1979, P.L.34, SEC.1.

IC 5-10.1-2.5-3

Political subdivision employees; establishment; appropriations

Sec. 3. Each political subdivision may establish a sick pay plan for the employees of the political subdivision. If a political subdivision establishes a sick pay plan, the governing body of the political subdivision may make separate appropriations for the money needed to fund the payments required under the plan.

As added by Acts 1979, P.L.34, SEC.1. Amended by Acts 1981, P.L.49, SEC.1; Acts 1982, P.L.37, SEC.1.

IC 5-10.1-3

Chapter 3. Coverage of Employees of Political Subdivisions

IC 5-10.1-3-1

Authorization

Sec. 1. Authorization. Each political subdivision without a retirement system for its employees may submit for approval by the state agency a plan for extending the Social Security Act to its employees.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-3-2

Approval of plan

Sec. 2. Approval of the Plan. The state agency shall approve the plan and any amendments if they conform to the agreement and the regulations of the state agency. The state agency may not finally disapprove a plan or terminate an approved plan without reasonable notice and opportunity for a hearing for the political subdivision.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-3-3

Required elements of plan

Sec. 3. Required Elements of the Plan. The plan must:

(1) be in conformity with the requirements of the Social Security Act and with the agreement;

(2) provide that all services covered by the federal-state agreement in employment for the political subdivision is covered by the plan, except that it may exclude services to which section 218(c)(3), 218(c)(5), 218(c)(6), or 218(d) of the Social Security Act is applicable;

(3) specify the source from which the funds necessary to make the payments required of the political subdivision by this article are expected to be derived and contain reasonable assurance that the source will be adequate for that purpose;

(4) provide for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper administration of the plan;

(5) provide that the political subdivision shall:

(A) make such reports as the state agency requires; and

(B) comply with such provisions as the state agency or the federal administrator finds necessary to assure the correctness of the reports; and

(6) authorize the state agency to terminate the plan in its entirety if the state agency finds a failure to comply substantially with any provision of the plan. The termination takes effect at the expiration of such notice and on such conditions as are provided by the state agency, in accordance with the Social Security Act.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.7-2015, SEC.5.

IC 5-10.1-3-4
Ordinances

Sec. 4. Ordinances. (a) Employees of a political subdivision without a retirement system are entitled to coverage by the Social Security Act if:

(1) the governing body passes an ordinance or resolution which it submits to the state agency within ten (10) days after passage;
(2) the ordinance contains an effective date for coverage which must be January 1 of any year;
(3) the ordinance is approved by the state agency; and
(4) the political subdivision and the federal administrator approve an agreement for the political subdivision which conforms to the federal-state agreement submitted by the state agency.

(b) On approval, the state agency shall furnish to the governing body an estimate of the costs for the first year of coverage. After the first year, the state agency shall certify to the governing body before July 2 of each year the amount of estimated costs for the next calendar year which amount if it is to be raised by a general property tax levy shall be included in the appropriation ordinance as provided in law for raising taxes assessed against property.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-3-5
Participation in public employees' retirement fund

Sec. 5. Participation in the Public Employees' Retirement Fund. A political subdivision which is eligible to become a participant in the public employees' retirement fund may be covered by the Social Security Act by becoming a participant as specified in IC 5-10.3-6. If the political subdivision has a retirement system, it must follow the procedures specified in chapter 4 of this article.
As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-4
Chapter 4. Coverage of Members of Retirement Systems

IC 5-10.1-4-1
Referenda

Sec. 1. The governor may conduct separate referenda for each of the following retirement systems to determine whether the positions covered by the systems will be included in the agreement:

(1) the Indiana state teachers' retirement fund;

(2) the public employees' retirement fund;

(3) each retirement system established by a state educational institution; and

(4) each other retirement system which is financially supported by a political subdivision if the board or governing body administering the retirement system requests a referendum.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.2-2007, SEC.88.

IC 5-10.1-4-2
Procedure for referenda

Sec. 2. (a) Each referendum shall be conducted in compliance with section 218(d) of the Social Security Act.

(b) The governor may designate the board or governing body administering the affairs of each retirement system, or the board of trustees in the case of state educational institutions, as the agency to conduct the referendum for the system.

(c) Each board or governing body shall pay the expenses of the referendum for the system it administers, except that:

(1) the expenses of the referendum for a political subdivision participating in the public employees' retirement fund shall be paid by the political subdivision; and

(2) the expenses of the referendum for a state educational institution shall be paid by the institution.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.2-2007, SEC.89.

IC 5-10.1-4-3
Referenda for public employees' retirement fund

Sec. 3. Referenda for Public Employees' Retirement Fund. (a) Separate referenda must be conducted for state employees and for employees of each participating political subdivision who are members of the public employees' retirement fund.

(b) Members of the public employees' retirement fund who are classified as federal employees by the secretary of agriculture of the United States and who participate in the federal civil service retirement system may not vote in any referendum.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-4-4
Effect of affirmative vote in referenda

Sec. 4. Effect of Affirmative Vote in Referenda. (a) If a majority of the employees in a retirement system vote in the affirmative in the referendum, the governor shall:

(1) certify to the secretary of health, education and welfare of the United States that the conditions prescribed by the Social Security Act have been met; and

(2) notify the state agency of the certification.

(b) The state agency shall then request a modification of the agreement by the federal administration to include service in positions covered by these retirement systems.

(c) The state agency, or the governing body for a political subdivision, may request that the modification not include the following positions covered by a retirement system:

(1) services of an emergency nature;

(2) elective positions;

(3) part-time positions;

(4) positions, the compensation for which is paid on a fee basis;

(5) agricultural labor; and

(6) service performed by a student, if the service would be excluded if done for a private employer.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-4-5
Effect of negative vote in referenda

Sec. 5. Effect of Negative Vote in Referenda. (a) If in a referendum the vote of the majority is negative, no member of the retirement system may be included in a modification of the agreement.

(b) A subsequent referendum may be conducted upon the request of the board or governing body. However, no subsequent referendum may be conducted until one (1) year after a prior referendum.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-4-6
Effective date of modification

Sec. 6. (a) The effective date of a modification of the agreement must be determined by resolution of the board of each of the following retirement systems:

(1) The applicable pension system administered by the Indiana public retirement system.

(2) Any retirement system established by a state educational institution.

For political subdivisions the governing body shall determine the effective date by resolution. The effective date may be made retroactive to the extent permitted by federal law.

(b) The effective date of a modification for employees of political

subdivisions with retirement systems which are not covered by subsection (a) may be January 1, 1955, or any subsequent January 1.
As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.2-2007, SEC.90; P.L.35-2012, SEC.28.

IC 5-10.1-5
Repealed

(Repealed by P.L.57-1987, SEC.6.)

IC 5-10.1-6

Chapter 6. Contributions

IC 5-10.1-6-1

Employer contributions for state employees

Sec. 1. (a) The state shall pay the employer contributions for state employees.

(b) After June 30, 1987, a school corporation may transfer from its general fund, without an appropriation, to its employment tax fund an amount necessary to make the employer contributions. Notwithstanding IC 36-1-8-4, a school corporation is not required to reimburse its general fund due to any transfers under this subsection.

(c) If state employees receive compensation from federal funds, contributions shall be made from the federal funds equal to the matching contribution which would be due on the compensation.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.57-1987, SEC.1; P.L.240-1991(ss2), SEC.45.

IC 5-10.1-6-2

Employer contributions; state institutions of higher education, school corporations, and political subdivisions

Sec. 2. State educational institutions, school corporations, and political subdivisions shall pay the employer contribution.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.57-1987, SEC.2; P.L.240-1991(ss2), SEC.46; P.L.2-2007, SEC.91.

IC 5-10.1-6-3

Repealed

(Repealed by P.L.57-1987, SEC.6.)

IC 5-10.1-6-4

Employee contributions

Sec. 4. (a) Every employee whose services are covered by the federal-state agreement or a modification of the agreement shall, as a condition of his employment, pay an amount equal to the employee tax imposed by the Federal Insurance Contributions Act.

(b) The employee's contribution shall be deducted from wages paid. Failure to make the deduction does not relieve the employee or the employer from liability for the contribution.

(c) Employees who are entitled to back coverage under the federal-state agreement shall make contributions for the back coverage. The employee may have the contribution deducted from his compensation or from the amount credited to his annuity savings account if he is a member of the public employees' retirement fund.

As added by Acts 1977, P.L.53, SEC.1. Amended by P.L.57-1987, SEC.3.

IC 5-10.1-6-5

Repealed
(Repealed by P.L.57-1987, SEC.6.)

IC 5-10.1-6-6
Repealed
(Repealed by P.L.57-1987, SEC.6.)

IC 5-10.1-7

Chapter 7. Construction of Codification

IC 5-10.1-7-1

Purpose

Sec. 1. Purpose of Codification. This article is intended to be a codification and restatement of applicable or corresponding provisions in prior law. A citation to prior law in the Indiana Code shall be construed as a citation to the appropriate provision of this article if the prior law is reenacted in the same or restated form by this article.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.1-7-2

Headings

Sec. 2. Headings. The headings prefixed to sections of this article are included for organizational purposes and do not affect the meaning, application, or construction of the sections.

As added by Acts 1977, P.L.53, SEC.1.

IC 5-10.2

ARTICLE 10.2. PUBLIC RETIREMENT AND DISABILITY BENEFITS

IC 5-10.2-1

Chapter 1. Definitions

IC 5-10.2-1-1

"Board"

Sec. 1. "Board", as used in this article, means the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.23-2011, SEC.6.

IC 5-10.2-1-2

"Fund"

Sec. 2. Fund. "Fund" as used in this article means the Indiana state teachers' retirement fund and the public employees' retirement fund.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-1-3

"Employer"

Sec. 3. (a) "Employer" as used in this article means the state for employees of the state and a political subdivision or school corporation for its employees.

(b) With regard to employer contributions, "employer" includes the state for members of the Indiana state teachers' retirement fund with respect to the pre-1996 account.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.54-1993, SEC.1.

IC 5-10.2-1-3.5

"Internal Revenue Code"

Sec. 3.5. As used in this article, "Internal Revenue Code":

(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or

(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.

As added by P.L.55-1989, SEC.7.

IC 5-10.2-1-4

"Member"

Sec. 4. Member. "Member" as used in this article means a member of the Indiana state teachers' retirement fund or of the public employees' retirement fund.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-1-4.3
"Miscellaneous participating entity"

Sec. 4.3. As used in this article, "miscellaneous participating entity" means an entity that participates in the public employees' retirement fund, except:

(1) the executive (including the administrative), legislative, and judicial branches of the state; or

(2) a political subdivision (as defined in IC 5-10.3-1-6).

As added by P.L.241-2015, SEC.2.

IC 5-10.2-1-4.5
"1996 account"

Sec. 4.5. As used in this article, "1996 account" refers to the 1996 account established within the Indiana state teachers' retirement fund under IC 5-10.4-2-2.

As added by P.L.54-1993, SEC.2. Amended by P.L.2-2006, SEC.17.

IC 5-10.2-1-5
"Participating political subdivision"

Sec. 5. Participating Political Subdivision. "Participating political subdivision" as used in this article means a political subdivision which is participating in the public employees' retirement fund as specified in IC 5-10.3-6.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-1-5.5
"Pre-1996 account"

Sec. 5.5. As used in this article, "pre-1996 account" refers to the pre-1996 account established within the Indiana state teachers' retirement fund under IC 5-10.4-2-2.

As added by P.L.54-1993, SEC.3. Amended by P.L.2-2006, SEC.18.

IC 5-10.2-1-6
"Retirement fund law"

Sec. 6. "Retirement fund law" as used in this article means the statutes governing:

(1) the Indiana state teachers' retirement fund;

(2) the public employees' retirement fund; and

(3) the Indiana public retirement system.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-2012, SEC.29.

IC 5-10.2-1-6.5
"School corporation"

Sec. 6.5. As used in this article, "school corporation" has the meaning set forth in IC 5-10.4-1-13.

As added by P.L.54-1993, SEC.4. Amended by P.L.2-2006, SEC.19.

IC 5-10.2-1-7
"Social Security Act"

Sec. 7. Social Security Act. "Social Security Act" as used in this article means the act of Congress approved August 14, 1935, chapter 531, 49 Stat. 620 (42 U.S.C. 301), as amended, and any rules or regulations issued pursuant to it.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-1-8
"Vested status"

Sec. 8. (a) Except as provided in subsection (b), "vested status" as used in this article means the status of having ten (10) years of creditable service.

(b) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of having:

(1) at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

(2) been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) at least ten (10) years of creditable service as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

(c) In the case of a person whose term of office commences after the election on November 5, 2002, as auditor of state, secretary of state, or treasurer of state, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

(d) This subsection applies to an individual elected to the office of treasurer of state at the election on November 7, 2006. The individual is vested for purposes of this article if the individual is reelected as treasurer of state at the 2010 general election and serves in the office until January 1, 2015.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.73-2002, SEC.1; P.L.88-2005, SEC.1; P.L.115-2008, SEC.4.

IC 5-10.2-1-9
Gender; number

Sec. 9. Gender; Number. (a) When a masculine pronoun is used in this article, it refers to the masculine, feminine, or neuter, as appropriate.

(b) The singular form of any noun used in this article includes the plural, and the plural includes the singular, as appropriate.
As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-1-10
"Member's contribution"

Sec. 10. As used in this article, "member's contribution" includes contributions paid by:

(1) the employer for members of the public employees' retirement fund; or

(2) a school corporation, the state, or a state educational institution for members of the teachers' retirement fund.

As added by P.L.41-1983, SEC.4. Amended by P.L.35-1985, SEC.2; P.L.2-2007, SEC.92.

IC 5-10.2-2

Chapter 2. The Retirement Funds

IC 5-10.2-2-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 18 of this chapter by P.L.224-2003 applies only to investments made after June 30, 2003.
As added by P.L.220-2011, SEC.71.

IC 5-10.2-2-1

Scope; purpose

Sec. 1. (a) This article applies to the Indiana state teachers' retirement fund and the public employees' retirement fund. Each retirement fund covered by this article is a separate retirement fund managed by the board under the fund's retirement fund law. The board shall make and publish regulations which are appropriate to the efficient administration of this article. The obligations of the state and political subdivisions for benefit payments are specified in each retirement fund law.

(b) The Indiana public retirement system is an independent body corporate and politic. The Indiana public retirement system is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

(c) The benefits specified in this article and the benefits from the Social Security Act provide the retirement, disability, and survivor benefits for public employees and teachers. However, this article does not prohibit a political subdivision from establishing and providing before January 1, 1995, and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995, and was not a participant in the public employees' retirement fund on January 1, 1995, under this article or IC 5-10.3.
As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.66-1995, SEC.2; P.L.65-1995, SEC.2; P.L.119-2000, SEC.2; P.L.23-2011, SEC.7.

IC 5-10.2-2-1.5

Qualification under Internal Revenue Code

Sec. 1.5. Each retirement fund covered by this article shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to each retirement fund. In order to meet those requirements, each fund is subject to the following provisions, notwithstanding any other provision of the retirement fund law:

(1) The board shall distribute the corpus and income of the fund to members and their beneficiaries in accordance with the retirement fund law.

(2) No part of the corpus or income of a fund may be used for

or diverted to any purpose other than the exclusive benefit of the members and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement fund law.

(4) If a fund is terminated, or if all contributions to a fund are completely discontinued, the rights of each affected member to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from a retirement fund shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, each retirement fund is subject to the following provisions:

(A) The life expectancy of a member, the member's spouse, or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(B) If a member dies before the distribution of the member's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(C) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries;

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter may not exceed the maximum benefits specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

As added by P.L.55-1989, SEC.8. Amended by P.L.35-2012, SEC.30.

IC 5-10.2-2-2

Separate accounts and subaccounts

Sec. 2. (a) The board shall maintain the following separate accounts in the public employees' retirement fund:

(1) The annuity savings account.
(2) The retirement allowance account.

(b) The board shall maintain the following two (2) separate accounts in the Indiana state teachers' retirement fund:

(1) The pre-1996 account.
(2) The 1996 account.

(c) Within each account specified in subsection (b), the board shall maintain the following separate subaccounts:

(1) The annuity savings account.
(2) The retirement allowance account.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.3; P.L.54-1993, SEC.5; P.L.23-2011, SEC.8.

IC 5-10.2-2-2.5

Investment guidelines and limits established by boards; commingling of assets

Sec. 2.5. (a) The board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary for all assets under its control, subject to the limitations and restrictions set forth in section 18 of this chapter, IC 5-10.3-5-3, IC 5-10.4-3-10, and IC 5-10.5-5.

(b) The board may commingle or pool assets with the assets of any other persons or entities. This authority includes, but is not limited to, the power to invest in commingled or pooled funds, partnerships, or mortgage pools, including pools that consist in part or entirely of mortgages that qualify as five star mortgages under the program established by IC 24-5-23.6. In the event of any such investment, the board shall keep separate detailed records of the assets invested. Any decision to commingle or pool assets is subject to the limitations and restrictions set forth in IC 5-10.3-5-3, IC 5-10.4-3-10, and IC 5-10.5-5.

As added by P.L.43-1997, SEC.1. Amended by P.L.61-2002, SEC.2; P.L.224-2003, SEC.185; P.L.2-2006, SEC.20; P.L.115-2010, SEC.2; P.L.35-2012, SEC.31.

IC 5-10.2-2-3

Annuity savings account; guaranteed program; stable value fund program; alternative investment programs

Sec. 3. (a) The annuity savings account consists of:

(1) the members' contributions; and
(2) the interest credits on these contributions in the guaranteed fund (before January 1, 2017), the gain or loss in the balance of the member's account in the stable value fund (after December 31, 2016), or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the

member's contributions and interest credits.

(b) The board shall maintain the investment program in effect on December 31, 1995, (referred to in this chapter as the guaranteed program) within the annuity savings account until January 1, 2017. In addition, the board shall establish and maintain a guaranteed program within the 1996 account until January 1, 2017. After December 31, 2016, the board shall establish an investment fund (referred to in this chapter as the stable value fund) that has preservation of capital as the primary investment objective. The board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3, IC 5-10.4-3-10, and IC 5-10.5-5.

(c) The board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

(1) The board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund. The board may maintain one (1) or more alternative investment programs that:

(A) invest in one (1) or more commingled or pooled funds that consist in part or entirely of mortgages that qualify as five star mortgages under the program established by IC 24-5-23.6; or

(B) otherwise invest in mortgages that qualify as five star mortgages under the program established by IC 24-5-23.6.

(2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.

(3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program or as may be determined by the rules of the board.

(5) Except as provided in section 4(e) of this chapter, a valuation of each member's account must be completed as of:

(A) the last day of each quarter; or

(B) another time as the board may specify by rule.

(d) The board must prepare, at least annually, an analysis of the guaranteed program (before January 1, 2017), the stable value fund (after December 31, 2016), and each alternative investment program. This analysis must:

(1) include a description of the procedure for selecting an alternative investment program;

(2) be understandable by the majority of members; and

(3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund (before January 1, 2017), the stable value fund (after December 31, 2016), and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by the board. The board shall allow a member to make a selection or change any existing selection at least once each quarter.

(2) The board shall implement the member's selection beginning on the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board or on an alternate date established by the rules of the board. This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund (before January 1, 2017), the stable value fund (after December 31, 2016), or any available alternative investment funds, in ten percent (10%) increments or smaller increments that may be established by the rules of the board.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

(A) for an alternative investment program balance, the market value on the effective date;

(B) for any guaranteed program balance, the account balance on the effective date; and

(C) for any stable value fund program balance, the balance of the member's account on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter or at an alternate time established by the rules of the board in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(6) The provisions concerning the transition from the guaranteed program to the stable value fund program are met, as set forth in section 24 of this chapter.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, to the guaranteed program (before January 1, 2017), or to the stable value fund program (after December 31, 2016), the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection or at an alternate time established by the rules of the board. When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends

membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date or at an alternate time established by the rules of the board.

(g) This subsection applies before January 1, 2017. When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. However, the board may by rule provide for an alternate valuation date. When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. However, the board may by rule provide for an alternate valuation date.

(h) This subsection applies after December 31, 2016. When a member who participates in the stable value fund program transfers the amount credited to the member from the stable value fund program to an alternative investment program, the amount credited to the member shall be the balance of the member's account, as of the day before the effective date of the member's selection or at an alternate time established by the rules of the board. When a member who participates in the stable value fund program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the balance of the member's account as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date or at an alternate time established by the rules of the board.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.4; P.L.40-1986, SEC.1; P.L.58-1987, SEC.1; P.L.55-1989, SEC.9; P.L.54-1993, SEC.6; P.L.43-1997, SEC.2; P.L.195-1999, SEC.9; P.L.285-2001, SEC.1; P.L.62-2005, SEC.1; P.L.2-2006, SEC.21; P.L.165-2009, SEC.2; P.L.1-2010, SEC.17; P.L.115-2010, SEC.3; P.L.35-2012, SEC.32; P.L.193-2016, SEC.3.

IC 5-10.2-2-3.3

Crediting interest in annuity savings accounts

Sec. 3.3. Interest credited prior to July 1, 2005, in the annuity

savings account of the public employees' retirement fund to suspended members participating in the guaranteed fund (before its elimination on January 1, 2017) under section 3 of this chapter shall be treated as properly credited.

As added by P.L.220-2011, SEC.72. Amended by P.L.193-2016, SEC.4.

IC 5-10.2-2-4

Crediting interest and omitted contributions before January 1, 2017

Sec. 4. (a) Except as provided in subsection (e), interest shall be credited and compounded at least annually on all amounts credited to the member in the guaranteed program. For the guaranteed program, the board shall annually establish an interest credit rate equal to or less than the investment income earned.

(b) Except as provided in subsection (e), the market value of each alternative investment program shall be allocated at least annually to the members participating in that program.

(c) Contributions to the guaranteed program and the alternative investment programs shall be invested as of the last day of the quarter in which the contributions are received or at an alternate time established by the rules of the board. Contributions to the guaranteed program shall begin to accumulate interest at the beginning of the quarter after the quarter in which the contributions are received or at an alternate time established by the rules of the board.

(d) When a member retires or withdraws with a balance in the guaranteed program, a proportional interest credit determined by the board shall be granted for the period elapsed since the last interest date on that balance.

(e) This subsection applies whenever the board is required to establish an interest or earnings rate in order to credit interest or earnings to an omitted contribution to a member's annuity savings account. As used in this subsection, "omitted contribution" means a contribution contributed by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11 that is received by the board after the time required by IC 5-10.3-7-12.5 or IC 5-10.4-7-6(b)(1). Notwithstanding any law to the contrary, the board may by rule specify:

(1) a single composite interest rate and the period to which the rate applies for the purpose of computing the interest credits on a member's contributions (including omitted contributions) in the guaranteed fund; and

(2) a single composite earnings rate for the gain or loss in market value for each alternative investment program and the period to which the rate applies for the purpose of computing the gain or loss in market value on a member's contributions (including omitted contributions) in the alternate investment program.

(f) This section expires January 1, 2017.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1977(ss), P.L.1, SEC.1; Acts 1980, P.L.28, SEC.1; P.L.35-1985, SEC.5; P.L.43-1997, SEC.3; P.L.195-1999, SEC.10; P.L.165-2009, SEC.3; P.L.35-2012, SEC.33; P.L.193-2016, SEC.5.

IC 5-10.2-2-4.1
Crediting interest and omitted contributions after December 31, 2016

Sec. 4.1. (a) This section applies only after December 31, 2016.

(b) Except as provided in subsection (e), the market value of the stable value fund program shall be allocated at least annually to the members participating in that program.

(c) Except as provided in subsection (e), the market value of each alternative investment program shall be allocated at least annually to the members participating in that program.

(d) Contributions to the stable value fund program and the alternative investment programs shall be invested as of the last day of the quarter in which the contributions are received or at an alternate time established by the rules of the board.

(e) This subsection applies whenever the board is required to establish an earnings rate in order to credit earnings to an omitted contribution to a member's annuity savings account. As used in this subsection, "omitted contribution" means a contribution contributed by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11 that is received by the board after the time required by IC 5-10.3-7-12.5 or IC 5-10.4-7-6(b)(1). Notwithstanding any law to the contrary, the board may by rule specify:

(1) a single composite earnings rate for the gain or loss in market value for the stable value fund program for the purpose of computing the gain or loss in market value on a member's contributions (including omitted contributions) in the stable value fund program; and

(2) a single composite earnings rate for the gain or loss in market value for each alternative investment program and the period to which the rate applies for the purpose of computing the gain or loss in market value on a member's contributions (including omitted contributions) in the alternate investment program.

As added by P.L.193-2016, SEC.6.

IC 5-10.2-2-5
Repealed

(Repealed by P.L.55-1989, SEC.67.)

IC 5-10.2-2-6
Retirement allowance accounts

Sec. 6. (a) The retirement allowance account of the public

employees' retirement fund consists of the retirement fund, exclusive of the annuity savings account. The retirement allowance account also includes any amounts received under IC 5-10.3-12-24 or IC 5-10.3-12-24.5. For the public employees' retirement fund, separate accounts within the retirement allowance account shall be maintained for contributions made by each contribution rate group.

(b) The retirement allowance account of the pre-1996 account consists of the pre-1996 account, exclusive of the annuity savings account.

(c) The retirement allowance account of the 1996 account consists of the 1996 account, exclusive of the annuity savings account.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.55-1989, SEC.10; P.L.54-1993, SEC.7; P.L.13-2011, SEC.3; P.L.22-2011, SEC.1; P.L.23-2011, SEC.9; P.L.6-2012, SEC.28; P.L.35-2012, SEC.34; P.L.241-2015, SEC.3.

IC 5-10.2-2-7

Transfer of accounts

Sec. 7. (a) When a member retires or dies in service under conditions which entitle a beneficiary or spouse to survivor benefits and if the member or survivor chooses to receive an annuity from the fund, the annuity savings account shall be charged with the amount credited to him in the account. This amount shall be credited to the retirement allowance account, and the annuity shall be paid from this account.

(b) When:

(1) a member of the public employees' retirement fund who is an employee of a participating political subdivision; or

(2) a member of the Indiana state teachers' retirement fund who is covered by the 1996 account and is an employee of a school corporation or other institution;

retires or dies in service under conditions which entitle a beneficiary or spouse to survivor benefits, the political subdivision's, school corporation's, or other institution's account in the retirement allowance account shall be charged with an amount equal to the actuarial reserve of the member's retirement pension or the survivor benefit. The amount charged shall be credited to the retirement allowance account, and the retirement pension or survivor benefit shall be paid from this account.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.6; P.L.54-1993, SEC.8.

IC 5-10.2-2-8

Payment and computation of benefits for combined creditable service

Sec. 8. (a) For a member who retires after June 30, 2008, with service in more than one (1) retirement fund, the member may choose at the time the member files an application for retirement

benefits whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. The fund that the member chooses shall pay the retirement benefits to the member. The pension shall be computed and vested status shall be determined on the basis of combined creditable service. The annuity, if any, shall be computed on the basis of amounts credited to the member in annuity savings accounts in all funds minus any amount withdrawn by the member under IC 5-10.2-3-6.5. The funds in which the employee was a member shall pay to the fund responsible for payment of benefits:

(1) the amount credited to the member in the annuity savings account; and

(2) the proportionate actuarial cost of the member's pension.

(b) A member of the Indiana state teachers' retirement fund who has served as a member of the general assembly and who retires after June 30, 1980, may choose at the member's retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund. If the member chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided in IC 5-10.2-4, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of the member's pension.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.2; P.L.35-1985, SEC.7; P.L.115-2008, SEC.5.

IC 5-10.2-2-9
Actuarial investigation and valuation

Sec. 9. (a) The funds may employ a common actuary or actuarial service.

(b) At least once in every five (5) years and in every year in which this article is amended so that benefits are changed, the actuary shall make a separate actuarial investigation for each fund of the mortality, service, and compensation experience of the members and their beneficiaries and shall make a valuation of the assets and liabilities of the fund, using the "entry-age normal cost" method.

(c) The actuarial investigation must include in the determination of the liability and the rates of contribution the amount necessary to fully fund past and estimated future cost of living increases for members of the public employees' retirement fund amortized over a term determined by the board that does not exceed thirty (30) years.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.54-1993, SEC.9; P.L.246-2005, SEC.48; P.L.111-2015, SEC.2.

IC 5-10.2-2-10
Mortality tables

Sec. 10. Based on the actuarial investigation and valuation in

section 9 of this chapter, the board shall adopt mortality, service, and such other tables as the board considers necessary for the implementation of this article. The board shall adopt a single mortality table for both men and women that reasonably reflects each fund's mortality experience.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.55-1989, SEC.11; P.L.35-2012, SEC.35.

IC 5-10.2-2-11

Contribution rate determination; contribution rate groups; supplemental contributions; contributions and contribution rates report

Sec. 11. (a) Based on the actuarial investigation and valuation in section 9 of this chapter, the board shall determine:

(1) the normal contribution for each contribution rate group, which is the amount necessary to fund the pension portion of the retirement benefit;

(2) the rate of normal contribution;

(3) the unfunded accrued liability of the public employees' retirement fund, the pre-1996 account, and the 1996 account, which is the excess of total accrued liability over the fund's or account's total assets, respectively; and

(4) the period, which must be thirty (30) years or a shorter period, necessary to amortize the unfunded accrued liability determined in subdivision (3).

(b) Based on the information in subsection (a), the board may determine, in its sole discretion, contributions and contribution rates for individual employers or for a group of employers.

(c) The board shall require an employer to make a supplemental contribution to the fund in addition to the amounts described in subsection (a)(3) and (a)(4) in an amount necessary to pay the employer's share of the fund's actuarial unfunded liability that other employers would otherwise be required to pay because the employer's employees are becoming members of the plan under IC 5-10.3-12 instead of the fund. The amount necessary to pay an employer's contribution under this subsection in full must be made in a lump sum or in a series of payments determined by the board.

(d) The board's determinations under subsection (a):

(1) are subject to sections 1.5 and 11.5 of this chapter; and

(2) may not include an amount for a retired member for whom the employer may not make contributions during the member's period of reemployment as provided under IC 5-10.2-4-8(e).

(e) If the board determines contributions and contribution rates for one (1) or more employers under this section differ from the contributions and contribution rates determined by the actuarial investigation under section 9 of this chapter, the board shall notify the interim study committee for pension management oversight of this fact by reporting the board's action to the legislative services

agency in an electronic format under IC 5-14-6.
As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.55-1989, SEC.12; P.L.54-1993, SEC.10; P.L.246-2005, SEC.49; P.L.72-2007, SEC.1; P.L.1-2009, SEC.16; P.L.182-2009(ss), SEC.70; P.L.23-2011, SEC.10; P.L.35-2012, SEC.36; P.L.195-2013, SEC.2; P.L.241-2015, SEC.4.

IC 5-10.2-2-11.5
Employer contribution rates for Vincennes University

Sec. 11.5. (a) As used in this section, "Vincennes University" refers to the state educational institution established under IC 21-25-2.

(b) Notwithstanding section 11 of this chapter or any other law, Vincennes University is not required to make employer contributions to the Indiana state teachers' retirement fund at any time for the employment during the period July 1, 2001, through June 30, 2009, of Vincennes University's employees who are members of the Indiana state teachers' retirement fund and are covered by the Indiana state teachers' retirement fund pre-1996 account.

(c) This subsection applies to employer contributions made by Vincennes University to the Indiana state teachers' retirement fund on account of the employment after June 30, 2009, of Vincennes University's employees who are members of the Indiana state teachers' retirement fund and are covered by the Indiana state teachers' retirement fund pre-1996 account. Notwithstanding section 11 of this chapter or any other law, Vincennes University is required to pay only the following employer contributions to the Indiana state teachers' retirement fund for those employees for the specified years:

(1) For the year beginning July 1, 2009, fifteen percent (15%) of the employer contribution otherwise determined for Vincennes University.

(2) For the year beginning July 1, 2010, twenty percent (20%) of the employer contribution otherwise determined for Vincennes University.

(3) For the year beginning July 1, 2011, twenty-five percent (25%) of the employer contribution otherwise determined for Vincennes University.

(4) For the year beginning July 1, 2012, thirty-five percent (35%) of the employer contribution otherwise determined for Vincennes University.

(5) For the year beginning July 1, 2013, fifty percent (50%) of the employer contribution otherwise determined for Vincennes University.

(6) For the year beginning July 1, 2014, seventy-five percent (75%) of the employer contribution otherwise determined for Vincennes University.

(7) For each year beginning after June 30, 2015, one hundred percent (100%) of the employer contribution otherwise

determined for Vincennes University.

Payments made according to this subsection shall be considered payment in full of employer contributions.

As added by P.L.182-2009(ss), SEC.71.

IC 5-10.2-2-12

State appropriation

Sec. 12. (a) The general assembly shall appropriate biennially for each fund covered by this article that satisfies the conditions of section 1.5 of this chapter the sum of the following:

(1) the state's normal contribution for its employees to the public employees' retirement fund, the pre-1996 account, and the 1996 account, as determined in section 11 of this chapter;

(2) at least the anticipated increase in the state's unfunded accrued liability in each fund, other than the pre-1996 account, as estimated by the board under the procedures specified in section 11 of this chapter; and

(3) the state's obligation as estimated by the board for disability benefits and benefits payable under retirement fund laws in effect before April 1, 1955.

The request for this sum for each fund shall be submitted to the budget agency as one (1) item for each fund. The board shall submit to the agency its actuarial investigation and valuation and any other actuarial information to support the request.

(b) The biennial appropriation specified in subsection (a) of this section shall be paid annually to each fund covered by this article that satisfies the conditions of section 1.5 of this chapter in equal installments in July of each year of the biennium.

(c) The biennial appropriation under this section shall be deposited in the trust of each fund and used only as provided in section 1.5 of this chapter.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.54-1993, SEC.11; P.L.119-2000, SEC.3; P.L.35-2012, SEC.37.

IC 5-10.2-2-12.5

Submission of contributions, records, and reports electronically

Sec. 12.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2009, by an employer.

(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

(c) Except as provided in subsection (e), an employer shall submit through the use of electronic funds transfer:

(1) the employer contributions determined under sections 11 and 11.5 of this chapter; and

(2) contributions paid by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11.

(d) Except as provided in subsection (e), an employer shall submit in a uniform format through a secure connection over the Internet or

through other electronic means specified by the board the reports and records described in:

(1) IC 5-10.3-7-12.5, for the public employees' retirement fund; or

(2) IC 5-10.4-7-6, for the Indiana state teachers' retirement fund.

(e) An employer that is unable to comply with either subsection (c) or (d), or both, may request that the board grant a waiver of the requirement of subsection (c) or (d), or both. The employer must:

(1) state the reason for requesting the waiver;

(2) provide a date, not to exceed two (2) years from the date the employer is first subject to either the electronic funds transfer requirement or the electronic reporting requirement of this section, by which the employer agrees to comply with the requirement of subsection (c) or (d), or both; and

(3) sign and verify the waiver form.

(f) The board may:

(1) grant the employer's request for a waiver; and

(2) specify the date by which the employer is required to comply with the electronic funds transfer requirement or the electronic reporting requirement, or both.

(g) The board shall establish a waiver form consistent with this section.

(h) The board may establish or amend its rules or policies as necessary to administer this section.

As added by P.L.165-2009, SEC.4. Amended by P.L.182-2009(ss), SEC.72.

IC 5-10.2-2-13

Custodial agreements for securities; servicing of mortgages; securities lending program

Sec. 13. (a) The board may enter into a custodial agreement with a trust company or state or national bank to provide for the custody and servicing of the securities and other investments under the control of the board.

(b) The agreement may contain such terms as the board considers desirable including:

(1) the custody, safeguarding or indemnity, servicing, handling and delivery of the securities and other investments; and

(2) the payment of taxes, fees of the custodian, and other expenses and payments required in connection with the securities and investments.

(c) Any person, firm, limited liability company, or corporation authorized to service mortgage loans guaranteed by the federal housing administration may be authorized by the board to service a mortgage loan held by the fund.

(d) The board may authorize its custodian to enter into a securities lending program agreement, under which the securities held by each fund may be loaned in order to provide revenue to the fund. Such an

agreement must require that collateral be pledged in excess of the total market value of the loaned securities.
As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.3; P.L.8-1993, SEC.55; P.L.35-2012, SEC.38.

IC 5-10.2-2-14
Transfer of benefits to financial institutions; rollover

Sec. 14. (a) Upon written authorization of a retired member or a retired member's survivor or beneficiary, each fund may satisfy a claim for benefits by directly depositing the amount of the benefits payable to the retired member's or the survivor's or beneficiary's account in any state or federal chartered financial institution (as defined in IC 28-1-1-3(1)).

(b) All forms and accounting procedures for implementing subsection (a) must be approved by the state board of accounts, and any contract or agreement between a fund and a state or federal chartered financial institution (as defined in IC 28-1-1-3(1)) must be approved by the attorney general and the governor.

(c) Notwithstanding any other provision of the retirement fund law, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), each retirement fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.
As added by Acts 1979, P.L.35, SEC.1. Amended by P.L.10-1993, SEC.3; P.L.42-1993, SEC.2; P.L.1-1994, SEC.18.

IC 5-10.2-2-15
Repealed

(As added by P.L.55-1993, SEC.1. Amended by P.L.5-1997, SEC.2. Repealed by P.L.1-2002, SEC.172.)

IC 5-10.2-2-16
Repealed

(As added by P.L.246-2001, SEC.2. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.2-2-17
Repealed

(As added by P.L.246-2001, SEC.3. Amended by P.L.2-2006, SEC.22. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.2-2-18
Expired

(As added by P.L.224-2003, SEC.186. Amended by P.L.4-2005, SEC.24. Expired 7-1-2013 by P.L.4-2005, SEC.24.)

IC 5-10.2-2-19
Repealed

(As added by P.L.107-2010, SEC.1. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.2-2-20
Withdrawal of miscellaneous participating entity

Sec. 20. (a) As used in this section:

(1) "fund" means the public employees' retirement fund; and

(2) "withdrawing participating entity" means a miscellaneous participating entity that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a miscellaneous participating entity may do the following:

(1) Stop its participation in the fund and withdraw all of the miscellaneous participating entity's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the miscellaneous participating entity's participation in the fund by:

(A) selling all of the miscellaneous participating entity's assets; or

(B) ceasing to exist.

(c) The withdrawal of a miscellaneous participating entity's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all the following have occurred:

(1) The withdrawing participating entity has provided written notice of the following to the board:

(A) The withdrawing participating entity's intent to cease participation.

(B) The names of the withdrawing participating entity's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing participating entity that sells all of the withdrawing participating entity's assets or that ceases to exist; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing participating entities.

(3) The withdrawing participating entity takes all actions required in subsections (d) through (g).

(d) With respect to retired members who have creditable service with the withdrawing participating entity, the withdrawing

participating entity must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years.

(e) A member who is an employee of the miscellaneous participating entity as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing participating entity must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing participating entity and who are not employees as of the date of the notice under subsection (c), the withdrawing participating entity must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing participating entity. The contribution by the withdrawing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years.

As added by P.L.241-2015, SEC.5.

IC 5-10.2-2-21

Freeze in participation by miscellaneous participating entity

Sec. 21. (a) This section applies to a miscellaneous participating entity that takes any of the following actions on or after December 31, 2010:

(1) The miscellaneous participating entity determines a date:

(A) before which newly hired employees of a departmental, occupational, or other definable classification of employees are required or allowed to participate in the fund; and

(B) on or after which newly hired employees of the departmental, occupational, or other definable classification of employees are not allowed to participate in the fund.

(2) The miscellaneous participating entity determines a date:

(A) before which newly hired employees of a departmental, occupational, or other definable classification of employees are required to participate in the fund; and

(B) on or after which newly hired employees of the departmental, occupational, or other definable classification of employees are allowed to choose to participate in a retirement plan other than the fund.

(3) The miscellaneous participating entity modifies its employee classification scheme as of a specified date in such a way that there is at least one (1) position that:

(A) is covered by the fund before the specified date; and

(B) is not covered by the fund after the specified date.

(b) The following definitions apply throughout this section:

(1) "Freeze" or "freeze participation in the fund" means to take an action described in subsection (a).

(2) "Freezing participating entity" means a miscellaneous participating entity that freezes its participation in the fund.

(3) "Fund" means the public employees' retirement fund.

(c) A miscellaneous participating entity that freezes its participation in the fund after December 31, 2010, shall do the following:

(1) Provide written notice of the following to the board:

(A) The action that was taken under subsection (a) by the freezing participating entity.

(B) The effective date of the action taken under subsection (a).

(C) The employee classifications that:

(i) are covered by the fund before the effective date of the freeze; and

(ii) will not be covered by the fund on or after the effective date of the freeze.

(D) The names of the freezing participating entity's current employees and former employees as of the date on which the notice is provided.

(2) Comply with subsections (d) through (f).

(d) With respect to retired members who have creditable service with the freezing participating entity, the freezing participating entity shall contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members attributable to service with the freezing participating entity. The board shall collaborate with the freezing participating entity by sharing the actuarial method and report used in determining the amounts under this subsection and under subsections (e) and (f). The contribution by the freezing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years, as determined by the freezing participating entity.

(e) With respect to members of the fund who have creditable service with the freezing participating entity and who are not employees as of the effective date on which the miscellaneous participating entity freezes its participation in the fund, the freezing

participating entity shall contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the freezing participating entity. The board shall collaborate with the freezing participating entity by sharing the actuarial method and report. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years, as determined by the freezing participating entity.

(f) With respect to members of the fund who are employees of the freezing participating entity on the date of the notice under subsection (c), the freezing participating entity shall continue to contribute the amounts required under section 11 of this chapter for those employees for the duration of their employment with the freezing participating entity. In addition, the freezing participating entity shall contribute to the fund the amount the board determines is necessary to fund fully the benefits attributable to service with the freezing participating entity that are vested or will become vested and are not expected to be fully funded through the continuing contributions under section 11 of this chapter during the duration of the members' employment with the freezing participating entity. The board shall collaborate with the freezing participating entity by sharing the actuarial method and report. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years, as determined by the freezing participating entity.

(g) The Indiana public retirement system may do any of the following to determine a miscellaneous participating entity's compliance with this section:

(1) Require reports from the miscellaneous participating entity.

(2) Audit the miscellaneous participating entity.

(h) A miscellaneous participating entity must begin payments required under this section not later than July 1, 2016, or a date determined by the board. The board may charge interest on any amount that remains unpaid after the payment date determined by the board.

As added by P.L.241-2015, SEC.6. Amended by P.L.193-2016, SEC.7.

IC 5-10.2-2-22

Retirement plans offered by miscellaneous participating entity that withdraws from or freezes participation in public employees' retirement fund

Sec. 22. (a) This section applies to a miscellaneous participating entity that:

(1) either:

(A) withdraws from the public employees' retirement fund under section 20 of this chapter; or

(B) freezes its participation in the public employees'

retirement fund as described in section 21 of this chapter; and

(2) chooses thereafter to offer a retirement plan to its employees.

(b) Except as provided in subsection (c), a miscellaneous participating entity to which this section applies may offer a retirement plan to its employees only by participating in the defined contribution plan under IC 5-10.3-12.

(c) If, on July 1, 2015, a miscellaneous participating entity to which this section applies has established or is otherwise participating in a defined contribution plan other than the defined contribution plan under IC 5-10.3-12, the miscellaneous participating entity may continue to participate in the defined contribution plan in which the miscellaneous participating entity participated on July 1, 2015.

As added by P.L.241-2015, SEC.7.

IC 5-10.2-2-23

Election or discretionary action by branch of state government

Sec. 23. If any provision of this article, IC 5-10.3, or IC 5-10.4 allows the state as an employer to make an election or take discretionary action, the election or discretionary action shall be taken by the following entities, as applicable:

(1) The governor, if the election or discretionary action involves an elected officer, appointed officer, or employee of the executive branch.

(2) The legislative council, if the election or discretionary action involves a senator, a representative, or an employee of the legislative branch.

(3) The chief justice of the supreme court, if the election or discretionary action involves:

(A) a justice;

(B) a judge;

(C) a prosecuting attorney;

(D) an officer paid by the state under IC 33-23-5-10, IC 33-38-5-7, or IC 33-39-6-2; or

(E) an employee of the judicial branch of state government.

As added by P.L.241-2015, SEC.8.

IC 5-10.2-2-24

Transition from guaranteed program to stable value fund program

Sec. 24. (a) After December 31, 2016, a member may not make contributions to the guaranteed program.

(b) For those members who as of December 31, 2016, have designated the guaranteed program as the investment program to receive all or part of the contributions to the member's annuity savings account, the board shall designate as a substitute one (1) or more alternative investment programs that are to receive those

contributions after December 31, 2016. The designation by the board of an alternative investment program to receive a member's contributions under this subsection remains in effect until the member makes another allowable designation.

(c) After December 31, 2016, if a member has allocated all or part of the amount credited to the member to the guaranteed program, the board shall exchange the amount allocated to the guaranteed program by the member for an equivalent market value allocation to the stable value fund.

(d) The board shall eliminate the guaranteed program on January 1, 2017.

(e) After December 31, 2016, a member may allocate contributions and money invested in the alternative investment program to the stable value fund.

As added by P.L.193-2016, SEC.8.

IC 5-10.2-3

Chapter 3. Creditable Service; Contributions; Withdrawals; Death Settlements

IC 5-10.2-3-1

Creditable service

Sec. 1. (a) Except as provided in IC 5-10.2-4-8(e), each member's creditable service, for the purpose of computing benefits under this article, consists of all service in a position covered by a retirement fund plus all other service for which the retirement fund law gives credit.

(b) No member may be required to pay any contributions for service before the member is covered by this article as a condition precedent to receiving benefits under this article. However, the member must furnish to the board proof of the service in a position covered by the fund under which the member claims service.

(c) A member who has past service as an employee of the state or a participating political subdivision in a position which was not covered by the retirement fund is entitled to credit for this service if the position becomes covered before January 1, 1985, by the Indiana state teachers' retirement fund, the public employees' retirement fund, or the retirement fund for the state board of accounts and if the member submits to the board proof of the service in a position covered by the fund in which the member claims service.

(d) A member who has past service in a position that was not covered by the retirement fund is entitled to credit for this service if the position becomes covered after December 31, 1984, by a fund while the member holds that position or another position with the same employer and if the member submits to the board proof of the service in a position covered by the fund in which the member claims service.

(e) The proof required by this section must:

(1) be submitted in a form approved by the director;

(2) contain dates and nature of service and other information required by the director; and

(3) be certified by the governing body or its agent.

(f) A member who is a state employee is entitled to service credit for the time the member is receiving disability benefits under a disability plan established under IC 5-10-8-7.

(g) If a participant in the legislators' defined benefit plan does not become entitled to a benefit from that plan, the board shall include the participant's service in the general assembly in the determination of eligibility for, and computation of, benefits under PERF or TRF at the time the participant would be eligible to receive benefits under PERF or TRF. After benefits commence under PERF or TRF with the general assembly service included, the participant's general assembly service may not be used for the computation of benefits under IC 2-3.5-4.

(h) A member may receive service credit for all or a part of the member's creditable service in another governmental retirement plan under IC 5-10.3-7-4.5 and IC 5-10.4-4-4. A member may not receive credit for service for which the member receives service credit in another retirement plan maintained by a state, a political subdivision, or an instrumentality of the state for service that PERF or TRF would otherwise give credit.

(i) A member may use all or a part of the member's creditable service under PERF or TRF in another governmental retirement plan under the terms of the other plan. Creditable service used under the other governmental retirement plan may not be used in PERF or TRF.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.28-1984, SEC.1; P.L.5-1990, SEC.5; P.L.43-1991, SEC.1; P.L.22-1998, SEC.3; P.L.2-2006, SEC.23; P.L.72-2007, SEC.2; P.L.1-2009, SEC.17; P.L.35-2012, SEC.39; P.L.195-2013, SEC.3.

IC 5-10.2-3-1.2

Additional service credit purchase

Sec. 1.2. (a) A member who has earned at least ten (10) years of service in a position covered by PERF, TRF, or a combination of the two (2) funds may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(C) The number of years of service credit the member intends to purchase.

(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 or 6.5 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

As added by P.L.61-2002, SEC.3. Amended by P.L.115-2008, SEC.6.

IC 5-10.2-3-2

Members' contributions; employers picking up

Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:

(1) the basic salary earned by and paid to the member; plus

(2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction

agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

(2) a retired member may not make contributions during a period of reemployment as provided in IC 5-10.2-4-8(e);

each member shall, as a condition of employment, contribute to the fund three percent (3%) of the member's compensation.

(c) Except as provided in IC 5-10.2-4-8(e), a member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under subsection (b). The total amount of contributions that may be made to a member's annuity savings account with respect to a payroll period under this subsection may not exceed ten percent (10%) of the member's compensation for that payroll period. The contributions made under this subsection may be picked-up and paid by an employer as provided in subsection (d).

(d) In compliance with rules adopted by the board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. The board shall by rule establish the procedural requirements for employers to carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.8; P.L.55-1989, SEC.13; P.L.53-2000, SEC.1; P.L.246-2001, SEC.4; P.L.72-2007, SEC.3; P.L.1-2009, SEC.18; P.L.35-2012, SEC.40; P.L.195-2013, SEC.4.

IC 5-10.2-3-3

Deduction of contributions

Sec. 3. (a) This section:

(1) does not apply to a retired member who begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement, except as provided in subdivision (2); or

(2) applies to the entire period of reemployment for a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position.

(b) Members' contributions, other than members' contributions paid on behalf of a member, shall be deducted from their compensation even if the net compensation to the member is less

than the statutory minimum.

(c) The payment of a member's compensation minus the deduction constitutes a complete discharge of all claims for services rendered by the member during the period covered by the payment, except the claim for benefits under this article.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.41-1983, SEC.5; P.L.35-1985, SEC.9; P.L.72-2007, SEC.4; P.L.76-2008, SEC.1; P.L.195-2013, SEC.5.

IC 5-10.2-3-4
Repealed

(Repealed by P.L.46-1988, SEC.14.)

IC 5-10.2-3-5
Suspension of membership

Sec. 5. (a) A member who is not eligible for retirement or disability retirement may suspend the member's membership if the member terminates employment.

(b) After five (5) continuous years in which the member performs no service, the member's membership shall be automatically suspended by the board unless the member has vested status.

(c) On resuming service the member may claim as creditable service the period of employment before the suspension of membership, but only to the extent that the same period of employment is not being used by another governmental plan for purposes of the member's benefit in the other governmental plan.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.22-1998, SEC.4; P.L.195-1999, SEC.11; P.L.165-2009, SEC.5; P.L.193-2016, SEC.9.

IC 5-10.2-3-6
Withdrawal of contributions; treatment of suspended member's account

Sec. 6. (a) After a member is suspended under section 5 of this chapter, the member is entitled to withdraw in a lump sum the amount of the member's contributions plus interest credited to the member.

(b) Except as provided in subsection (d), the suspended member's money is to remain in the stable value fund or the alternative investment program as the money was allocated on the day the member was suspended until:

(1) the suspended member changes the allocation of the money among the stable value fund and the alternative investment program;

(2) the suspended member withdraws the money from the fund; or

(3) the fund is otherwise required to distribute the money.

Any earnings or losses on the money shall be credited to the member

in the same manner as if the member's membership was not suspended.

(c) The board may charge a reasonable annual administrative fee against the money held in the annuity savings account of a suspended member.

(d) If:

(1) a member is suspended under section 5 of this chapter;

(2) the member has not attained vested status in the fund; and

(3) the value of the member's annuity savings account is not more than one thousand dollars ($1,000);

the board shall pay the member's annuity savings account in a lump sum.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.25-1994, SEC.3; P.L.2-1995, SEC.15; P.L.195-1999, SEC.12; P.L.193-2016, SEC.10.

IC 5-10.2-3-6.2

Withdrawal of contributions to purchase creditable service in another governmental retirement plan

Sec. 6.2. (a) This section applies to a member of the Indiana state teachers' retirement fund.

(b) A member who:

(1) has attained vested status in the fund;

(2) has terminated employment;

(3) has not begun receiving benefits; and

(4) is transferring creditable service earned under TRF to another governmental retirement plan under section 1(i) of this chapter;

may suspend the member's membership and withdraw the member's annuity savings account to purchase creditable service in the other governmental retirement plan.

As added by P.L.61-2002, SEC.4. Amended by P.L.115-2008, SEC.7.

IC 5-10.2-3-6.3

Suspension of membership; transfer of amount in annuity savings account to purchase service credit in sheriff's pension trust

Sec. 6.3. (a) Notwithstanding any other provision in this article, IC 5-10.3, or IC 5-10.4, a member who:

(1) has not attained vested status in the fund;

(2) is not an active participant in the fund; and

(3) is an active participant in a retirement plan established under IC 36-8-10-12;

may suspend membership in the fund and transfer the entire amount in the member's annuity savings account in accordance with the member's purchase of service credit under IC 36-8-10-12.5.

(b) A member who makes a transfer under IC 36-8-10-12.5 from the member's annuity savings account shall provide notice of the transfer on a form provided by the board.

(c) A transfer under IC 36-8-10-12.5 is irrevocable.

(d) A member who makes a transfer under this section waives all credit for service in the fund.

As added by P.L.98-2009, SEC.1.

IC 5-10.2-3-6.5

Withdrawal of annuity savings account before retirement

Sec. 6.5. (a) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account:

(1) The member has attained vested status in the fund.

(2) The member has terminated employment with the applicable fund and is not currently employed in a covered position.

(3) The member has not performed any service in a position covered by the fund for at least thirty (30) days after the date the member terminates employment.

(4) The member makes the election described in this subsection:

(A) after December 31, 2008, if the member is a member of the public employees' retirement fund; or

(B) after June 30, 2009, if the member is a member of the Indiana state teachers' retirement fund.

(5) Except as provided in subsection (b), the member is not eligible for:

(A) before July 1, 2011, a reduced or unreduced retirement; or

(B) after June 30, 2011, an unreduced retirement;

under IC 5-10.2-4 on the date the fund receives notice of the election described in this subsection.

(b) The requirement described in subsection (a)(5) does not apply to a member of the public employees' retirement fund who:

(1) was eligible for a reduced or unreduced retirement; and

(2) received a distribution under this section;

after December 31, 2008, and before June 30, 2010.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (a) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive and applies for a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter;

and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

As added by P.L.115-2008, SEC.8. Amended by P.L.115-2009, SEC.1; P.L.99-2010, SEC.2; P.L.13-2011, SEC.4.

IC 5-10.2-3-7
Repealed

(Repealed by P.L.55-1989, SEC.67.)

IC 5-10.2-3-7.1
Repealed

(Repealed by P.L.4-1990, SEC.22.)

IC 5-10.2-3-7.2
Repealed

(Repealed by P.L.55-1989, SEC.67.)

IC 5-10.2-3-7.5
Survivor benefits; forfeiture

Sec. 7.5. (a) This subsection applies to members who die after March 31, 1990, and before January 1, 2007. A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

(b) This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least ten (10) years but not more than fourteen (14)

years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or

(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

(c) If a member described in subsection (a) or (b) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly pension benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (f) and (h).

(d) If a member described in subsection (a) or (b) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly pension benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly pension benefit to be paid to each dependent. Monthly pension benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly pension benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (f) and (h).

(e) This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member. Except as provided in subsections (f) and (i), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (c) or (d) or section 7.6 of this

chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (c) or (d) or section 7.6 of this chapter to the extent of the lump sum payment.

(f) If a member is survived by a designated beneficiary, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account unless the member has allocated the shares among the designated beneficiaries in a manner authorized under IC 5-10.3-8-15 or IC 5-10.4-4-10, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (c) or (d) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

(g) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (c) or (d) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (f);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(h) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(i) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (c) or (d) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated

beneficiary.

(j) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(k) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

As added by P.L.55-1989, SEC.14. Amended by P.L.4-1990, SEC.5; P.L.43-1991, SEC.2; P.L.35-1996, SEC.1; P.L.22-1998, SEC.5; P.L.118-2000, SEC.2; P.L.190-2003, SEC.1; P.L.99-2007, SEC.15; P.L.113-2009, SEC.1; P.L.115-2009, SEC.2; P.L.1-2010, SEC.18; P.L.99-2010, SEC.3.

IC 5-10.2-3-7.6

Survivor benefits of member with 30 years creditable service

Sec. 7.6. (a) This section applies to the surviving spouse and the surviving dependent of a member who:

(1) dies after June 30, 1996;

(2) has at least thirty (30) years of creditable service; and

(3) dies in service in a position covered by the fund.

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the board may determine that the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this section are subject to section 7.5(f) and 7.5(h) of this chapter.

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the board may determine that the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty-five (55) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) on the date the dependent becomes eighteen (18) years of age, the monthly benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this section are subject to section 7.5(f) and 7.5(h) of this chapter.
As added by P.L.35-1996, SEC.2. Amended by P.L.99-2007, SEC.16; P.L.113-2009, SEC.2.

IC 5-10.2-3-8
Survivor benefits; death while not in service

Sec. 8. (a) If a member dies:

(1) after March 31, 1990;

(2) while not in service in a position covered by the retirement fund; and

(3) while eligible to receive retirement or disability benefits under IC 5-10.2-4-6, but before applying for those benefits;

the member's surviving spouse or surviving dependent is entitled to survivor benefits in the same amount and under the same conditions as provided in section 7.5 of this chapter.

(b) If a member dies while not in service and while not eligible for retirement or disability retirement, the sum payable upon suspension of membership shall be paid to the member's surviving designated beneficiary or to the member's estate if no beneficiary is designated.

(c) The sums specified in subsections (a) and (b) shall be forfeited and credited to the member's retirement fund if no beneficiary or other person entitled to the money under subsection (a) or (b) claims it within three (3) years after the member's death. However, the board may honor a claim made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the member died after August 31, 1992; and

(2) either:

(A) the delay in making the claim was reasonable; or

(B) other extenuating circumstances justify the award of the benefit to the claimant.

(d) Survivor benefits payable under this section shall be reduced by any disability benefits paid to the member under the same conditions as provided in section 7.5 of this chapter.
As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.11; P.L.55-1989, SEC.15; P.L.4-1990, SEC.6; P.L.56-1993,

SEC.1; P.L.22-1993, SEC.2; P.L.119-2006, SEC.1.

IC 5-10.2-3-9
Survivor benefits; death after July 1, 1991, while eligible for retirement benefits

Sec. 9. (a) This section applies if the following conditions are met. A member dies:

(1) after July 1, 1991; and

(2) while receiving or while eligible to receive retirement benefits under IC 5-10.2-4-1 from the fund.

(b) As used in this section, "minimum amount" means the entire amount credited to the member's annuity savings account at the time of:

(1) retirement; or

(2) death while entitled to retirement benefits;

minus all benefits paid to the member and the member's survivors.

(c) If the member dies without a survivor entitled to benefits and the member has not received payments equal to or more than the minimum amount, the difference shall be paid in a lump sum to the member's designated beneficiary or beneficiaries in equal shares. If the member dies without a surviving designated beneficiary, the difference shall be paid in a lump sum to the member's estate.

(d) If the member dies with a survivor entitled to benefits, no payment under this section shall be calculated until after all survivors die. If, at the time of death of the last survivor, the member and all survivors have not received payments equal to or more than the minimum amount, the difference shall be paid in a lump sum to the survivor's estate.

As added by P.L.43-1991, SEC.3.

IC 5-10.2-3-10
Rollover distributions

Sec. 10. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of any active member, a rollover distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's annuity savings account.

(c) A member may direct the investment of the member's rollover account into the stable value fund or any alternative investment option that the board may make available to the member's rollover account under IC 5-10.2-2-3.

(d) A member may withdraw the member's rollover account from the fund in a lump sum at any time before retirement. At retirement, the member may withdraw the member's rollover account in accordance with the retirement options that are available for the member's annuity savings account, including the deferral of a withdrawal.

As added by P.L.61-2002, SEC.5. Amended by P.L.193-2016, SEC.11.

IC 5-10.2-4

Chapter 4. Retirement and Disability Benefits

IC 5-10.2-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made by P.L.45-1988 to STEP TWO of section 4(b) of this chapter (formerly section 4(a) of this chapter):

(A) apply only to retirement benefits paid after March 3, 1988; and

(B) do not require retroactive increases in any benefits paid before March 3, 1988.

(2) The amendments made to section 3 of this chapter by P.L.95-2004 apply only to members of the Indiana state teachers' retirement fund who retire after May 31, 2004.

(3) The amendments made to section 8 of this chapter by P.L.62-2005 apply to:

(A) fiscal years that begin after June 30, 2005, for teachers' retirement fund members; and

(B) calendar years that begin after December 31, 2005, for public employees' retirement fund members.

(4) The amendments made to section 6 of this chapter by P.L.124-2008 apply to disability retirement benefits payable by the Indiana state teachers' retirement fund and the public employees' retirement fund after December 31, 2007.

As added by P.L.220-2011, SEC.73.

IC 5-10.2-4-0.3

Consideration of certain claims for benefits

Sec. 0.3. The board may consider a claim for benefits under section 6(a) of this chapter, as amended by P.L.22-1998, even if the disability of the member making the claim arose from events occurring after March 31, 1994, and before April 2, 1998. A benefit claim approved by the board under this section is payable after the later of April 1, 1998, or the date of the member's claim.

As added by P.L.220-2011, SEC.74.

IC 5-10.2-4-1

Eligibility for normal and early retirement

Sec. 1. (a) This subsection applies to:

(1) members of the public employees' retirement fund who retire before July 1, 1995; and

(2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to members of the public employees' retirement fund who retire after June 30, 1995, except as provided in section 1.7 of this chapter. A member is eligible for normal retirement if:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(c) A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

(d) A member who is eligible for normal or early retirement is entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

(1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.

(2) The date must be after the cessation of the member's service and be the first day of a month.

(3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.5; P.L.48-1985, SEC.1; P.L.342-1989(ss), SEC.2; P.L.4-1990, SEC.7; P.L.10-1995, SEC.4; P.L.73-2002, SEC.2.

IC 5-10.2-4-1.2
Repealed

(As added by P.L.47-2003, SEC.1. Amended by P.L.115-2009, SEC.3. Repealed by P.L.127-2015, SEC.1.)

IC 5-10.2-4-1.3
Application procedure

Sec. 1.3. (a) A member who files an application for retirement benefits must provide the following information on the application form:

(1) The retirement date chosen by the member.

(2) If the member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, whether the member chooses:

(A) an annuity purchased from the amount credited to the member in the annuity savings account;

(B) a total or partial distribution from the annuity savings account under section 2(b) of this chapter; or

(C) a deferral of the payment of any benefits from the annuity savings account under section 2(c) of this chapter.

(3) The name of the beneficiary or beneficiaries designated by the member with respect to the pension portion of the member's retirement benefit.

(4) The name of the beneficiary or beneficiaries designated by the member with respect to the annuity portion of the member's retirement benefit, unless the member chooses total distribution under section 2 of this chapter.

(b) A member's designation of beneficiaries in the application for retirement benefits supersedes any previous designation of beneficiaries by the member.

(c) A member must indicate the name, address, date of birth, and Social Security number of each designated beneficiary and provide proof of birth of each designated beneficiary.

(d) The board shall adopt a form for the application for retirement benefits that meets the requirements of this section.

As added by P.L.195-1999, SEC.13. Amended by P.L.115-2008, SEC.9; P.L.35-2012, SEC.41.

IC 5-10.2-4-1.4

Direct deposit benefit notice

Sec. 1.4. (a) This section applies to a member or a beneficiary of the fund who receives a monthly benefit by direct deposit.

(b) The fund shall furnish to the member or beneficiary:

(1) before each change in the amount of the member's or beneficiary's benefit; or

(2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

As added by P.L.47-2003, SEC.2. Amended by P.L.115-2009, SEC.4.

IC 5-10.2-4-1.5

Estimated benefit payments

Sec. 1.5. (a) A fund may calculate and pay an estimated retirement benefit of the pension portion to a member if:

(1) the member has applied for a retirement benefit and has chosen a retirement date on which the retirement benefit is to begin;

(2) the member's membership records are incomplete or have not been certified; and

(3) the member's membership records that have been submitted

to the fund establish that the member is entitled to a retirement benefit.

(b) After June 30, 2009, if a fund calculates and pays an estimated benefit under this section, the estimated benefit must be at least eighty-five percent (85%) of the pension portion of the benefit determined under the fund's records on service and compensation information.

(c) If an estimated benefit is paid to a member under this section, the fund shall, after all membership records have been submitted to the fund and certified, determine the actual retirement benefit to which the member is entitled. After determining the actual retirement benefit to which the member is entitled, the fund shall temporarily adjust the actual retirement benefit that is paid to the member to reconcile any underpayment or overpayment of benefits to the member that resulted from the payment of estimated benefits. The fund may make the temporary adjustment to the member's actual retirement benefit over a reasonable time, as determined by the board.

As added by P.L.195-1999, SEC.14. Amended by P.L.115-2009, SEC.5.

IC 5-10.2-4-1.7

Elected county official eligibility for normal retirement

Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as an elected county official; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(b)(3)) and meets the requirements of section 1 of this chapter.

As added by P.L.73-2002, SEC.3. Amended by P.L.88-2005, SEC.2.

IC 5-10.2-4-1.9
Eligibility of certain state officers for normal retirement

Sec. 1.9. (a) This section applies only to a member of the public employees' retirement fund:

(1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) whose term of office as a state officer commenced after the election held on November 5, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

(1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in IC 5-10.2-1-8(a)) and meets the requirements of section 1 of this chapter.

As added by P.L.115-2008, SEC.10.

IC 5-10.2-4-2
Annuity or distribution benefits; choice of plans; payment of final contributions

Sec. 2. (a) Unless a member elects otherwise under this section or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i). Regardless of a member's election under this section, contributions

that are posted to a member's annuity savings account after the final date on which the member's retirement benefit is processed may be distributed to the member as determined by the rules of the board. If the distribution exceeds one thousand dollars ($1,000), the board shall obtain the member's consent as to the form of the distribution.

(b) If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose at retirement or upon a disability retirement to receive a distribution of:

(1) the entire amount credited to the member in the annuity savings account; or

(2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of the board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an

annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3. However, the board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.12; P.L.55-1989, SEC.16; P.L.59-1989, SEC.1; P.L.195-1999, SEC.15; P.L.62-2005, SEC.2; P.L.115-2008, SEC.11; P.L.115-2009, SEC.6; P.L.35-2012, SEC.42; P.L.22-2014, SEC.1.

IC 5-10.2-4-3

Average of the annual compensation

Sec. 3. (a) Except as provided in subsection (f), in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) This subsection does not apply to a teacher member described in subsection (c). In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the five (5) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 5-10.4-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

(c) This subsection applies to a member of the Indiana state teachers' retirement fund who serves in an elected position for which the member takes an unpaid leave of absence. In computing the retirement benefit for a teacher member described in this subsection for years of service to which IC 5-10.4-5-7 does not apply, "average of the annual compensation" means the annual compensation for the one (1) year of service before retirement in which the member's annual compensation was highest. In order for a year to be used, the teacher member must have received for the year credit under IC 5-10.4-4-2 for at least one-half (1/2) year of service.

(d) Subject to IC 5-10.2-2-1.5, "annual compensation" means:

(1) the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

(A) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's paying the member's contribution to the fund for the member; or

(B) the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; and

(2) in the case of a member described in subsection (c) and for years of service to which IC 5-10.4-5-7 does not apply, the basic salary that was not paid during the year but would have been paid to the member during the year under the member's employment contracts, if the member had not taken any unpaid leave of absence to serve in an elected position.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

(e) Compensation of not more than two thousand dollars ($2,000) received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

(f) This subsection applies to a member of the general assembly:

(1) who is a participant in the legislators' retirement system established under IC 2-3.5;

(2) who is also a member of the public employees' retirement fund or the Indiana state teachers' retirement fund; and

(3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.28-1984, SEC.2; P.L.35-1985, SEC.13; P.L.55-1989, SEC.17; P.L.6-1989, SEC.2; P.L.4-1990, SEC.8; P.L.10-1993, SEC.4; P.L.95-2004, SEC.2; P.L.2-2006, SEC.24; P.L.2-2007, SEC.93.

IC 5-10.2-4-3.1
Compensation from two or more employers; computation of average

Sec. 3.1. For a member who receives annual compensation from two (2) or more employers, the average of the annual compensation shall be computed using the sum of the two (2) or more annual compensations if:

(1) each of the employers and the member made all of the contributions required by IC 5-10.2; and

(2) the member occupied at least one (1) position that normally required performance of service of more than six hundred (600) hours during the year.

As added by P.L.381-1987(ss), SEC.1.

IC 5-10.2-4-4
Retirement benefit computation

Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply one and one-tenths percent (1.1%) times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on the member's retirement date.

Expressed mathematically:

p = (.011) times (aac) times (scr)

(c) Unless the member:

(1) has chosen a lump sum payment under section 2(b) of this chapter;

(2) has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5; or

(3) elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter;

the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board under IC 5-10.5-4-2.6.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.6; P.L.35-1985, SEC.14; P.L.45-1988, SEC.1; P.L.55-1989, SEC.18; P.L.195-1999, SEC.16; P.L.115-2008, SEC.12; P.L.177-2014, SEC.3.

IC 5-10.2-4-5
Early retirement percent reduction

Sec. 5. The retirement benefit (rb) payable on and after July 1, 1975, for a member who retired on and after January 1, 1956, before age sixty-five (65) is the sum of the pension (P), as specified in section 4 of this chapter and computed on the basis of the total creditable service and the average of the annual compensation at retirement, multiplied by a percent (p), plus the annuity (A), if any, purchasable by the amount credited to the member in the annuity savings account. This sum is obtained by the following STEPS:

STEP ONE: From seven hundred eighty (780) months, which equals sixty-five (65) years, subtract the age of the member at his retirement date expressed in whole months (retirement age in months) and obtain a remainder (X).

STEP TWO:

(i) If the remainder (X) is less than or equal to sixty (60), then multiply the remainder (X) times one-tenth percent (0.1%) and obtain a product (Y).

(ii) If the remainder (X) is greater than sixty (60), then multiply five-twelfths percent (5/12%) times the difference obtained by subtracting sixty (60) from the remainder (X) and obtain a product. Add to this six percent (6%) and obtain a sum (Y).

STEP THREE: From one hundred percent (100%) subtract the appropriate (Y) and obtain the percent (p).

STEP FOUR: The early retirement benefit equals (p) times (P) plus the annuity (A).

Expressed mathematically:

If "$\leq$" means "less than or equal to" and if ">" means "greater than"; then:

(I) 780 - (retire age in months) = X;

(II) if $X \leq 60$, (X) times (0.1%) = Y; or

if $X > 60$, (5/12%) times (X-60) + 6% = Y

(III) 100% - Y = p

(IV) rb = pP + A

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.35-1985, SEC.15.

IC 5-10.2-4-6

Disability retirement

Sec. 6. (a) A member who becomes disabled while receiving a salary or employer provided income protection benefits or who is on leave under the Family and Medical Leave Act may retire for the duration of the member's disability if:

(1) the member has at least five (5) years of creditable service before the:

(A) termination of a salary or employer provided income protection benefits or Family and Medical Leave Act leave; or

(B) exhaustion of all worker's compensation benefits;

(2) the member has qualified for Social Security disability benefits and has furnished proof of the Social Security qualification to the board; and

(3) at least once each year until the member reaches age sixty-five (65) a representative of the board verifies the continued disability.

For the purposes of this section, a member of the public employees' retirement fund who has qualified for disability benefits under the federal civil service system is considered to have met the requirement of subdivision (2) if the member furnishes proof of the qualification to the board.

(b) Benefits for disability shall be paid beginning with the month following the onset of disability as determined by the Social Security Administration. The benefit is the retirement benefit specified in section 4 of this chapter with the pension computed using only the years of creditable service worked to the date of disability and without reduction for early retirement. The monthly disability retirement benefit payable before July 1, 2008, may not be less than one hundred dollars ($100). The monthly disability retirement benefit payable after June 30, 2008, may not be less than one hundred eighty dollars ($180).

(c) The member may have the member's benefit paid under any of the retirement benefit options specified in section 7 of this chapter, except that the member may not choose to have the member's disability retirement benefit paid under the method specified under section 7(b)(3) of this chapter.

(d) This section applies to:

(1) a member of the public employees' retirement fund who became disabled after June 30, 1973; and

(2) a member of the Indiana state teachers' retirement fund who becomes disabled after June 30, 1984, and who chooses disability retirement under this section.

(e) To the extent required by the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations to the Act, the transcripts, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

(f) A member may continue to receive disability benefits from the public employees' retirement fund or the Indiana state teachers' retirement fund so long as the member is entitled to receive Social Security benefits, including periods of trial employment or rehabilitation under the Social Security guidelines. However, during a period of trial employment or rehabilitation, service credit may not be granted under the public employees' retirement fund or the Indiana state teachers' retirement fund.

(g) If the fund is authorized to make, in the form of a single check or a series of checks, a one (1) time distribution that does not

increase the pension portion of the monthly benefit, the distribution must include members eligible for disability benefits. A member eligible for disability benefits is required to meet all additional requirements necessary to receive the check or series of checks issued by the fund under this subsection.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1978, P.L.24, SEC.2; P.L.29-1984, SEC.1; P.L.4-1992, SEC.9; P.L.22-1998, SEC.6; P.L.124-2008, SEC.2; P.L.131-2008, SEC.1; P.L.35-2012, SEC.43.

IC 5-10.2-4-7

Retirement benefit payment options; changes to beneficiary designation or form of benefit; annual payment of monthly benefit

Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age

of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

(1) the member's retirement option under subsection (b);

(2) the selection of a lump sum payment under section 2 of this chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or

IC 5-10.4-5-14.5.

(f) The board may adopt a policy to permit annual payment of a member's retirement benefit whenever the amount of the monthly retirement benefit to be paid to the member is not more than five dollars ($5).

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1980, P.L.28, SEC.7; P.L.35-1985, SEC.16; P.L.59-1989, SEC.2; P.L.55-1989, SEC.19; P.L.59-1989, SEC.3; P.L.4-1990, SEC.9; P.L.195-1999, SEC.17; P.L.246-2001, SEC.5; P.L.190-2003, SEC.2; P.L.2-2006, SEC.25; P.L.149-2007, SEC.1; P.L.93-2008, SEC.1; P.L.115-2008, SEC.13; P.L.115-2009, SEC.7; P.L.35-2012, SEC.44; P.L.15-2013, SEC.1.

IC 5-10.2-4-7.2

Changes to beneficiary designation

Sec. 7.2. (a) This section applies to the following:

(1) A member of the Indiana state teachers' retirement fund after June 30, 2007.

(2) A member of the public employees' retirement fund after June 30, 2008.

(b) Except as otherwise provided in this section, if a member is receiving a benefit from the fund, the member may make the election described in subsection (c) any number of times.

(c) Except as otherwise provided in this section, a member may elect to:

(1) change the member's designated beneficiary or form of benefit under section 7(b) of this chapter; and

(2) receive an actuarially adjusted and recalculated benefit for the remainder of:

(A) the member's life; or

(B) the member's life and the life of the newly designated beneficiary.

(d) A member making the election under subsection (c) may not elect to change to a five (5) year guaranteed form of benefit under section 7(b) of this chapter.

(e) If a member elects a benefit under subsection (c)(2)(B), the member must indicate whether the newly designated beneficiary's benefit will equal:

(1) the member's full recalculated benefit;

(2) two-thirds (2/3) of the member's recalculated benefit; or

(3) one-half (1/2) of the member's recalculated benefit.

(f) The member bears the cost of recalculating a benefit under subsection (c)(2), and the member shall pay the cost in the manner prescribed by the board by rule. However, the board shall waive the cost associated with the first time after June 30, 2016, the member changes the member's designated beneficiary or form of benefit under this section.

(g) A member may not make the election under subsection (c) if

a final order or property settlement in an action for dissolution of marriage:

(1) prohibits a change in the member's designated beneficiary; or

(2) provides a right to a survivor benefit to a person who would be removed as the designated beneficiary.

(h) Benefits may be recalculated under this section only to the extent permitted by the Internal Revenue Code and applicable regulations.

(i) Before implementing this section, the board may obtain any approvals that the board considers necessary or appropriate from the Internal Revenue Service.

(j) Subject to subsection (g), if a member is receiving a benefit from the fund and the member's spouse is the member's designated beneficiary, the member may not change the member's designated beneficiary or elect to receive an actuarially adjusted and recalculated benefit under subsection (c) unless:

(1) the member's designated beneficiary dies;

(2) the member and the member's designated beneficiary have been parties in an action for dissolution of marriage in which a final order has been issued after the member's first benefit payment is made; or

(3) the member's designated beneficiary, or the guardian of the member's designated beneficiary, authorizes the change in writing in the manner prescribed by the board.

With respect to a final order for dissolution of marriage described in subdivision (2), it is immaterial whether the final order was issued before, on, or after the date in subsection (a)(1) or (a)(2).

As added by P.L.149-2007, SEC.2. Amended by P.L.9-2008, SEC.1; P.L.93-2008, SEC.2; P.L.241-2015, SEC.9; P.L.193-2016, SEC.12.

IC 5-10.2-4-7.5

School corporations participating in Section 401(a) plans; participation in plan under this chapter

Sec. 7.5. A member may participate in a plan described in IC 5-10-1.1-1(2) in addition to the plans set forth in this chapter.

As added by P.L.42-1988, SEC.3.

IC 5-10.2-4-8

Reemployment after retirement; when retirement benefits application void

Sec. 8. (a) Subject to subsection (g), if a member who is receiving retirement benefits becomes reemployed in a position covered by this article more than thirty (30) days after the member's retirement, the member's retirement benefit payments continue.

(b) This subsection applies only to a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position more than thirty (30) days

after the member's retirement. The member shall begin making contributions as required in IC 5-10.2-3-2, and the member's employer shall make contributions throughout the member's period of reemployment.

(c) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than thirty (30) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(d) This subsection applies only to a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

(e) Subject to subsection (g), and except for a member described in IC 5-10.2-3-3(a)(2), the following apply to a retired member who begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement:

(1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.

(2) The member may not make contributions under IC 5-10.2-3-2, IC 5-10.3-7-9, or IC 5-10.4-4-11 during the member's period of reemployment.

(3) The member's employer may not make contributions under IC 5-10.2-2-11, IC 5-10.3-7-9, or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.

(f) The thirty (30) day period provided for in this section may be implemented unless the board receives a determination from the Internal Revenue Service prohibiting the implementation.

(g) After July 31, 2009, if, on or before the date the member files an application for retirement benefits under this article, a member has a formal or informal agreement with an employer covered by this article to become reemployed in a position covered by this article after the member's retirement, regardless of the time frame between the member's retirement and the member's reemployment, the member's application for retirement benefits is void, and the following apply to the member's continued employment:

(1) If a member has received a retirement benefit:

(A) the member's retirement benefit shall stop; and

(B) the member shall repay the amount of the retirement benefit received.

(2) The member shall make contributions as required by IC 5-10.2-3-2 throughout the period of the member's continued employment.

(3) Employer contributions shall be made throughout the period of the member's continued employment.

(4) The member shall earn creditable service under IC 5-10.2-3-1 for the member's continued employment.

(5) When the period of the member's continued employment terminates, the member may again file an application for retirement benefits under this chapter.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.49-1985, SEC.1; P.L.195-1999, SEC.18; P.L.246-2001, SEC.6; P.L.62-2005, SEC.3; P.L.72-2007, SEC.5; P.L.76-2008, SEC.2; P.L.130-2008, SEC.1; P.L.115-2009, SEC.8; P.L.35-2012, SEC.45; P.L.195-2013, SEC.6; P.L.2-2014, SEC.15.

IC 5-10.2-4-8.2

Election, appointment to elected position, or service in other position covered by this article

Sec. 8.2. (a) Notwithstanding section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall file a written, irrevocable election with the board to continue or discontinue retirement benefits while the member holds the elected position.

(b) If a member:

(1) is elected or appointed to an elected position and:

(A) becomes at least fifty-five (55) years of age; and

(B) completes at least twenty (20) years of service; or

(2) is serving in any other position covered by this article and:

(A) becomes at least seventy (70) years of age; and

(B) completes at least twenty (20) years of service;

while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service. A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2. If the member elects to continue or begin receiving benefits:

(1) the member may continue to make contributions under

IC 5-10.2-3-2 but is not required to do so; and

(2) the member waives the accrual of service credit and the right to any supplemental benefit from service in the position, except to the extent that the value of the accrual of additional service credit and any supplemental benefit exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) Except to the extent of the liability for any additional benefit accrued under subsection (c)(2), the employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

(e) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

As added by P.L.47-1985, SEC.4. Amended by P.L.60-1989, SEC.1; P.L.4-1990, SEC.10; P.L.25-1994, SEC.4; P.L.61-2002, SEC.6.

IC 5-10.2-4-8.4

Retirement while serving in elected position

Sec. 8.4. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who is eligible to retire under IC 5-10.2-2-8(b).

(b) A member of the Indiana state teachers' retirement fund who:

(1) serves in an elected position; and

(2) after June 30, 2006, makes an election under section 8.2(b) of this chapter to begin receiving, while the member holds the elected position or not later than thirty (30) days after the day on which the member's elected term of office ends, the retirement benefits to which the member is entitled by age and service;

may choose at the member's retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund.

(c) If the member described in subsection (b) chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided under this chapter, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

(1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and

(2) the proportionate actuarial cost of the member's pension.

As added by P.L.119-2006, SEC.2. Amended by P.L.93-2008, SEC.3.

IC 5-10.2-4-9
Death during reemployment

Sec. 9. (a) This section applies only to a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement.

(b) If a member dies during reemployment and retirement benefits from before the member's reemployment are payable after the member's death, the payment of these amounts shall be made without change, and any additional benefit earned during reemployment shall be paid as provided in section 10 of this chapter.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.47-1985, SEC.5; P.L.246-2001, SEC.7; P.L.72-2007, SEC.6; P.L.76-2008, SEC.3; P.L.195-2013, SEC.7.

IC 5-10.2-4-10
Benefits after reemployment

Sec. 10. (a) This section applies only to a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement.

(b) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(c) Upon termination of reemployment, except by death, the retirement benefits from before the member's reemployment which are payable after termination shall be paid without change.

(d) If the member is reemployed for fewer than ninety (90) consecutive school or working days, upon termination of reemployment, contributions and interest credited to the member's annuity savings account shall be paid to the member.

(e) If the member is reemployed for ninety (90) or more consecutive school or working days, upon termination of reemployment, the member shall receive an additional benefit.

(f) The additional retirement benefit consists of the sum of a supplemental pension and a supplemental annuity. The supplemental pension is computed under section 4 of this chapter using the member's:

(1) years of service during the member's reemployment; and
(2) average compensation during the member's reemployment, if the member is reemployed for less than five (5) years, or average of the annual compensation (as defined in section 3 of this chapter) during the member's reemployment.

If the member is entitled to a supplemental annuity, it consists of an annuity provided by contributions and interest credited to the member during reemployment, if any.

(g) The additional retirement benefits are guaranteed for five (5) years or until the member's death, whichever is later. The member may choose instead of the guaranteed payments any of the options

under section 7 of this chapter for the payment of the member's additional retirement benefits.

(h) IC 5-10.2-2-7 applies to additional retirement benefits.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.49-1985, SEC.2; P.L.40-1986, SEC.2; P.L.55-1989, SEC.20; P.L.22-1993, SEC.3; P.L.25-1994, SEC.5; P.L.246-2001, SEC.8; P.L.72-2007, SEC.7; P.L.76-2008, SEC.4; P.L.195-2013, SEC.8.

IC 5-10.2-4-10.2
Repealed

(Repealed by P.L.40-1986, SEC.3.)

IC 5-10.2-5
Chapter 5. Restricted Benefits

IC 5-10.2-5-1
Transitional benefits, 1955

Sec. 1. (a) A member who was an employee of the state or political subdivision on April 1, 1955, and who was a member of the public employees' retirement fund or the Indiana state teachers' retirement fund, before April 1, 1955, is entitled to a normal retirement benefit which, when added to the primary social security benefit to which he may become entitled under the Social Security Act, is greater than or equal to the normal retirement benefit to which he would have been entitled under the retirement fund law in effect before April 1, 1955.

(b) This section does not abridge, diminish, or cancel any rights, privileges, or benefits provided to these members under laws in effect before April 1, 1955.

(c) If a member of the retirement fund of the state board of accounts:

(1) was a member of that fund on April 1, 1955; and

(2) dies, retires, or qualifies for disability retirement before April 2, 1970;

the member or his surviving spouse may choose to receive, instead of the benefits of this article, the annuity survivor or disability benefits under the retirement fund law in effect on March 31, 1955. The benefit paid shall be reduced by any payments under the federal Social Security Act. In addition, the member may receive any annuity payments provided by additional annuity contributions.

(d) If a member has earnings recorded under the Social Security Act from employment with more than one (1) employer, the amount of his primary social security benefit shall be computed by applying to his total primary social security benefit the percentage which his earnings recorded for service covered by IC 5-10.1 constitute of his total earnings recorded under the Social Security Act. The social security benefit determined is considered payable even if the member fails to apply for the benefit or loses all or part of it by delaying to apply for it or by engaging in covered employment or for any other reason.

(e) The benefit to which the member would have been entitled under the retirement fund law in effect before April 1, 1955, shall be computed either:

(1) on the assumption that contributions were made as required by the retirement fund law on and after the date the member became subject to the Social Security Act; or

(2) on the basis of his contributions actually made to the fund on and after April 1, 1955, and to the contribution fund established in IC 5-10.1 by January 1, 1987;

whichever of subdivision (1) or (2) is larger.

(f) The normal retirement benefit for retirement at any age under retirement fund laws in effect before April 1, 1955, and for retirement on or after age sixty-five (65) under this article is the retirement benefit payable for life without special election. For retirement before age sixty-five (65) after April 1, 1955, it is the retirement benefit payable under the option which integrates with the social security benefit at the youngest age of eligibility for the social security benefit to provide a uniform total benefit.

(g) The employer responsible for the employer contribution for a member who is retiring shall make any contributions required to carry out this section.

As added by Acts 1977, P.L.53, SEC.2. Amended by P.L.57-1987, SEC.4.

IC 5-10.2-5-2
Members retired pre-1956

Sec. 2. Members Retired Pre-1956. The retirement benefits of members who retired before January 1, 1956, shall be computed by multiplying fifteen dollars ($15.00) times years of service and then adjusting the product obtained for early retirement and the selected retirement option by using the factors in effect on July 1, 1975.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-5-3
Surviving spouse, 1956-1959

Sec. 3. Surviving Spouse, 1956-1959. The surviving spouse of a member who accumulated twenty (20) years of service in his retirement fund and who died between January 1, 1956, and April 1, 1959, is entitled to the annuity survivor benefits in effect on April 1, 1959.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-5-4
Cost of living increases

Sec. 4. Cost of Living Increases. As a cost of living increase, the retirement, disability, and survivor benefit payable on and after July 1, 1976, to a member, or beneficiary or survivor of a member, who retired before July 2, 1975, shall be increased by three percent (3%). However, the benefit may not be increased by an amount less than seven dollars ($7.00) per month nor more than fifteen dollars ($15.00) per month. This section does not apply to benefits payable in a lump sum.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1977(ss), P.L.2, SEC.1.

IC 5-10.2-5-5
Special benefit; $200 minimum

Sec. 5. Special Benefit: $200 Minimum. (a) On and after July 1,

1976, a retired member is entitled to a supplemental retirement benefit to be paid by the fund as long as he meets each of these conditions:

(1) he currently receives an annuity or pension or other retirement benefit from his fund;

(2) he was sixty-five (65) years of age or older on July 1, 1976; and

(3) the amount of all annuities, pensions, and retirement benefits for which he is eligible under the Social Security Act is less than two hundred dollars ($200) per month.

(b) The amount of supplemental retirement benefit to which a qualifying retired member is entitled each month is the difference between two hundred dollars ($200) and the total of all annuities, pensions and retirement benefits which he is eligible to receive under the Social Security Act. A retired member who is not eligible for any annuity, pension, or retirement benefit under the Social Security Act on July 1, 1976, and who qualifies under subsection (a) of this section, is entitled to a supplemental retirement benefit of two hundred dollars ($200) per month.

(c) This section does not apply to members of the public employees' retirement fund who have been classified as federal employees by the secretary of agriculture of the United States.

As added by Acts 1977, P.L.53, SEC.2. Amended by Acts 1978, P.L.24, SEC.3.

IC 5-10.2-5-6

Post-retirement cost of living increase payable on or after July 1, 1977

Sec. 6. (a) The monthly benefit (B) payable on and after July 1, 1977, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1972, shall be increased by an amount equal to the benefit payable (J) in June 1977 times one-half percent (1/2%) times the number of years (y) from the member's date of retirement or disability through June 1977.

Expressed mathematically: $B = (1 + .005_y)J$

This subsection does not apply to persons receiving disability benefits under IC 5-10.4-5-2.

(b) As a cost of living increase, the retirement, disability, and survivor benefit payable on and after July 1, 1978, to a member, or a beneficiary or survivor of a member, who retired before July 2, 1977, shall be increased by three percent (3%). This subsection does not apply to benefits payable in a lump sum.

As added by Acts 1977(ss), P.L.2, SEC.2. Amended by P.L.2-2006, SEC.26.

IC 5-10.2-5-7

Postretirement increase payable on or after July 1, 1979

Sec. 7. Postretirement Increase. (a) The monthly benefit payable

on and after July 1, 1979, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1962, shall be increased by six percent (6%);

(2) after July 1, 1962, and before July 2, 1967, shall be increased by four percent (4%); and

(3) after July 1, 1967, and before July 2, 1972, shall be increased by two percent (2%).

The increase specified in this section shall be based upon the date of the member's initial retirement or disability. This section does not apply to benefits payable in a lump sum.

(b) As a cost of living increase, the retirement, disability, and survivor benefits payable after June 30, 1979, to a member, or a beneficiary or a survivor of a member, who retired before August 1, 1978, shall be increased three percent (3%). The increase provided by this subsection is in addition to any other increase provided by law. This subsection does not apply to benefits payable in a lump sum.

As added by Acts 1979, P.L.36, SEC.1.

IC 5-10.2-5-8

Postretirement increase payable on and after July 1, 1980

Sec. 8. Postretirement Increase. The monthly benefit payable on and after July 1, 1980, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1963, shall be increased by nine percent (9%);

(2) after July 1, 1963, and before July 2, 1968, shall be increased by six percent (6%); and

(3) after July 1, 1968, and before July 2, 1973, shall be increased by three percent (3%).

The increase specified in this section shall be based upon the date of the member's initial retirement or disability. This section does not apply to benefits payable in a lump sum. The increases provided by this section are in addition to any other increase provided by law.

As added by Acts 1980, P.L.29, SEC.1.

IC 5-10.2-5-9

1980 cost of living adjustment

Sec. 9. 1980 Cost of Living Adjustment. As a cost of living increase, the retirement, disability, and survivor benefits payable after June 30, 1980, to a member, or a beneficiary or a survivor of a member, who retired before August 1, 1979, shall be increased four percent (4%). The increase provided by this section is in addition to any other increase provided by law. This section does not apply to benefits payable in a lump sum.

As added by Acts 1980, P.L.29, SEC.2.

IC 5-10.2-5-10

1981 postretirement increase

Sec. 10. Postretirement Increase. The monthly benefit payable on and after July 1, 1981, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1968, shall be increased by three percent (3%). The increase specified in this section shall be based upon the date of the member's initial retirement or disability. This section does not apply to benefits payable in a lump sum. The increases provided by this section are in addition to any other increase provided by law.
As added by Acts 1981, P.L.49, SEC.2.

IC 5-10.2-5-11
1982 postretirement increases

Sec. 11. 1982 Postretirement Increases. (a) The monthly benefit payable after June 30, 1982, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1980, shall be increased by four percent (4%).

(b) The increase specified in this section:

(1) shall be based upon the date of the member's initial retirement or disability;

(2) does not apply to benefits payable in a lump sum; and

(3) is in addition to any other increase provided by law.

As added by Acts 1982, P.L.38, SEC.1.

IC 5-10.2-5-12
1983 postretirement increases

Sec. 12. (a) The monthly benefit payable after June 30, 1983, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1965, shall be increased by three percent (3%);

(2) after July 1, 1965, and before July 2, 1970, shall be increased by two percent (2%); and

(3) after July 1, 1970, and before July 2, 1975, shall be increased by one percent (1%).

(b) In addition to the increase specified in subsection (a), the monthly benefit payable after June 30, 1983, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1982, shall be increased by three percent (3%).

(c) The increases specified in this section:

(1) shall be based upon the date of the member's initial retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.50-1983, SEC.1.

IC 5-10.2-5-13
Pension increases payable after June 30, 1984

Sec. 13. (a) The pension portion (plus postretirement increases to

the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1984, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1966, shall be increased by four percent (4%);

(2) after July 1, 1966, and before July 2, 1971, shall be increased by three percent (3%); and

(3) after July 1, 1971, and before July 2, 1981, shall be increased by two percent (2%).

(b) The increases specified in this section:

(1) shall be based upon the date of the member's initial retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.30-1984, SEC.1.

IC 5-10.2-5-14

Increases in pension payable after June 30, 1985

Sec. 14. (a) The pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1985, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1969, shall be increased by three percent (3%);

(2) after July 1, 1969, and before July 2, 1974, shall be increased by two percent (2%); and

(3) after July 1, 1974, and before July 2, 1979, shall be increased by one percent (1%).

(b) In addition to the increase specified in subsection (a), the pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1985, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1984, shall be increased by three percent (3%).

(c) The increases specified in this section:

(1) shall be based upon the date of the member's initial retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.50-1985, SEC.1.

IC 5-10.2-5-15

Cost of living increases in pension payable after June 30, 1986

Sec. 15. (a) The pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1986, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1970, shall be increased by three percent (3%);

(2) after July 1, 1970, and before July 2, 1975, shall be increased by two percent (2%); and

(3) after July 1, 1975, and before July 2, 1980, shall be increased by one percent (1%).

(b) In addition to the increase specified in subsection (a), the pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1986, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1985, shall be increased by two percent (2%).

(c) The increases specified in this section:

(1) shall be based upon the date of the member's initial retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.41-1986, SEC.1.

IC 5-10.2-5-16

Pension increases payable after June 30, 1987

Sec. 16. (a) Subject to subsection (d), the pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1987, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1970, shall be increased by three percent (3%);

(2) after July 1, 1970, and before July 2, 1976, shall be increased by two percent (2%); and

(3) after July 1, 1976, and before July 2, 1981, shall be increased by one percent (1%).

(b) In addition to the increase specified in subsection (a), the pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1987, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1985, shall, subject to subsection (d), be increased by one percent (1%).

(c) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

(d) This section is applicable only if the general assembly provides sufficient funding for the increased cost of the benefits provided by this section.

As added by P.L.59-1987, SEC.1.

IC 5-10.2-5-17

Increases after June 30, 1988

Sec. 17. (a) The pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1988, to a member, or a survivor or beneficiary of a member, who retired or was disabled:

(1) before July 2, 1970, shall be increased by three percent (3%);

(2) after July 1, 1970, and before July 2, 1976, shall be increased by two percent (2%); and

(3) after July 1, 1976, and before July 2, 1981, shall be increased by one percent (1%).

(b) In addition to the increase specified in subsection (a), the pension portion (plus postretirement increases to the pension portion), provided by employer contribution, of the monthly benefit payable after June 30, 1988, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1986, shall be increased by one percent (1%).

(c) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

(d) This subsection does not apply to a person described in IC 5-10.4-6-7. For the period beginning July 1, 1988, through June 30, 1989, the costs of the postretirement increases provided by this section for members of the Indiana state teachers' retirement fund shall be charged to the retired teacher annuity reserve.

As added by P.L.45-1988, SEC.2. Amended by P.L.2-2006, SEC.27.

IC 5-10.2-5-18

Repealed

(As added by P.L.45-1988, SEC.3. Repealed by P.L.2-2006, SEC.199.)

IC 5-10.2-5-19

Increases after June 30, 1989

Sec. 19. (a) The pension portion (plus postretirement increases to the pension portion), provided by employer contributions, of the monthly benefit payable after June 30, 1989, to a member, or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1987, shall be increased by three percent (3%).

(b) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.61-1989, SEC.1.

IC 5-10.2-5-20
Employees of institutions of higher learning

Sec. 20. (a) Notwithstanding the repeal of IC 5-10.2-2-5, a member who:

(1) is an employee of a state educational institution; and

(2) began making contributions by payroll deduction under IC 5-10.2-2-5 before January 1, 1989;

may continue to make contributions after June 30, 1989, as if IC 5-10.2-2-5 had not been repealed. Such an institution may continue to make additional contributions for members on whose behalf additional contributions were being made before January 1, 1989.

(b) The employer may use contributions made under this section and IC 5-10.2-2-5 to purchase an annuity from a retirement fund for a member described in subsection (a) at any time before the member retires.

(c) Interest shall be credited on contributions made under this section and IC 5-10.2-2-5 as specified in IC 5-10.2-2-4.

(d) Nothing in this section or in the repeal of IC 5-10.2-2-5 may be construed to affect in any way the ability of a state educational institution to make contributions on behalf of its employees to a tax deferred annuity under Section 403(b) of the Internal Revenue Code.

(e) A member who:

(1) has at least five (5) years of credited service;

(2) is an employee of a state educational institution; and

(3) is transferred from a position covered by the Indiana state teachers' retirement fund or the Indiana public employees' retirement fund to a position not covered by either of the funds;

shall continue to receive credit, for the determination of eligibility for benefits only, for up to five (5) additional years of service with the institution, subject to all the provisions of the retirement fund law. The additional service credit and the salary in the non-covered position shall not be included in the computation of benefits from the retirement fund.

As added by P.L.55-1989, SEC.21. Amended by P.L.2-2007, SEC.94.

IC 5-10.2-5-21
Pension increases payable after June 30, 1990

Sec. 21. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1990, to a member or a survivor or beneficiary of a member who retired or was disabled:

(1) before July 2, 1971, shall be increased by three percent (3%);

(2) after July 1, 1971, and before July 2, 1976, shall be increased by two percent (2%); and

(3) after July 1, 1976, and before July 2, 1983, shall be increased by one percent (1%).

(b) In addition to the increase specified in subsection (a), the pension portion (plus postretirement increases to the pension portion), provided by employer contributions of the monthly benefit payable after June 30, 1990, to a member or a survivor or beneficiary of a member, who retired or was disabled before July 2, 1988, shall be increased by two percent (2%).
As added by P.L.43-1990, SEC.1.

IC 5-10.2-5-22
Increases after June 30, 1994

Sec. 22. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1994, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund or a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund who retired or was disabled:

(1) after July 1, 1987, and before July 2, 1992, shall be increased by one percent (1%);

(2) after July 1, 1984, and before July 2, 1987, shall be increased by two percent (2%); and

(3) before July 2, 1984, shall be increased by three percent (3%).

(b) This subsection applies only to an increase payable to a member of the Indiana teachers' retirement fund. The cost difference between the monthly benefit payable before the increase required by this section and the monthly benefit payable after the increase required by this section after June 30, 1994, and before July 1, 1995, shall be paid from the employer reserve fund for the Indiana state teachers' retirement fund. After June 30, 1995, the difference shall be paid from the state general fund.

(c) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.27-1994, SEC.1.

IC 5-10.2-5-23
Pension increases payable after June 30, 1995

Sec. 23. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1995, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund or a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund who retired or was disabled:

(1) before July 2, 1981, shall be increased by three and

one-tenth percent (3.1%); and

(2) after July 1, 1981, and before July 2, 1993, shall be increased by one and one-half percent (1.5%).

(b) This subsection applies only to an increase payable to a member of the Indiana state teachers' retirement fund. The cost difference between the monthly benefit payable before the increase required by this section and the monthly benefit payable after the increase required by this section after June 30, 1995, and before July 1, 1996, shall be paid from the employer reserve fund for the Indiana state teachers' retirement fund. After June 30, 1996, the difference shall be paid from the state general fund.

(c) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.68-1995, SEC.1.

IC 5-10.2-5-24
Pension increases payable after June 30, 1996

Sec. 24. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1996, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund or a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund who retired or was disabled:

(1) before July 2, 1981, shall be increased by three and one-tenth percent (3.1%); and

(2) after July 1, 1981, and before July 2, 1993, shall be increased by one and one-half percent (1.5%).

(b) This subsection applies only to an increase payable to a member of the Indiana state teachers' retirement fund. The cost difference between the monthly benefit payable before the increase required by this section and the monthly benefit payable after the increase required by this section after June 30, 1996, and before July 1, 1997, shall be paid from the employer reserve fund for the Indiana state teachers' retirement fund. After June 30, 1997, the difference shall be paid from the state general fund.

(c) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.68-1995, SEC.2.

IC 5-10.2-5-25
Increases after June 30, 1997

Sec. 25. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1997, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund or a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund who retired or was disabled:

(1) after July 1, 1983, and before July 2, 1996, shall be increased by two percent (2%);

(2) after July 1, 1975, and before July 2, 1983, shall be increased by three percent (3%); and

(3) before July 2, 1975, shall be increased by four percent (4%).

(b) This subsection applies only to an increase payable to a member of the Indiana teachers' retirement fund. The cost difference between the monthly benefit payable before the increase required by this section and the monthly benefit payable after the increase required by this section after June 30, 1997, and before July 1, 1998, shall be paid from the employer reserve fund for the Indiana state teachers' retirement fund. After June 30, 1998, the difference shall be paid from the state general fund.

(c) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.44-1997, SEC.1.

IC 5-10.2-5-26

Pension increases payable after June 30, 1998

Sec. 26. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1998, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund or a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund who retired or was disabled:

(1) after July 1, 1983, and before July 2, 1995, shall be increased by two percent (2%);

(2) after July 1, 1975, and before July 2, 1983, shall be increased by three percent (3%); and

(3) before July 2, 1975, shall be increased by four percent (4%).

(b) The increases specified in this section:

(1) shall be based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.45-1998, SEC.1.

IC 5-10.2-5-27
Pension increases payable after June 30, 1999

Sec. 27. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1999, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund) who retired or was disabled:

(1) after July 1, 1990, and before July 2, 1995, shall be increased by one and one-quarter percent (1.25%);

(2) after July 1, 1980, and before July 2, 1990, shall be increased by two percent (2%);

(3) after July 1, 1970, and before July 2, 1980, shall be increased by five percent (5%);

(4) after July 1, 1960, and before July 2, 1970, shall be increased by seven percent (7%); and

(5) before July 2, 1960, shall be increased by nine percent (9%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.228-1999, SEC.1.

IC 5-10.2-5-28
Pension increases payable after June 30, 2000

Sec. 28. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 2000, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund) who retired or was disabled:

(1) after July 1, 1990, and before July 2, 1996, shall be increased by one percent (1%);

(2) after July 1, 1980, and before July 2, 1990, shall be increased by two percent (2%);

(3) after July 1, 1970, and before July 2, 1980, shall be increased by five percent (5%);

(4) after July 1, 1960, and before July 2, 1970, shall be increased by seven percent (7%); and

(5) before July 2, 1960, shall be increased by nine percent (9%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.228-1999, SEC.2.

IC 5-10.2-5-29
Minimum purchasing power of pension portion after June 30, 1999

Sec. 29. (a) In addition to any other cost of living provided under this chapter, the pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 1999, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund) who retired or was disabled before July 2, 1960, shall be increased by the amount necessary to ensure that the purchasing power (as determined by the PERF or TRF board (as those boards existed before their dissolution on July 1, 2011), based on changes in the consumer price index and postretirement increases to the pension portion) of the member's pension portion is at least equal to fifty percent (50%) of the purchasing power of the member's pension portion at the time the member retired, as determined on July 1, 1999.

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.228-1999, SEC.3. Amended by P.L.35-2012, SEC.46.

IC 5-10.2-5-30
Minimum purchasing power of pension portion after June 30, 2000

Sec. 30. (a) In addition to any other cost of living provided under this chapter, the pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 2000, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund) who retired or was disabled before July 2, 1975, shall be increased by the amount necessary to ensure that the purchasing power (as determined by the PERF or TRF board (as those boards existed before their dissolution on July 1, 2011), based on changes in the consumer price index and postretirement increases to the pension portion) of the member's pension portion is at least equal to fifty-seven and four-tenths percent (57.4%) of the purchasing power of the member's pension portion at the time the member retired, as determined on July 1, 2000.

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or

disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.228-1999, SEC.4. Amended by P.L.35-2012, SEC.47.

IC 5-10.2-5-31

Pension increases payable after June 30, 2001

Sec. 31. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after June 30, 2001, to a member of the public employees' retirement fund or the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund or the Indiana state teachers' retirement fund) who retired or was disabled before July 2, 1999, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.285-2001, SEC.2.

IC 5-10.2-5-32

Repealed

(As added by P.L.191-2002, SEC.1. Repealed by P.L.2-2006, SEC.199.)

IC 5-10.2-5-33

Public employees' retirement fund; pension increases payable after December 31, 2003

Sec. 33. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1, 2003, shall be increased by two percent (2%).

(b) The monthly amount of the increase described in subsection (a) payable to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) may not be less than five dollars ($5).

(c) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.190-2003, SEC.3.

IC 5-10.2-5-34
Repealed

(As added by P.L.190-2003, SEC.4. Amended by P.L.246-2005, SEC.50. Repealed by P.L.12-2008, SEC.3.)

IC 5-10.2-5-34.4
Repealed

(As added by P.L.172-2003, SEC.1. Repealed by P.L.2-2006, SEC.199.)

IC 5-10.2-5-36
Public employees' retirement fund; pension increase payable after December 31, 2004

Sec. 36. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2004, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2004, shall be increased by two percent (2%).

(b) The monthly amount of the increase described in subsection (a) payable to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member) may not be less than five dollars ($5).

(c) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.56-2004, SEC.1.

IC 5-10.2-5-37
Repealed

(As added by P.L.56-2004, SEC.2. Repealed by P.L.2-2006, SEC.199.)

IC 5-10.2-5-38
Public employees' retirement fund; benefit increase payable after December 31, 2005

Sec. 38. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2005, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled:

(1) before July 2, 1990, shall be increased by two percent (2%); and

(2) after July 1, 1990, and before January 1, 2005, shall be increased by one and one-half percent (1.5%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.246-2005, SEC.51.

IC 5-10.2-5-39

Teachers' retirement fund; benefit increase payable after December 31, 2005

Sec. 39. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2005, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:

(1) before July 2, 1990, shall be increased by two percent (2%); and

(2) after July 1, 1990, and before July 2, 2003, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.246-2005, SEC.52.

IC 5-10.2-5-40

Public employees' retirement fund; benefit increase payable after December 31, 2006

Sec. 40. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2006, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1, 2006, shall be increased by two percent (2%).

(b) The increase specified in this section:

(1) is based on the date of the member's latest retirement or disability;

(2) does not apply to benefits payable in a lump sum; and

(3) is in addition to any other increase provided by law.

As added by P.L.115-2006, SEC.1. Amended by P.L.1-2007, SEC.27.

IC 5-10.2-5-41

Teachers' retirement fund; benefit increase payable after December 31, 2006

Sec. 41. (a) The pension portion (plus postretirement increases to

the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2006, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:

(1) before July 2, 1991, shall be increased by two percent (2%); and

(2) after July 1, 1991, and before July 2, 2004, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.115-2006, SEC.2.

IC 5-10.2-5-42

Teachers' retirement fund; cost of living increase payable after December 31, 2007

Sec. 42. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2007, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:

(1) before July 2, 1999, shall be increased by two percent (2%); and

(2) after July 1, 1999, and before July 2, 2005, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.87-2007, SEC.1.

IC 5-10.2-5-42.4

Public employees' retirement fund; increase payable after December 31, 2007

Sec. 42.4. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2007, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1, 2007, shall be increased by two percent (2%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or

disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.163-2007, SEC.1.

IC 5-10.2-5-43

Public employees' retirement fund; benefit increase payable after December 31, 2008

Sec. 43. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1, 2008, shall be increased by:

(1) two percent (2%) for members who retired after December 31, 1999; and

(2) two and one-half (2.5%) percent for members who retired before January 1, 2000.

(b) In addition to any other cost of living increase provided under this chapter, the pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who is a retired member of the fund with at least ten (10) years of creditable service may not be less than one hundred eighty dollars ($180).

(c) Subsection (b) does not apply to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) whose creditable service was earned only as an elected official.

(d) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.12-2008, SEC.1.

IC 5-10.2-5-43.4

Teachers' retirement fund; benefit increase payable after December 31, 2008

Sec. 43.4. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2008, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:

(1) before July 2, 2000, shall be increased by two percent (2%); and

(2) after July 1, 2000, and before July 2, 2006, shall be increased by one percent (1%).

(b) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.124-2008, SEC.3.

IC 5-10.2-6

Chapter 6. Construction of Codification

IC 5-10.2-6-1

Purpose

Sec. 1. Purpose of Codification. This article is intended to be a codification and restatement of applicable or corresponding provisions in prior law. A citation to prior law in the Indiana Code shall be construed as a citation to the appropriate provision of this article if the prior law is reenacted in the same or restated form by this article.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-6-2

Headings

Sec. 2. Headings. The headings prefixed to sections of this article are included for organizational purposes and do not affect the meaning, application, or construction of the sections.

As added by Acts 1977, P.L.53, SEC.2.

IC 5-10.2-7
Repealed
(Repealed by P.L.5-1997, SEC.15.)

IC 5-10.2-8

Chapter 8. Voluntary Supplemental Retirement Plan

IC 5-10.2-8-1

"Plan" defined

Sec. 1. As used in this chapter, "plan" refers to a voluntary supplemental retirement plan established for a political subdivision under this chapter.

As added by P.L.5-1997, SEC.3.

IC 5-10.2-8-2

Establishment

Sec. 2. The board may elect to establish a voluntary supplemental retirement plan for political subdivisions. A plan established under this chapter shall be governed by Section 457 of the Internal Revenue Code. A plan established under this chapter shall be funded through employee salary deductions and may additionally have employer contributions, subject to the limits and provisions under Section 457 of the Internal Revenue Code.

As added by P.L.5-1997, SEC.3. Amended by P.L.35-2012, SEC.48.

IC 5-10.2-8-3

Prohibition against commingling of assets

Sec. 3. The board shall maintain a separate trust for the plan, and the assets shall not be part of, or commingled with, the assets of the other funds administered by the board.

As added by P.L.5-1997, SEC.3.

IC 5-10.2-8-4

Supplemental nature of plan; reduction in other retirement or pension benefits prohibited

Sec. 4. A plan established under this chapter exists and serves in addition to other retirement, pension, and benefit systems established by a political subdivision and may not result in a reduction of any retirement, pension, or other benefit provided by applicable law. Any compensation deferred under the plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by an employee.

As added by P.L.5-1997, SEC.3.

IC 5-10.2-8-5

Day-to-day operation

Sec. 5. A plan established under this chapter shall include appropriate provisions pertaining to the day-to-day operation of the plan, including methods to elect income deferrals, changes to elections, or other provisions that may be appropriate. The investment options shall be comparable to the alternative programs established under IC 5-10.2-2-3.

As added by P.L.5-1997, SEC.3.

IC 5-10.2-9

Chapter 9. Sudan Divestment

IC 5-10.2-9-0.3

General assembly findings

Sec. 0.3. The general assembly finds the following:

(1) Mandatory divestment by the funds of the funds' holdings in certain companies is a measure that should be employed only under extraordinary circumstances.

(2) The Congress and President of the United States have declared that genocide is occurring in the Darfur region of Sudan.

(3) The Sudan crisis represents the first time the government of the United States has labeled ongoing atrocities a genocide.

(4) The situation in Sudan is unique and constitutes the extraordinary circumstances necessary for mandatory divestment by the funds of the funds' holdings in scrutinized companies with active business operations in Sudan.

As added by P.L.220-2011, SEC.75.

IC 5-10.2-9-1

"Active business operations"

Sec. 1. As used in this chapter, "active business operations" means all business operations that are not inactive business operations.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-2

"Board"

Sec. 2. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.149-2007, SEC.3. Amended by P.L.23-2011, SEC.11.

IC 5-10.2-9-3

"Business operations"

Sec. 3. As used in this chapter, "business operations" means engaging in any commerce in any form in Sudan.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-4

"Company"

Sec. 4. (a) As used in this chapter, "company" means any of the following:

(1) A sole proprietorship.

(2) An organization.

(3) An association.

(4) A corporation.

(5) A partnership.
(6) A joint venture.
(7) A limited partnership.
(8) A limited liability partnership.
(9) A limited liability company.
(10) A business association.

(b) The term includes all wholly owned subsidiaries, majority owned subsidiaries, parent companies, and affiliates of such entities or business associations that exist for profit making purposes.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-5
"Complicit in Darfur genocide"

Sec. 5. For purposes of this chapter, a company is "complicit in the Darfur genocide" if the company took any actions during the preceding twenty (20) month period that directly support or promote the genocidal campaign in the Darfur region of Sudan, including any of the following:

(1) Preventing Darfur's victimized population from communicating with each other.
(2) Encouraging Sudanese citizens to speak out against an internationally approved security force in Darfur.
(3) Actively working to deny, cover up, or alter the record on human rights abuses in Darfur.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-6
"Cost of divestment"

Sec. 6. As used in this chapter, "cost of divestment" means the sum of the following:

(1) The costs associated with the sale, redemption, divestment, or withdrawal of an investment.
(2) The costs associated with the acquisition and maintenance of a replacement investment.
(3) A cost not described in subdivision (1) or (2) that is incurred by the fund (before July 1, 2011) or system in connection with a divestment transaction.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.49.

IC 5-10.2-9-7
"Direct holdings"

Sec. 7. As used in this chapter, "direct holdings" means all securities of a company held directly by the system on behalf of a fund or in an account in which the system on behalf of a fund owns all shares or interests.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.50.

IC 5-10.2-9-8
"Fund"

Sec. 8. As used in this chapter, "fund" refers to the following:

(1) The Indiana state teachers' retirement fund.

(2) The public employees' retirement fund.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-9
"Government of Sudan"

Sec. 9. (a) As used in this chapter, "government of Sudan" refers to the government in Khartoum, Sudan, that is led by the National Congress Party (formally known as the National Islamic Front) or any successor government formed on or after October 13, 2006, including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan.

(b) The term does not include the regional government of southern Sudan.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-10
"Inactive business operations"

Sec. 10. As used in this chapter, "inactive business operations" means the mere continued holding or renewal of rights to property previously operated to generate revenues but not presently deployed for such purpose.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-11
"Indirect holdings"

Sec. 11. As used in this chapter, "indirect holdings" means all securities of a company:

(1) held in an account or a fund; and

(2) managed by one (1) or more persons not employed by the fund (before July 1, 2011) or system, in which the fund (before July 1, 2011) or system owns shares or interests on behalf of a fund together with other investors not subject to this chapter.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.51.

IC 5-10.2-9-12
"Marginalized populations of Sudan"

Sec. 12. As used in this chapter, "marginalized populations of Sudan" includes the following:

(1) The part of the population in the Darfur region that has been genocidally victimized.

(2) The part of the population of southern Sudan victimized by Sudan's north-south civil war.

(3) The Beja, Rashidiya, and other similarly underserved groups

of eastern Sudan.

(4) The Nubian and other similarly underserved groups in Sudan's Abyei, southern Blue Nile, and Nuba mountain regions.

(5) The Amri, Hamadab, Manasir, and other similarly underserved groups of northern Sudan.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-13
"Military equipment"

Sec. 13. (a) As used in this chapter, "military equipment" means weapons, arms, or military defense supplies provided directly or indirectly to any force actively participating in the conflict in Sudan. The term includes any equipment that readily may be used for military purposes, including:

(1) radar systems; or

(2) military grade transport vehicles.

(b) The term does not include weapons, arms, or military defense supplies sold to peacekeeping forces that may be dispatched to Sudan by the United Nations or the African Union.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-14
"Mineral extraction activities"

Sec. 14. (a) As used in this chapter, "mineral extraction activities" means the exploration, extraction, processing, transporting, or wholesale sale of elemental minerals or associated metals or oxides, including:

(1) gold;

(2) copper;

(3) chromium;

(4) chromite;

(5) diamonds;

(6) iron;

(7) iron ore;

(8) silver;

(9) tungsten;

(10) uranium; and

(11) zinc.

(b) The term includes the facilitation of mineral extraction activities, including the provision of supplies or services in support of mineral extraction activities.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-15
"Oil related activities"

Sec. 15. (a) As used in this chapter, "oil related activities" includes:

(1) the export of oil;

(2) the extraction of or production of oil;
(3) the exploration for oil;
(4) the ownership of rights to oil blocks;
(5) the refining or processing of oil;
(6) the transportation of oil;
(7) the selling or trading of oil; or
(8) the construction or maintenance of a pipeline, a refinery, or another oil field infrastructure.

(b) The term includes the facilitation of oil related activities, including the provision of supplies or services in support of oil related activities. The mere retail sale of gasoline and related consumer products is not considered an oil related activity.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-16
"Power production activities"

Sec. 16. As used in this chapter, "power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar entity of the government of Sudan whose purpose is to facilitate power generation and delivery. The term includes the following:

(1) Establishing power generating plants or hydroelectric dams.
(2) Selling or installing components for power generating plants or hydroelectric dams.
(3) Providing service contracts related to the installation or maintenance of power generating plants or hydroelectric dams.
(4) Facilitating power production activities, including providing supplies or services in support of power production activities.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-17
"Research firm"

Sec. 17. As used in this chapter, "research firm" means a reputable, neutral third party research firm not controlled by the fund (before July 1, 2011) or system.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.52.

IC 5-10.2-9-18
"Scrutinized company"

Sec. 18. (a) As used in this chapter, "scrutinized company" means a company that meets any of the following criteria:

(1) Both of the following apply to the company:
(A) The company has business operations that involve contracts with or the provision of supplies or services to:
(i) the government of Sudan;
(ii) companies in which the government of Sudan has any direct or indirect equity share;

(iii) consortiums or projects commissioned by the government of Sudan; or

(iv) companies involved in consortiums or projects commissioned by the government of Sudan.

(B) Either:

(i) more than ten percent (10%) of the company's revenues or assets linked to Sudan involve oil related activities or mineral extraction activities, and less than seventy-five percent (75%) of the company's oil related or mineral extracting revenues or assets linked to Sudan involve contracts with the regional government of southern Sudan or a project or consortium created exclusively by the regional government, and the company has failed to take substantial action; or

(ii) more than ten percent (10%) of the company's revenues or assets linked to Sudan involve power production activities and less than seventy-five percent (75%) of the company's power production activities include projects that are intended to provide power or electricity to the marginalized populations of Sudan, and the company has failed to take substantial action.

(2) The company is complicit in the Darfur genocide.

(3) The company supplies military equipment within Sudan, unless the company implements safeguards to prevent the use of the equipment by forces actively participating in armed conflict in Sudan. This subdivision does not apply to companies involved in the sale of military equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

(b) The term does not include a social development company that is not complicit in the Darfur genocide.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-19

"Social development company"

Sec. 19. As used in this chapter, "social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including:

(1) medicine or medical equipment;

(2) agricultural supplies or infrastructure;

(3) educational opportunities;

(4) journalism related activities;

(5) information or informational materials;

(6) spiritual related activities;

(7) services that are clerical or reporting in nature;

(8) food;

(9) clothing; or

(10) general consumer goods that are unrelated to oil related

activities, mineral extraction activities, or power production activities.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-20
"Substantial action"

Sec. 20. As used in this chapter, "substantial action" means:

(1) adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one (1) year and to refrain from any new business operations;

(2) undertaking significant humanitarian efforts on behalf of one (1) or more marginalized populations of Sudan; or

(3) materially improving conditions for the genocidally victimized population in Darfur through engagement with the government of Sudan.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-20.5
"System"

Sec. 20.5. As used in this chapter, "system" refers to the Indiana public retirement system established by IC 5-10.5-2-1.

As added by P.L.35-2012, SEC.53.

IC 5-10.2-9-21
Identification of scrutinized companies

Sec. 21. (a) Not later than March 30, 2008, the board shall make a good faith effort to identify all scrutinized companies in which a fund has direct or indirect holdings.

(b) In carrying out its responsibilities under subsection (a), and at the board's discretion, the board may use existing research or contract with a research firm.

(c) A board or a research firm with which the board contracts under subsection (b) may take any of the following actions:

(1) Review publicly available information regarding companies with business operations in Sudan.

(2) Contact other institutional investors that invest in companies with business operations in Sudan.

(3) Contact asset managers contracted by the fund that invest in companies with business operations in Sudan.

(d) Not later than the first meeting of the board after March 30, 2008, the board shall compile the names of all scrutinized companies into a scrutinized company list and indicate whether each scrutinized company has active or inactive business operations in Sudan.

(e) The board shall update its scrutinized company list at least on an annual basis based on evolving information from sources described in subsections (b) and (c).

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.54.

IC 5-10.2-9-22
Identification of holdings

Sec. 22. After the board creates or updates the scrutinized company list under section 21 of this chapter, the board shall immediately identify the companies on the scrutinized company list in which a fund has direct or indirect holdings.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.55.

IC 5-10.2-9-23
Notice to scrutinized company with inactive business operations

Sec. 23. (a) Each fund (before July 1, 2011) or the board shall send to each scrutinized company:

(1) that is identified under section 22 of this chapter as one in which a fund has direct or indirect holdings; and

(2) that has only inactive business operations;

a written notice concerning the contents of this chapter and a statement encouraging the company to continue to refrain from initiating active business operations in Sudan until the company is able to avoid scrutinized business operations altogether.

(b) The fund (before July 1, 2011) or board shall continue to correspond on a semiannual basis with scrutinized companies in which a fund has direct or indirect holdings and that have only inactive business operations.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.56.

IC 5-10.2-9-24
Notice to scrutinized company with active business operations

Sec. 24. (a) Each fund (before July 1, 2011) or the board shall send to each scrutinized company:

(1) that is identified under section 22 of this chapter as one in which a fund has direct or indirect holdings; and

(2) that has active business operations;

a written notice concerning the contents of this chapter and a statement indicating that a fund's holdings in the company may become subject to divestment by the fund (before July 1, 2011) or system.

(b) A notice sent under this section shall:

(1) offer the company the opportunity to clarify the company's Sudan related activities; and

(2) encourage the company, within ninety (90) days after the date of the written notice, to either:

(A) cease its scrutinized business operations; or

(B) convert the company's operations to inactive business operations in order to avoid divestment by the fund (before July 1, 2011) or system of a fund's holdings in the company.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012,

SEC.57.

IC 5-10.2-9-25
Compliance by a scrutinized company

Sec. 25. (a) If, within ninety (90) days after a fund's (before July 1, 2011) or the system's first engagement with a company under section 24 of this chapter, the company ceases scrutinized business operations, the company shall be removed from a fund's scrutinized company list and the provisions of sections 26, 27, 28, and 29 of this chapter shall cease to apply to the company unless the company resumes scrutinized business operations.

(b) If, within ninety (90) days after a fund (before July 1, 2011) or the system first engages with a company under section 24 of this chapter, the company converts its scrutinized active business operations to inactive business operations, the company shall be subject to the provisions of section 23 of this chapter.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.58.

IC 5-10.2-9-26
Divestment; exemption for certain commingled funds

Sec. 26. (a) Except as provided in sections 28 and 29 of this chapter, if, after ninety (90) days after a fund's (before July 1, 2011) or the system's first engagement with a company under section 24 of this chapter, the company continues to have scrutinized active business operations, the fund (before July 1, 2011) or system shall sell, redeem, divest, or withdraw all publicly traded securities of the company that are held by a fund, as follows:

(1) At least fifty percent (50%) of such assets shall be removed from a fund's assets under management within nine (9) months after the company's appearance on the scrutinized company list.

(2) One hundred percent (100%) of such assets shall be removed from a fund's assets under management within fifteen (15) months after the company's appearance on the scrutinized company list.

(b) If a company that ceased scrutinized active business operations following engagement under section 24 of this chapter resumes scrutinized active business operations, and only while the company continues to have active business operations, the company shall immediately be placed back on the scrutinized company list. If a fund has holdings in the company, the fund (before July 1, 2011) or the system shall sell, redeem, divest, or withdraw all publicly traded securities of the company as provided in subsection (a) based on the date the company is placed back on the scrutinized company list. The fund (before July 1, 2011) or the system shall send a written notice to the company indicating that the company was placed back on the scrutinized company list and is subject to divestment.

(c) The board is not required to divest a fund's holdings in a

passively managed commingled fund that includes a scrutinized company with active business operations in Sudan if the estimated cost of divestment of the commingled fund is greater than ten percent (10%) of the total value of the scrutinized companies with active business operations held in the commingled fund. The board shall include any commingled fund that includes a scrutinized company that is exempted from divestment under this subsection in the board's report submitted to the legislative council under section 31 of this chapter.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.59.

IC 5-10.2-9-27

Acquisition of securities containing scrutinized companies

Sec. 27. Except as provided in sections 28 and 29 of this chapter, a fund (before July 1, 2011) or the system shall not acquire for a fund securities of companies on the scrutinized company list that have active business operations.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.60.

IC 5-10.2-9-28

Scrutinized company excluded from federal sanctions

Sec. 28. If the government of the United States affirmatively declares any company on the scrutinized company list with active business operations in Sudan to be excluded from any federal sanctions relating to Sudan, the company is not subject to divestment or investment prohibition under this chapter.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-29

Exclusion of indirect holdings in actively managed investment funds

Sec. 29. Notwithstanding any provision to the contrary, sections 26 and 27 of this chapter do not apply to indirect holdings in actively managed investment funds. However, if a fund has indirect holdings in actively managed investment funds containing the securities of scrutinized companies with active business operations, the fund (before July 1, 2011) or board shall submit letters to the managers of the investment funds requesting that the managers remove the scrutinized companies with active business operations from the fund or create a similar actively managed fund with indirect holdings without scrutinized companies with active business operations. If the manager creates a similar fund, the fund (before July 1, 2011) or board shall replace all applicable investments with investments in the similar fund in a period consistent with prudent investing standards.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.61.

IC 5-10.2-9-30
Exclusion of private equity funds

Sec. 30. This chapter does not apply to private equity funds.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-31
Report to legislative council

Sec. 31. (a) On or before November 1, 2007, and thereafter as directed by the legislative council, the board shall submit a report in an electronic format under IC 5-14-6 to the legislative council for distribution to the members of the general assembly.

(b) The report must include at least the following information, as of the date of the report:

(1) A copy of the scrutinized company list.

(2) A summary of correspondence with companies engaged by the fund (before July 1, 2011) or board under sections 23 and 24 of this chapter.

(3) All investments sold, redeemed, divested, or withdrawn in compliance with section 26 of this chapter.

(4) All commingled funds that are exempted from divestment under section 26 of this chapter.

(5) All prohibited investments under section 27 of this chapter.

(6) Any progress made under section 29 of this chapter.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.62.

IC 5-10.2-9-32
Expiration of chapter

Sec. 32. This chapter expires on the earliest of the following:

(1) Twelve (12) months after the date the government of Sudan halts the genocide in Darfur as determined by the Congress of the United States and the United States Department of State.

(2) The date the United States revokes its current sanctions against the government of Sudan.

(3) The date Congress or the President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of foreign policy for the United States.

(4) The date Congress or the President of the United States declares that the government of Sudan:

(A) has honored its commitments to cease attacks on civilians;

(B) demobilizes and demilitarizes the Janjaweed and associated militias;

(C) grants free and unfettered access for deliveries of humanitarian assistance; and

(D) allows for the safe and voluntary return of refugees and international displaced persons.

As added by P.L.149-2007, SEC.3.

IC 5-10.2-9-33
Exemption from conflicting statutory or common law obligations

Sec. 33. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies on the scrutinized company list, the fund (before July 1, 2011) or system shall be exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for fund securities portfolios.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.63.

IC 5-10.2-9-34
Cessation of divestment and reinvestment in scrutinized companies

Sec. 34. (a) Notwithstanding any provision to the contrary, the fund (before July 1, 2011) or system shall be permitted to cease divesting and to reinvest in certain scrutinized companies on the scrutinized company list with active business operations in Sudan if evidence shows that the value for all assets under management by the fund (before July 1, 2011) or the system on a fund's behalf becomes equal to or less than ninety-nine and five-tenths percent (99.5%) of the value of all assets under management by the fund (before July 1, 2011) or the system on a fund's behalf, including the companies divested under section 26 of this chapter.

(b) As provided by this section, any cessation of divestment or reinvestment shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in subsection (a).

(c) For any cessation of divestment, reinvestment, and subsequent ongoing investment authorized by this section, the fund (before July 1, 2011) or board shall submit a report in an electronic format under IC 5-14-6 to the legislative council for distribution to the members of the general assembly in advance of any initial reinvestment. The report shall be updated annually thereafter as applicable, setting forth the reasons and justifications for the decision to cease divestment, reinvest, or remain invested with companies with scrutinized active business operations. This section does not apply to companies that have ceased to have scrutinized business operations.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.64.

IC 5-10.2-9-35
Immunity; liability of the fund and its agents

Sec. 35. (a) Both:

(1) the state and its officers, agents, and employees; and

(2) the fund (before July 1, 2011) or system and its board members, executive director, officers, agents, and employees;

are immune from civil liability for any act or omission related to the removal of an asset from a fund under this chapter.

(b) In addition to the immunity provided under subsection (a), both:

(1) the officers, agents, and employees of the state; and

(2) the board members, executive director, officers, agents, and employees of the fund (before July 1, 2011) or system;

are entitled to indemnification from the fund (before July 1, 2011) or system for all losses, costs, and expenses, including reasonable attorney's fees, associated with defending against any claim or suit relating to an act authorized under this chapter.

As added by P.L.149-2007, SEC.3. Amended by P.L.35-2012, SEC.65.

IC 5-10.2-9-36

Severability

Sec. 36. The provisions of this chapter are severable in the manner provided in IC 1-1-1-8(b).

As added by P.L.149-2007, SEC.3.

IC 5-10.2-10

Chapter 10. Divestment From States That Sponsor Terror

IC 5-10.2-10-0.3

General assembly findings

Sec. 0.3. The general assembly finds the following:

(1) Mandatory divestment by the funds of the funds' holdings in certain companies is a measure that should be employed only under extraordinary circumstances.

(2) States that are designated as a state sponsor of terror by the Secretary of State of the United States are providing military, financial, political, diplomatic, and organizational aid to known terrorist groups.

(3) Support for terrorism and the acquisition of weapons of mass destruction represent a grave threat to the security of the United States and to the citizens of Indiana.

(4) The threat from terrorism to the security of the United States and to the citizens of Indiana constitutes the extraordinary circumstances necessary for mandatory divestment by the funds of the funds' holdings in scrutinized companies with active business operations in a state sponsor of terror.

As added by P.L.220-2011, SEC.76.

IC 5-10.2-10-1

Requirements for mandatory divestment

Sec. 1. The requirements for mandatory divestment contained in this chapter are separate and distinct from the requirements for mandatory divestment contained in IC 5-10.2-9.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-2

"Active business operations"

Sec. 2. As used in this chapter, "active business operations" means all business operations that are not inactive business operations.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-3

"Board"

Sec. 3. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.67-2009, SEC.1. Amended by P.L.23-2011, SEC.12.

IC 5-10.2-10-4

"Business operations"

Sec. 4. As used in this chapter, "business operations" means engaging in any commerce in any form in a state that sponsors terror.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-5
"Company"

Sec. 5. (a) As used in this chapter, "company" means any of the following:

(1) A sole proprietorship.
(2) An organization.
(3) An association.
(4) A corporation.
(5) A partnership.
(6) A joint venture.
(7) A limited partnership.
(8) A limited liability partnership.
(9) A limited liability company.
(10) A business association.

(b) The term includes all wholly owned subsidiaries, majority owned subsidiaries, parent companies, and affiliates of such entities or business associations that exist for profit making purposes.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-6
"Cost of divestment"

Sec. 6. As used in this chapter, "cost of divestment" means the sum of the following:

(1) The costs associated with the sale, redemption, divestment, or withdrawal of an investment.
(2) The costs associated with the acquisition and maintenance of a replacement investment.
(3) A cost not described in subdivision (1) or (2) that is incurred by the fund (before July 1, 2011) or system in connection with a divestment transaction.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.66.

IC 5-10.2-10-7
"Direct holdings"

Sec. 7. As used in this chapter, "direct holdings" means all securities of a company held directly by a fund (before July 1, 2011) or the system on behalf of a fund or in an account in which the fund (before July 1, 2011) or the system on behalf of the fund owns all shares or interests.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.67.

IC 5-10.2-10-8
"Fund"

Sec. 8. As used in this chapter, "fund" refers to the following:

(1) The Indiana state teachers' retirement fund.
(2) The public employees' retirement fund.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-9
"Inactive business operations"

Sec. 9. As used in this chapter, "inactive business operations" means the mere continued holding or renewal of rights to property previously operated to generate revenues but not presently deployed for that purpose.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-10
"Indirect holdings"

Sec. 10. As used in this chapter, "indirect holdings" means all securities of a company that are:

(1) held in an account or a fund; and
(2) managed by one (1) or more persons:
(A) who are not employed by the fund (before July 1, 2011) or system; and
(B) in which the fund (before July 1, 2011) or the system on behalf of the fund owns shares or interests together with other investors not subject to this chapter.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.68.

IC 5-10.2-10-10.2
"Military equipment"

Sec. 10.2. (a) As used in this chapter, "military equipment" means weapons, arms, or military defense supplies provided directly or indirectly to any force of a state sponsor of terror. The term includes any equipment that readily may be used for military purposes, including:

(1) radar systems; or
(2) military grade transport vehicles.

(b) The term does not include weapons, arms, or military defense supplies sold to peacekeeping forces that may be dispatched to a state sponsor of terror by the United Nations or the African Union.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-10.4
"Mineral extraction activities"

Sec. 10.4. (a) As used in this chapter, "mineral extraction activities" means the exploration, extraction, processing, transporting, or wholesale sale of elemental minerals or associated metals or oxides, including:

(1) gold;
(2) copper;
(3) chromium;
(4) chromite;
(5) diamonds;
(6) iron;
(7) iron ore;

(8) silver;
(9) tungsten;
(10) uranium; and
(11) zinc.

(b) The term includes the facilitation of mineral extraction activities, including the provision of supplies or services in support of mineral extraction activities.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-10.6
"Oil related activities"

Sec. 10.6. (a) As used in this chapter, "oil related activities" includes:

(1) the export of oil;
(2) the extraction of or production of oil;
(3) the exploration for oil;
(4) the ownership of rights to oil blocks;
(5) the refining or processing of oil;
(6) the transportation of oil;
(7) the selling or trading of oil; or
(8) the construction or maintenance of a pipeline, a refinery, or another oil field infrastructure.

(b) The term includes the facilitation of oil related activities, including the provision of supplies or services in support of oil related activities. The mere retail sale of gasoline and related consumer products is not considered an oil related activity.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-10.8
"Power production activities"

Sec. 10.8. As used in this chapter, "power production activities" means any business operation that involves a project commissioned by a state sponsor of terror whose purpose is to facilitate power generation and delivery. The term includes the following:

(1) Establishing power generating plants or hydroelectric dams.
(2) Selling or installing components for power generating plants or hydroelectric dams.
(3) Providing service contracts related to the installation or maintenance of power generating plants or hydroelectric dams.
(4) Facilitating power production activities, including providing supplies or services in support of power production activities.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-11
"Private market fund"

Sec. 11. As used in this chapter, "private market fund" means any:

(1) private equity fund;
(2) private equity fund of funds;

(3) venture capital fund;
(4) hedge fund;
(5) hedge fund of funds;
(6) real estate fund; or
(7) investment vehicle;
that is not publicly traded.
As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-12
"Scrutinized business operations"
Sec. 12. As used in this chapter, "scrutinized business operations" means business operations that have caused a company to become a scrutinized company.
As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-13
"Scrutinized company"
Sec. 13. (a) As used in this chapter, "scrutinized company" means a company that meets any of the following criteria:
(1) Both of the following apply to the company:
(A) The company has business operations that involve contracts with or the provision of supplies or services to:
(i) a state sponsor of terror;
(ii) companies in which a state sponsor of terror has any direct or indirect equity share;
(iii) consortiums or projects commissioned by a state sponsor of terror; or
(iv) companies involved in consortiums or projects commissioned by a state sponsor of terror.
(B) Either:
(i) more than ten percent (10%) of the company's revenues or assets is linked to a state sponsor of terror involve oil related activities or mineral extraction activities; or
(ii) more than ten percent (10%) of the company's revenues or assets is linked to a state sponsor of terror involve power production activities.
(2) The company supplies military equipment to a state sponsor of terror, unless the company implements safeguards to prevent the use of the equipment by forces actively participating in an armed conflict in a state sponsor of terror. This subdivision does not apply to companies involved in the sale of military equipment solely to any internationally recognized peacekeeping force or humanitarian organization.
(b) The term does not include a social development company.
As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-14
"Social development company"

Sec. 14. (a) As used in this chapter, "social development company" means a company that is:

(1) licensed by the United States Department of Treasury under the Federal Trade Sanction Reform and Export Enhancement Act of 2000 (P.L. 106-387); or

(2) lawfully operating under the laws of another country whose primary purpose in a state sponsor of terror is to provide humanitarian goods or services.

(b) A company described in subsection (a)(2) includes a company whose primary purpose is to provide:

(1) food;

(2) medicine or medical equipment;

(3) agricultural supplies or infrastructure;

(4) educational opportunities;

(5) journalism related activities;

(6) spiritual related activities or materials;

(7) information or information materials;

(8) general consumer goods; or

(9) services of a purely clerical or reporting nature;

to aid the inhabitants of a state sponsor of terror.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-15

"State sponsor of terror"

Sec. 15. As used in this chapter, "state sponsor of terror" means a country determined by the Secretary of State of the United States to have repeatedly provided support for acts of international terrorism.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-16

"Substantial action"

Sec. 16. As used in this chapter, "substantial action" means adopting, publicizing, and implementing a formal plan to cease scrutinized business operations within one (1) year and to refrain from any new business operations.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-16.5

"System"

Sec. 16.5. As used in this chapter, "system" refers to the Indiana public retirement system established by IC 5-10.5-2-1.

As added by P.L.35-2012, SEC.69.

IC 5-10.2-10-17

Identification of scrutinized companies

Sec. 17. (a) Not later than March 30, 2010, the board shall make a good faith effort to identify all scrutinized companies in which a

fund has direct or indirect holdings.

(b) In carrying out its responsibilities under subsection (a), the board may use existing research or contract with a research firm.

(c) A board or a research firm with which the board contracts under subsection (b) may take any of the following actions:

(1) Review publicly available information regarding companies with business operations in states that sponsor terror.

(2) Contact other institutional investors that have divested from or invest in companies with business operations in states that sponsor terror.

(3) Contact asset managers that are contracted by the fund and that invest in companies with business operations in states that sponsor terror.

(d) Not later than the first meeting of the board after March 30, 2010, the board shall compile the names of all scrutinized companies into a scrutinized company list and indicate whether each scrutinized company has active or inactive business operations in a state sponsor of terror.

(e) The board shall update its scrutinized company list at least on an annual basis based on evolving information from sources described in subsections (b) and (c).

(f) If the Secretary of State of the United States determines that a country is a state sponsor of terror after June 30, 2009, the board shall add any additional scrutinized company resulting from the Secretary of State's determination when the board updates its scrutinized company list under subsection (e).

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.70.

IC 5-10.2-10-18

Identification of holdings

Sec. 18. After the board creates or updates the scrutinized company list under section 17 of this chapter, the board shall immediately identify the companies on the scrutinized company list in which a fund has direct or indirect holdings.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.71.

IC 5-10.2-10-19

Notice to scrutinized company with inactive business operations

Sec. 19. (a) Each fund (before July 1, 2011) or the board shall send to each scrutinized company:

(1) that is identified under section 18 of this chapter as one in which a fund has direct or indirect holdings; and

(2) that has only inactive business operations;

a written notice concerning the provisions of this chapter and a statement encouraging the company to continue to refrain from initiating active business operations in a state sponsor of terror until the company is able to avoid scrutinized business operations altogether.

(b) Each fund (before July 1, 2011) or the board shall continue to correspond on a semiannual basis with scrutinized companies:

(1) in which a fund has direct or indirect holdings; and

(2) that have only inactive business operations.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.72.

IC 5-10.2-10-20

Notice to scrutinized company with active business operations

Sec. 20. (a) Each fund (before July 1, 2011) or the board shall send to each scrutinized company:

(1) that is identified under section 18 of this chapter as one in which a fund has direct or indirect holdings; and

(2) that has active business operations;

a written notice concerning the contents of this chapter and a statement indicating that a fund's holdings in the company may become subject to divestment by the fund (before July 1, 2011) or system.

(b) A notice sent under this section must:

(1) offer the company the opportunity to clarify the company's state sponsor of terror related activities; and

(2) encourage the company to:

(A) cease its scrutinized business operations; or

(B) convert the company's operations to inactive business operations in order to avoid divestment by the fund (before July 1, 2011) or system of a fund's holdings in the company;

not later than one hundred eighty (180) days after the date of the notice.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.73.

IC 5-10.2-10-21

Compliance by a scrutinized company

Sec. 21. (a) If, within one hundred eighty (180) days after a fund (before July 1, 2011) or the system first sends written notice to a company under section 20 of this chapter, the company ceases scrutinized business operations, the company shall be removed from a fund's scrutinized company list, and sections 22, 23, 24, and 25 of this chapter do not apply to the company unless the company resumes scrutinized business operations.

(b) If, within one hundred eighty (180) days after a fund (before July 1, 2011) or the system first sends written notice to a company under section 20 of this chapter, the company converts its scrutinized active business operations to inactive business operations, the company is subject to section 19 of this chapter.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.74.

IC 5-10.2-10-22

Divestment; exemption for certain commingled funds

Sec. 22. (a) Except as provided in sections 24 and 25 of this

chapter, if a company continues to have scrutinized active business operations one hundred eighty (180) days after a fund (before July 1, 2011) or the system first sends written notice to the company under section 20 of this chapter, the fund shall sell, redeem, divest, or withdraw all publicly traded securities of the company that are held by a fund, as follows:

(1) At least fifty percent (50%) of the securities shall be removed from a fund's assets under management within three (3) years after the company's appearance on the scrutinized company list.

(2) At least seventy-five percent (75%) of the securities shall be removed from a fund's assets under management within four (4) years after the company's appearance on the scrutinized company list.

(3) One hundred percent (100%) of the securities shall be removed from a fund's assets under management within five (5) years after the company's appearance on the scrutinized company list.

(b) If a company that ceased scrutinized active business operations following engagement under section 20 of this chapter resumes scrutinized active business operations, the company shall immediately be placed on the scrutinized company list and shall remain on the scrutinized company list while the company continues to have active business operations. If a fund has holdings in the company, the fund (before July 1, 2011) or the system shall send a written notice to the company as described in section 20 of this chapter indicating that the company has been placed on the scrutinized company list and is subject to divestment. The fund (before July 1, 2011) or system shall sell, redeem, divest, or withdraw all publicly traded securities of the company as provided in subsection (a) based on the date the company is placed back on the scrutinized company list.

(c) The board is not required to divest the board's holdings in a passively managed commingled fund that includes a scrutinized company with active business operations in a state sponsor of terror if the estimated cost of divestment of the commingled fund is greater than ten percent (10%) of the total value of the scrutinized companies with active business operations held in the commingled fund. The board shall include any commingled fund that includes a scrutinized company that is exempted from divestment under this subsection in the board's report submitted to the legislative council under section 26 of this chapter.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.75.

IC 5-10.2-10-23

Acquisition of securities containing scrutinized companies

Sec. 23. Except as provided in sections 24 and 25 of this chapter:

(1) before July 1, 2011, a fund shall not acquire; and

(2) after June 30, 2011, the system shall not acquire for a fund; securities of companies on the scrutinized company list that have active business operations.
As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.76.

IC 5-10.2-10-24
Scrutinized company excluded from federal sanctions
Sec. 24. If the government of the United States declares that a company on the scrutinized company list with active business operations in a state sponsor of terror is excluded from any federal sanctions relating to a state sponsor of terror, the company is not subject to divestment or investment prohibition under this chapter.
As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-25
Exclusion of indirect holdings in a private market fund
Sec. 25. Notwithstanding any provision to the contrary, sections 22 and 23 of this chapter do not apply to indirect holdings in a private market fund that includes a scrutinized company with active business operations in a state sponsor of terror.
As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-25.5
Exclusion of indirect holdings in actively managed investment funds
Sec. 25.5. Notwithstanding any provision to the contrary, sections 22 and 23 of this chapter do not apply to indirect holdings in actively managed investment funds. However, if a fund has indirect holdings in actively managed investment funds containing the securities of scrutinized companies with active business operations, the fund (before July 1, 2011) or board shall submit letters to the managers of the investment funds requesting that the managers remove the scrutinized companies with active business operations from the fund or create a similar actively managed fund with indirect holdings without scrutinized companies with active business operations. If the manager creates a similar fund, the fund (before July 1, 2011) or board shall replace all applicable investments with investments in the similar fund in a period consistent with prudent investing standards.
As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.77.

IC 5-10.2-10-26
Report to legislative council
Sec. 26. (a) On or before November 1, 2010, and thereafter as directed by the legislative council, the board shall submit a report in an electronic format under IC 5-14-6 to the legislative council. Notwithstanding IC 5-14-6-4(b)(2), the submission of a report under this subsection to the executive director of the legislative services agency fulfills the board's requirement to send a copy of the report

to each member of the general assembly using the member's senate or house of representatives electronic mail address.

(b) A report submitted by the board under this section must include at least the following information, as of the date of the report:

(1) A copy of the fund's scrutinized company list.

(2) A summary of correspondence between the board and companies under sections 19 and 20 of this chapter.

(3) All investments sold, redeemed, divested, or withdrawn by the board in compliance with section 22 of this chapter.

(4) All commingled funds that are exempted from divestment under section 22 of this chapter.

(5) All companies whose securities the system is prohibited from acquiring under section 23 of this chapter.

(6) Any progress made under section 21 of this chapter.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.78.

IC 5-10.2-10-27

Expiration of chapter

Sec. 27. The provisions of this chapter regarding any country determined to be a state sponsor of terror cease to apply to that country on the earlier of the following:

(1) The date the Secretary of State of the United States removes the country from its official list of state sponsors of terrorism.

(2) The date Congress or the President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of foreign policy of the United States.

As added by P.L.67-2009, SEC.1.

IC 5-10.2-10-28

Exemption from conflicting statutory or common law obligations

Sec. 28. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding companies on the scrutinized company list, a fund (before July 1, 2011) or the system is exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for fund securities portfolios.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.79.

IC 5-10.2-10-29

Immunity; liability of the fund and its agents

Sec. 29. (a) Both:

(1) the state and its officers, agents, and employees; and

(2) each fund (before July 1, 2011) or the system and its board members, executive director, officers, agents, and employees;

are immune from civil liability for any act or omission related to the

removal of an asset from a fund under this chapter.

(b) In addition to the immunity provided under subsection (a), both:

(1) the officers, agents, and employees of the state; and

(2) the board members, executive director, officers, agents, and employees of a fund (before July 1, 2011) or the system;

are entitled to indemnification from the fund for all losses, costs, and expenses, including reasonable attorney's fees, associated with defending against any claim or suit relating to an act authorized under this chapter.

As added by P.L.67-2009, SEC.1. Amended by P.L.35-2012, SEC.80.

IC 5-10.2-10-30

Severability

Sec. 30. The provisions of this chapter are severable in the manner provided in IC 1-1-1-8(b).

As added by P.L.67-2009, SEC.1.

IC 5-10.2-11

Chapter 11. Divestment Related to Boycott of, Divestment from, or Sanctions of Israel

IC 5-10.2-11-1

General assembly findings

Sec. 1. The general assembly finds the following:

(1) Mandatory divestment by the system of the system's holdings in certain companies is a measure that should be employed only under extraordinary circumstances.

(2) The Jewish state of Israel is the only democracy in the Middle East.

(3) By virtue of shared values and interests, the Jewish state of Israel is the strongest ally of the United States in the Middle East.

(4) The fundamental principles of the United States are offended by attempts to:

(A) delegitimize Israel's existence;

(B) demonize the Jewish state; or

(C) undermine the Jewish people's right to self determination;

through an international campaign to boycott, divest from, or sanction Israel.

(5) Efforts to promote an international campaign to boycott, divest from, or sanction Israel:

(A) increasingly occur on college and university campuses nationwide, leading to a climate of intimidation, fear, and violence on campuses in Indiana;

(B) disproportionately harm thousands of Palestinian workers employed by Israeli owned firms; and

(C) are antithetical and deeply damaging to the cause of peace, justice, equality, democracy, and human rights for all people in the Middle East.

(6) The federal Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (P.L.114-26, Sections 102(b)(20) and 103(b)) specifies principal negotiating objectives regarding commercial partnerships of the United States in negotiation of a transatlantic trade and investment partnership agreement, as follows:

(A) To discourage actions by potential trading partners that prejudice or discourage commercial activity solely between the United States and Israel.

(B) To discourage politically motivated actions to boycott, divest from, or sanction Israel.

(C) To seek elimination of politically motivated nontariff barriers on Israeli goods, services, or other commerce imposed on the Jewish state of Israel.

(D) To seek elimination of state sponsored unsanctioned

foreign actions to boycott, divest from, or sanction Israel or compliance with the Arab League boycott of Israel by prospective trading partners.

(As used in this subdivision, "actions to boycott, divest from, or sanction Israel" has the meaning set forth in P.L.114-26, Section 102(b)(20)(B).)

(7) The situation with respect to promotion of activities to boycott, divest from, or sanction Israel is unique and constitutes the extraordinary circumstances necessary for mandatory divestment by the system of the system's holdings in restricted businesses.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-2
"Board"

Sec. 2. As used in this chapter, "board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-3
"Boycott, divest from, or sanction Israel activity"

Sec. 3. Except as provided in section 1(6) of this chapter, as used in this chapter, "boycott, divest from, or sanction Israel activity" means action or inaction that:

(1) furthers;
(2) coordinates with; or
(3) acquiesces in;

an effort by another person to penalize, inflict economic harm on, or otherwise limit commercial relations with the Jewish state of Israel or businesses that are based in the Jewish state of Israel or territories controlled by the Jewish state of Israel. "Boycott, divest from, or sanction Israel" has a corresponding meaning.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-4
"Business"

Sec. 4. (a) As used in this chapter, "business" means any of the following that exist for profit making purposes:

(1) A sole proprietorship.
(2) An organization.
(3) An association.
(4) A corporation.
(5) A partnership.
(6) A joint venture.
(7) A limited partnership.
(8) A limited liability partnership.
(9) A limited liability company.

(10) A business association.

(b) The term includes all wholly owned subsidiaries, majority owned subsidiaries, parent businesses, and affiliates of such entities or business associations that exist for profit making purposes.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-5
"Cost of divestment"

Sec. 5. As used in this chapter, "cost of divestment" means the sum of the following:

(1) The costs associated with the sale, redemption, divestment, or withdrawal of an investment.

(2) The costs associated with the acquisition and maintenance of a replacement investment.

(3) A cost not described in subdivision (1) or (2) that is incurred by the system in connection with a divestment transaction.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-6
"Direct holdings"

Sec. 6. As used in this chapter, "direct holdings" means all securities of a business held directly by the system on behalf of a fund or in an account in which the system on behalf of a fund owns all shares or interests.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-7
"Fund"

Sec. 7. As used in this chapter, "fund" refers to the following:

(1) The Indiana state teachers' retirement fund.

(2) The public employees' retirement fund.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-8
"Indirect holdings"

Sec. 8. As used in this chapter, "indirect holdings" means all securities of a business:

(1) held in an account or a fund; and

(2) managed by one (1) or more persons not employed by the system, in which the system owns shares or interests on behalf of a fund together with other investors not subject to this chapter.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-9
"Research firm"

Sec. 9. As used in this chapter, "research firm" means a reputable, neutral third party research firm not controlled by the system.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-10
"Restricted business"

Sec. 10. As used in this chapter, "restricted business" means a business that engages in boycott, divest from, or sanction Israel activity.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-11
"System"

Sec. 11. As used in this chapter, "system" refers to the Indiana public retirement system established by IC 5-10.5-2-1.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-12
Identification of restricted businesses

Sec. 12. (a) Not later than January 31, 2017, the board shall make a good faith effort to identify all restricted businesses in which a fund has direct or indirect holdings.

(b) In carrying out its responsibilities under subsection (a), and at the board's discretion, the board may use existing research or contract with a research firm.

(c) The board or a research firm with which the board contracts under subsection (b) may take any of the following actions to determine a business's connections with respect to boycott, divest from, or sanction Israel activity:

(1) Review publicly available information regarding businesses.

(2) Contact other institutional investors that invest in businesses.

(3) Contact asset managers that invest in businesses and are contracted by a fund.

(d) Not later than the first meeting of the board after January 31, 2017, the board shall compile the names of all restricted businesses into a restricted business list.

(e) The board shall update the restricted business list at least on an annual basis based on evolving information from sources described in subsections (b) and (c).

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-13
Identification of holdings

Sec. 13. After the board creates or updates the restricted business list under section 12 of this chapter, the board shall immediately identify the businesses on the restricted business list in which a fund has direct or indirect holdings.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-14
Notice to restricted businesses concerning possible divestment

Sec. 14. (a) The board shall send to each restricted business that is identified under section 13 of this chapter as a business in which a fund has direct or indirect holdings a written notice concerning the contents of this chapter and a statement indicating that the fund's holdings in the business may become subject to divestment by the system.

(b) A notice sent under this section must:

(1) offer the business the opportunity to clarify the business's boycott, divest from, or sanction Israel activity; and

(2) encourage the business, within ninety (90) days after the date of the written notice, to cease its boycott, divest from, or sanction Israel activity to avoid divestment by the system of the fund's holdings in the business.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-15
Compliance by restricted business

Sec. 15. If, within ninety (90) days after the system's first engagement with a business under section 14 of this chapter, the business ceases boycott, divest from, or sanction Israel activity, the business shall be removed from the restricted business list and sections 16, 17, 18, and 19 of this chapter cease to apply to the business unless the business resumes boycott, divest from, or sanction Israel activity.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-16
Divestment; exemption for certain passively managed comingled funds

Sec. 16. (a) Except as provided in sections 18 and 19 of this chapter, if, after ninety (90) days after the system's first engagement with a business under section 14 of this chapter, the business continues to engage in boycott, divest from, or sanction Israel activity, the system shall sell, redeem, divest, or withdraw all publicly traded securities of the business that are held by a fund, as follows:

(1) At least fifty percent (50%) of such assets shall be removed from a fund's assets under management within nine (9) months after the business's appearance on the restricted business list.

(2) One hundred percent (100%) of such assets shall be removed from a fund's assets under management within fifteen (15) months after the business's appearance on the restricted business list.

(b) If a business that ceased boycott, divest from, or sanction Israel activity following engagement under section 14 of this chapter resumes boycott, divest from, or sanction Israel activity, the business

shall be placed immediately back on the restricted business list. If a fund has holdings in the business, the system shall sell, redeem, divest, or withdraw all publicly traded securities of the business as provided in subsection (a) based on the date the business is placed back on the restricted business list. The system shall send a written notice to the business indicating that the business was placed back on the restricted business list and is subject to divestment.

(c) The board is not required to divest a fund's holdings in a passively managed commingled fund that includes a restricted business engaging in boycott, divest from, or sanction Israel activity if the estimated cost of divestment of the commingled fund is greater than ten percent (10%) of the total value of the restricted businesses held in the commingled fund. The board shall include any commingled fund that includes a restricted business that is exempted from divestment under this subsection in the board's report submitted to the legislative council under section 21 of this chapter.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-17

Acquisition of securities of businesses on restricted business list

Sec. 17. Except as provided in sections 18 and 19 of this chapter, the system shall not acquire for a fund securities of businesses on the restricted business list.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-18

Restricted business excluded from federal sanctions

Sec. 18. If the United States government affirmatively declares any business on the restricted business list to be excluded from any federal sanctions related to boycott, divest from, or sanction Israel activity, the business is not subject to divestment or investment prohibition under this chapter.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-19

Exclusion of indirect holdings in actively managed investment funds

Sec. 19. Notwithstanding any provision to the contrary, sections 16 and 17 of this chapter do not apply to indirect holdings in actively managed investment funds. However, if a fund has indirect holdings in an actively managed investment fund containing the securities of restricted businesses, the board shall submit letters to the managers of the actively managed investment fund requesting that the managers remove the restricted businesses from the actively managed investment fund or create a similar actively managed investment fund with indirect holdings without restricted businesses. If the managers create a similar actively managed investment fund, the board shall replace all applicable investments with investments

in the similar actively managed investment fund in a period consistent with prudent investing standards.
As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-20
Investment in private equity partnership

Sec. 20. This chapter does not apply directly to private equity funds. However, the board shall ensure that reasonable efforts are made during the due diligence process before an investment is made in a private equity partnership to determine whether any investments by the private equity general partner on behalf of the private equity partnership include a restricted business.
As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-21
Report to general assembly

Sec. 21. (a) On or before November 1, 2017, and thereafter as directed by the legislative council, the board shall submit a report in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

(b) The report must include at least the following information, as of the date of the report:

(1) A copy of the restricted business list.

(2) A summary of correspondence with businesses engaged by the board under section 14 of this chapter.

(3) All publicly traded securities sold, redeemed, divested, or withdrawn in compliance with section 16 of this chapter.

(4) All commingled funds that are exempted from divestment under section 16 of this chapter.

(5) All prohibited securities under section 17 of this chapter.

(6) Any progress made under section 19 of this chapter.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-22
Expiration of chapter

Sec. 22. This chapter expires on the earliest of the following:

(1) Twelve (12) months after the date on which boycott, divest from, or sanction Israel activity ceases.

(2) The date on which the United States government revokes any sanctions imposed on persons engaged in boycott, divest from, or sanction Israel activity.

(3) The date on which Congress or the President of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of foreign policy of the United States.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-23
Exemption from conflicting statutory or common law obligations

Sec. 23. With respect to actions taken in compliance with this chapter, including all good faith determinations regarding businesses on the restricted business list, the system shall be exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for fund securities portfolios.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-24
Cessation of divestment and reinvestment in restricted businesses; report to general assembly

Sec. 24. (a) Notwithstanding any provision to the contrary, the system is permitted to cease divesting and to reinvest in certain restricted businesses on the restricted business list if evidence shows that the value for all assets under management by the system on a fund's behalf becomes equal to or less than ninety-nine and five-tenths percent (99.5%) of the value of all assets under management by the system on a fund's behalf, including the businesses divested under section 16 of this chapter.

(b) As provided by this section, any cessation of divestment or reinvestment shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in subsection (a).

(c) For any cessation of divestment, reinvestment, and subsequent ongoing investment authorized by this section, the board shall submit a report in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly before any initial reinvestment. The report shall be updated annually thereafter as applicable, setting forth the reasons and justifications for the decision to cease divestment, reinvest, or remain invested with businesses engaged in boycott, divest from, or sanction Israel activity. This section does not apply to businesses that have ceased to engage in boycott, divest from, or sanction Israel activity.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-25
Immunity; indemnification of the fund and its agents

Sec. 25. (a) Both:

(1) the state and officers, agents, and employees of the state; and

(2) the system and the board members, executive director, officers, agents, and employees of the system;

are immune from civil liability for any act or omission related to the removal of an asset from a fund under this chapter.

(b) In addition to the immunity provided under subsection (a), both:

(1) the officers, agents, and employees of the state; and
(2) the board members, executive director, officers, agents, and employees of the system;

are entitled to indemnification from the system for all losses, costs, and expenses, including reasonable attorney's fees, associated with defending against any claim or suit relating to an act authorized under this chapter.

As added by P.L.177-2016, SEC.1.

IC 5-10.2-11-26

Severability

Sec. 26. The provisions of this chapter are severable in the manner provided under IC 1-1-1-8(b).

As added by P.L.177-2016, SEC.1.

IC 5-10.3

ARTICLE 10.3. THE PUBLIC EMPLOYEES' RETIREMENT FUND

IC 5-10.3-1

Chapter 1. Definitions

IC 5-10.3-1-1

"Board"

Sec. 1. "Board" as used in this article means the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.13.

IC 5-10.3-1-2

"Employer"

Sec. 2. Employer. "Employer" as used in this article means the state for employees of the state and a political subdivision for its employees.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-1-2.5

"Director"

Sec. 2.5. As used in this article, "director" refers to the director of the Indiana public retirement system established by IC 5-10.5-2-1.

As added by P.L.5-1990, SEC.6. Amended by P.L.23-2011, SEC.14.

IC 5-10.3-1-3

"Fund"

Sec. 3. Fund. "Fund" as used in this article means the public employees' retirement fund.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-1-4

"Governing body"

Sec. 4. "Governing body" means the fiscal body of a county, city, town, or township, board of school commissioners, library board, or any board which by law is authorized to fix a rate of taxation on property of a political subdivision, or any other board which is empowered to administer the affairs of any department of a political subdivision, which department receives revenue independently of, or in addition to, funds obtained from taxation.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.8-1987, SEC.10; P.L.8-1989, SEC.20.

IC 5-10.3-1-5

"Member"

Sec. 5. Member. "Member" as used in this article means persons

qualifying for membership under IC 5-10.3-7-1.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-1-6
"Political subdivision"

Sec. 6. Political Subdivision. "Political subdivision" as used in this article means a county, city, town, township, political body corporate, public school corporation, public library, public utility of a county, city, town, township, and any department of, or associated with, a county, city, town, or township, which department receives revenue independently of, or in addition to, funds obtained from taxation.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-1-7
Repealed

(Repealed by P.L.5-1990, SEC.24.)

IC 5-10.3-1-8
Gender; number

Sec. 8. Gender; Number. (a) When a masculine pronoun is used in this article, it refers to the masculine, feminine, or neuter, as appropriate.

(b) The singular form of any noun used in this article includes the plural, and the plural includes the singular, as appropriate.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-1-9
"Member's contribution"

Sec. 9. As used in this article, "member's contribution" includes contributions paid by the employer for members of the fund.
As added by P.L.41-1983, SEC.6. Amended by P.L.35-1985, SEC.18.

IC 5-10.3-2

Chapter 2. The Public Employees' Retirement Fund

IC 5-10.3-2-0.3

Legalization of payment of certain benefits

Sec. 0.3. If before June 1, 1985, the board approved a member's choice of retirement date that preceded the member's application for benefits, payments made as a result of the choice of retirement date are legalized.

As added by P.L.220-2011, SEC.77.

IC 5-10.3-2-0.4

Validation of certain board actions

Sec. 0.4. (a) If the board, the state, or a political subdivision denied, after December 31, 1986, an employee of the state or the political subdivision who was sixty (60) years of age or older the option not to join the fund, the denial is validated.

(b) Actions taken by the board before March 5, 1988, that would have been valid under IC 5-10.3-7-3(a), as amended by P.L.46-1988, are validated.

As added by P.L.220-2011, SEC.78.

IC 5-10.3-2-1

Establishment and administration of fund

Sec. 1. (a) The public employees' retirement fund of Indiana, referred to as the fund, is established to pay benefits to officers and employees of the state and its political subdivisions after specified years of service and under other specified circumstances. The purpose of the fund is to promote economy and efficiency in the administration of state and local government by providing an orderly way for members to be retired without prejudice and without inflicting hardship on the retired member.

(b) The fund is a trust. The board of trustees of the Indiana public retirement system shall administer the fund and implement this article, without the supervision of the department of insurance.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.15.

IC 5-10.3-2-2

Interests in fund

Sec. 2. No individual, group of persons, or entity has a right to any specific security, property, or cash other than an undivided interest in the whole fund as specified in this article.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984, SEC.3.

IC 5-10.3-2-3

Legislative intent; public obligations

Sec. 3. The general assembly intends that, to the extent specified in this article, the payments to the fund by the state or the participating political subdivisions, the payment of all benefits, the payment of interest credits, and the payment of administration expenses are obligations of the state and the participating political subdivisions. However, this obligation is not a guarantee that the amount credited to a member in the annuity savings account will not vary in value as a result of the performance of the investment program selected by the member under IC 5-10.2-2, unless the member selected the guaranteed program (before its elimination on January 1, 2017), in which case the obligation is such a guarantee.
As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.35-1985, SEC.19; P.L.193-2016, SEC.13.

IC 5-10.3-2-4
Participation in fund or state defined contribution plan by qualifying employees of eligible entity

Sec. 4. (a) The following definitions apply throughout this section:

(1) "Defined contribution plan" refers to the public employees' defined contribution plan established under IC 5-10.3-12.

(2) "Eligible entity" means an entity that is eligible but not required to participate in the public employees' retirement fund.

(3) "Qualifying employee" means an employee who would be eligible under IC 5-10.3-7 to become a member of the fund, if the employee's employer were to participate in the fund.

(b) Except as otherwise provided in this section, if an eligible entity wishes to offer a retirement plan to a qualifying employee, the eligible entity must provide the retirement plan to the qualifying employee by participating in the fund or the defined contribution plan.

(c) If, on July 1, 2015, an eligible employer is providing a retirement plan other than the fund or the defined contribution plan to a departmental, occupational, or other definable classification of an eligible entity's employees, the qualifying employees in the departmental, occupational, or other classification of employees may continue to participate in the retirement plan, regardless of whether the qualifying employees in the departmental, occupational, or other definable classification begin employment with the eligible entity after June 30, 2015.

(d) An eligible entity may offer a retirement plan other than the fund or the defined contribution plan to an employee, if the employee is not a qualifying employee.
As added by P.L.241-2015, SEC.10.

IC 5-10.3-3

Chapter 3. The Board of Trustees

IC 5-10.3-3-1

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.36-1996, SEC.1; P.L.246-2001, SEC.9; P.L.62-2005, SEC.4. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-2

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-3

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-4

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.25-1994, SEC.6; P.L.62-2005, SEC.5. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-5

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984, SEC.4. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-6

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.62-2005, SEC.6. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-7

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1979, P.L.17, SEC.6; P.L.35-1985, SEC.20; P.L.5-1990, SEC.7; P.L.119-2000, SEC.4; P.L.107-2010, SEC.2. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-7.1

Annual analysis of fund

Sec. 7.1. The board shall annually analyze for internal control purposes the fund's;

(1) income and expenditures;

(2) actuarial condition;

(3) reserve accounts;

(4) investments; and

(5) such other data as necessary to interpret the fund's condition and the board's administration of the fund.

As added by Acts 1979, P.L.17, SEC.7.

IC 5-10.3-3-8

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1977(ss), P.L.1, SEC.2; P.L.35-1985, SEC.21; P.L.43-1991, SEC.4; P.L.22-1998, SEC.7; P.L.119-2000, SEC.5; P.L.61-2002, SEC.7; P.L.183-2003, SEC.1. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-9

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.46-1988, SEC.1; P.L.5-1990, SEC.8; P.L.115-2009, SEC.9. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-3-10

Actuary; duties

Sec. 10. The actuary shall perform the duties specified in this article and in IC 5-10.2 and all other duties assigned by the board.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.16.

IC 5-10.3-4

Chapter 4. State Officers of the Fund

IC 5-10.3-4-1

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.46-1988, SEC.2. Repealed by P.L.115-2009, SEC.21.)

IC 5-10.3-4-2

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.5-1990, SEC.9; P.L.62-2005, SEC.7. Repealed by P.L.115-2009, SEC.21.)

IC 5-10.3-4-3

Attorney general

Sec. 3. The Attorney General. The attorney general of the state is the legal advisor of the board.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-5

Chapter 5. Accounts; Investments

IC 5-10.3-5-1

Accounts in fund

Sec. 1. Accounts in the Fund. The fund consists of separate annuity savings and retirement allowance accounts established and administered as specified in IC 5-10.2-2.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-5-2

Employer contributions; federal money

Sec. 2. Employer Contributions; Federal Moneys. (a) The state shall make contributions to the retirement allowance account as specified in IC 5-10.2-2. Participating political subdivisions shall make contributions as specified in chapter 6 of this article.

(b) If members receive compensation from federal funds, the board shall at the end of each fiscal year determine the employer's contribution, excluding administration expenses, to be paid from federal funds. The amount shall be determined by such method adopted by the board as results in an equitable sharing of the employer contribution by the federal government on account of members receiving compensation from federal funds.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-5-3

Investments of assets; management agreements; board exemptions on sale of surplus personal property or state property

Sec. 3. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also diversify such investments in accordance with prudent investment standards, subject to the limitations and restrictions set forth in IC 5-10.2-2-18.

(b) The board may invest up to five percent (5%) of the excess of its cash working balance in debentures of the corporation for innovation development subject to IC 30-4-3-3.

(c) The board is not subject to IC 4-13, IC 4-13.6, and IC 5-16 when managing real property as an investment. Any management agreements entered into by the board must ensure that the management agent acts in a prudent manner with regard to the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for management of real property as an investment:

(1) may not exceed a four (4) year term and must be based upon guidelines established by the board;

(2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as utilities, cleaning, maintenance, and minor tenant finish needs;
(3) must establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and
(4) may provide specific guidelines for the board to purchase new properties, contract for the construction or repair of properties, and lease or sell properties without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:
(1) Each beneficiary of the trust.
(2) Each settlor empowered to revoke or modify the trust.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.51-1983, SEC.1; P.L.46-1988, SEC.3; P.L.336-1989(ss), SEC.14; P.L.1-1991, SEC.34; P.L.37-1996, SEC.1; P.L.49-1997, SEC.26; P.L.224-2003, SEC.187.

IC 5-10.3-5-3.1
Board transactions subject to qualification requirements of Internal Revenue Code

Sec. 3.1. The board's transactions under section 3 of this chapter are subject to IC 5-10.2-2-1.5.

As added by P.L.55-1989, SEC.22.

IC 5-10.3-5-4
Investments

Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the board retains for the cash working balance shall be deposited as authorized by the board.

(b) The board may contract with investment counsel, trust companies, or banks to assist the board in its investment program.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.46-1988, SEC.4; P.L.55-1993, SEC.2; P.L.195-1999, SEC.19; P.L.1-2002, SEC.16; P.L.115-2009, SEC.10.

IC 5-10.3-5-5
Custodians

Sec. 5. (a) The custodians must be banks or trust companies that are domiciled in the United States and approved by the board to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

on behalf of the fund.

(b) The board is authorized to accept safekeeping receipts for securities held by the custodians. Each custodian must have a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last published report of condition for the bank or trust company and have physical custody of such securities. The state board of accounts is authorized to rely on safekeeping receipts from the custodian. The custodian may be authorized by the agreement to:

(1) hold securities and other investments in the name of the fund, in the name of a nominee of the custodian, or in bearer form;

(2) collect and receive income, interest, proceeds of sale, maturities, redemptions, and all other receipts from the securities and other investments;

(3) deposit all the receipts collected and received under subdivision (2) in a custodian account or checking account as instructed by the board;

(4) reinvest the receipts collected and received under subdivision (2) as directed by the board;

(5) maintain accounting records and prepare reports which are required by the board and the state board of accounts; and

(6) perform other services for the board as are customary and appropriate for custodians.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.46-1988, SEC.5; P.L.25-1994, SEC.7; P.L.72-2003, SEC.1; P.L.97-2004, SEC.19; P.L.90-2008, SEC.2.

IC 5-10.3-5-6

Termination of agreements

Sec. 6. Termination of Agreements and Contracts. The board may terminate contracts and custodial agreements with investment counsel, trust companies and banks and may recover securities and moneys held under the custodial agreements whenever the board considers these actions necessary to protect the fund.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-5-7

Actuarial reports; status of reserve account; charges against difference between reserves in account and accrued liability

Sec. 7. (a) After each fiscal year, the actuary shall report the status of the reserve account for persons receiving benefits from the fund.

The report must contain a statement of the reserves in the account and the accrued liability for these persons.

(b) Taking into consideration the actuary's report, the board shall after June 30, 1985, charge the costs of postretirement benefit increases against any difference between the reserves in the account and the accrued liability. However, the board may withhold from the difference, as a contingency reserve, an amount less than or equal to two percent (2%) of the reserve. If the amount of the difference is insufficient to meet the costs of the postretirement benefit increases, the excess shall be charged against each employer's account in the retirement allowance account on a prorata basis.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1977(ss), P.L.2, SEC.3; P.L.50-1985, SEC.2.

IC 5-10.3-6

Chapter 6. Participation by Political Subdivisions

IC 5-10.3-6-0.5

"Plan"

Sec. 0.5. As used in this chapter, "plan" refers to the public employees' defined contribution plan under IC 5-10.3-12.

As added by P.L.241-2015, SEC.11.

IC 5-10.3-6-1

Admission to fund or plan

Sec. 1. (a) The governing body of a political subdivision may adopt an ordinance or resolution specifying a departmental, occupational, or other definable classification of employees:

(1) who are required to become members of the fund;

(2) who are required to become members of the plan; or

(3) who may each elect whether to become members of the fund or members of the plan.

An ordinance or resolution adopted by the governing body of a political subdivision under this subsection that specifies the departmental, occupational, or other definable classification of employees who are required under subdivision (2) to become members of the plan or who may under subdivision (3) elect whether to become members of the fund or plan may not take effect before January 2, 2016. A political subdivision may become a participant in the fund or the plan, or both, as applicable, if the ordinance or resolution is filed with and approved by the board.

(b) An ordinance or resolution adopted under subsection (a) that includes a provision described under subsection (a)(3) may also include one (1) of the following provisions:

(1) If an employee who may elect whether to become a member of the fund or a member of the plan does not make an election under IC 5-10.3-7-1.1, the employee becomes a member of the plan.

(2) If an employee who may elect whether to become a member of the fund or a member of the plan does not make an election under IC 5-10.3-12-20.5, the employee becomes a member of the fund.

If an ordinance or resolution adopted under subsection (a) that includes a provision described under subsection (a)(3) does not include either of the provisions described in subdivision (1) or (2), subdivision (2) applies to the departmental, occupational, or other definable classification of employees that may elect to become members of the fund or members of the plan.

(c) If an ordinance or resolution adopted under subsection (a) includes a provision described under subsection (a)(2) or (a)(3), or both, the ordinance or resolution must include a specification of the political subdivision's contribution rate to the plan as a percentage of

each member's compensation. Each year, the political subdivision's contribution rate specified under this subsection must be greater than or equal to zero percent (0%) and may not exceed the percentage that would produce the normal cost for participation in the fund under IC 5-10.2-2-11, if the political subdivision were a participant in the fund. If a provision specifying the political subdivision's contribution rate is not included in the ordinance or resolution, the political subdivision's contribution rate to the plan is zero percent (0%).

(d) If an ordinance or resolution adopted under subsection (a) includes a provision described under subsection (a)(2) or (a)(3), or both, the ordinance or resolution must include a specification of the political subdivision's matching rate that is the percentage of each member's additional contributions to the plan that the political subdivision will match. A political subdivision may specify only:

(1) zero percent (0%); or

(2) fifty percent (50%).

If a provision specifying the political subdivision's matching rate is not included in the ordinance or resolution, the political subdivision's matching rate for the plan is zero percent (0%).

(e) A governing body may include in its ordinance or resolution adopted under subsection (a) a determination of the date from which prior service for its employees will be computed. Creditable service for these employees is determined under IC 5-10.3-7-7.5.

(f) The effective date of participation is the earlier of January 1 or July 1 after the date of approval. However, no retirement benefit may be paid until six (6) months after the effective date of participation.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.60-1987, SEC.1; P.L.241-2015, SEC.12.

IC 5-10.3-6-1.5

Authorized agent in third class city or town

Sec. 1.5. (a) This section applies to a third class city or a town.

(b) The clerk-treasurer of a city or town is that city's or town's authorized agent for all matters concerning the fund and the plan.

As added by P.L.69-1995, SEC.1. Amended by P.L.241-2015, SEC.13.

IC 5-10.3-6-2

Preliminary survey

Sec. 2. The governing body may request a preliminary survey, at its expense as determined by the board, to determine the estimated cost of participation. The board and its actuary shall give an estimate of the costs, the benefits, and other appropriate information.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.246-2001, SEC.10; P.L.23-2011, SEC.17.

IC 5-10.3-6-3

Powers of governing body

Sec. 3. Powers of the Governing Body. After a political subdivision becomes a participant, its governing body may make appropriations, make payments, and do all things required by this article.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-4
Accounts
Sec. 4. The board shall maintain separate accounts for each contribution rate group. Credits and charges to these accounts shall be made as prescribed in IC 5-10.2-2 and IC 5-10.3-12, as applicable.
As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.18; P.L.241-2015, SEC.14.

IC 5-10.3-6-5
Repealed
(As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.47-1985, SEC.6; P.L.54-1993, SEC.12. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.3-6-6
Appropriations and payments by school corporations
Sec. 6. Appropriations and Payments by School Corporations. A school corporation shall make the appropriations and payments required of participating political subdivisions from its general fund.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-7
Collection of payments
Sec. 7. (a) If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:
(1) withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund or the plan, as applicable; or
(2) recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. The suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.
(b) If:
(1) service credit is verified for a member who has filed an application for retirement benefits; and
(2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;
liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the

member was employed by the employer.

(c) If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

(1) withhold the penalty described in IC 5-10.3-7-12.5 from money payable to the employer or the political subdivision; and

(2) transfer the penalty to the fund or the plan, as applicable.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.195-1999, SEC.20; P.L.115-2009, SEC.11; P.L.241-2015, SEC.15.

IC 5-10.3-6-8

Withdrawal of political subdivision

Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

(1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.

(2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

(3) Stop the political subdivision's participation in the fund by:

(A) selling all of the political subdivision's assets; or

(B) ceasing to exist as a political subdivision.

(c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:

(1) The withdrawing political subdivision has provided written notice of the following to the board:

(A) The withdrawing political subdivision's intent to cease participation.

(B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.

(2) The expiration of:

(A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or

(B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.

(3) The withdrawing political subdivision takes all actions required in subsections (d) through (g).

(d) With respect to retired members who have creditable service

with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

(e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

(f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has fewer than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984, SEC.5; P.L.22-1993, SEC.4; P.L.241-2015, SEC.16.

IC 5-10.3-6-8.2

Freeze in participation by political subdivision

Sec. 8.2. (a) The following definitions apply throughout this section:

(1) "Freeze" or "freeze participation in the fund" means to take an action described under subsection (b)(1), (b)(2), or (b)(3).

(2) "Freezing political subdivision" means a political subdivision that freezes its participation in the fund.

(b) Subject to the provisions of this section, a political subdivision that did not take an action described in this subsection before the effective date of this section may adopt an ordinance or resolution, which may not be effective before January 2, 2016, to do the

following:

(1) Determine a date (which may not be before January 2, 2016):

(A) before which newly hired employees of a departmental, occupational, or other definable classification of employees are eligible to participate in the fund; and

(B) on or after which newly hired employees of the departmental, occupational, or other definable classification of employees are not eligible to participate in the fund.

(2) Determine a date (which may not be before January 2, 2016):

(A) before which newly hired employees of a departmental, occupational, or other definable classification of employees are required to participate in the fund; and

(B) on or after which newly hired employees of the departmental, occupational, or other definable classification of employees are allowed to choose whether to participate in a retirement benefit system other than the fund.

(3) Modify the political subdivision's employee classification scheme as of a specified date (which may not be before January 2, 2016) in such a way that there is at least one (1) position that:

(A) is covered by the fund before the specified date; and

(B) is not covered by the fund on or after the specified date.

(c) A political subdivision that freezes its participation in the fund after December 31, 2010, shall do the following:

(1) Provide written notice of the following to the board:

(A) The action that was taken under subsection (b) by the freezing political subdivision.

(B) The effective date of the action taken under subsection (b).

(C) The employee classifications that:

(i) are covered by the fund before the effective date of the freeze; and

(ii) will not be covered by the fund on or after the effective date of the freeze.

(D) The names of the freezing political subdivision's current employees and former employees as of the date on which the notice is provided.

(2) Comply with subsections (d) through (f).

(d) With respect to retired members who have creditable service with the freezing political subdivision, the freezing political subdivision shall contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members attributable to service with the freezing political subdivision. The board shall collaborate with the freezing political subdivision by sharing the actuarial method and report. The contribution by the freezing political subdivision must be made in a

lump sum or in a series of payments over a term that does not exceed thirty (30) years, as determined by the freezing political subdivision.

(e) With respect to members of the fund who have creditable service with the freezing political subdivision and who are not employees as of the effective date on which the political subdivision freezes its participation in the fund, the freezing political subdivision shall contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the freezing political subdivision. The board shall collaborate with the freezing political subdivision by sharing the actuarial method and report. The contribution by the freezing political subdivision must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years, as determined by the freezing political subdivision.

(f) With respect to members of the fund who are employees of the freezing political subdivision as of the date of the notice under subsection (c), the freezing political subdivision shall continue to contribute the amounts required under IC 5-10.2-2-11 for those employees for the duration of their employment with the freezing political subdivision. In addition, the freezing political subdivision shall contribute to the fund the amount the board determines is necessary to fund fully the benefits attributable to service with the freezing political subdivision that are vested or will become vested and are not anticipated to be fully funded through the continuing contributions under IC 5-10.2-2-11 during the duration of the members' employment with the freezing political subdivision. The board shall collaborate with the freezing political subdivision by sharing the actuarial method and report. The contribution by the freezing participating entity must be made in a lump sum or in a series of payments over a term that does not exceed thirty (30) years, as determined by the freezing political subdivision.

(g) The Indiana public retirement system may do any of the following to determine a political subdivision's compliance with this section:

(1) Require reports from the political subdivision.

(2) Audit the political subdivision.

As added by P.L.241-2015, SEC.17.

IC 5-10.3-6-8.3

Retirement plans offered by political subdivision that withdraws from or freezes participation in fund

Sec. 8.3. (a) This section applies to a political subdivision that:

(1) either:

(A) withdraws from the fund under section 8 of this chapter; or

(B) freezes its participation in the fund as described in section 8.2 of this chapter; and

(2) chooses thereafter to offer a retirement plan to its

employees.

(b) Except as provided in subsection (c), a political subdivision to which this section applies may offer a retirement plan to its employees only by participating in the defined contribution plan under IC 5-10.3-12.

(c) If, on July 1, 2015, a political subdivision to which this section applies has established or is otherwise participating in a defined contribution plan other than the defined contribution plan under IC 5-10.3-12, the political subdivision may continue to participate in the defined contribution plan in which the political subdivision participated on July 1, 2015.

As added by P.L.241-2015, SEC.18.

IC 5-10.3-6-8.5

Certain state university employees involved in health care

Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state university must be made in a lump sum or

in a series of payments determined by the board.

(d) A member who is covered by subsection (c) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(e) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by P.L.38-1996, SEC.1.

IC 5-10.3-6-8.9

State employee terminations resulting from lease or contractual arrangement with nongovernmental entity

Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

(1) is at least fifty (50) years of age; and

(2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

(1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;

(2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

(3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the

board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The governor has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state to terminate the employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state complies with subsections (g) and (i).

(g) A member who:

(1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and

(2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has less than ten (10) years of service. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

(1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.

(2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.

(3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund

under subsection (i) must come from the following sources:

(1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).

(2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency, or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

As added by P.L.47-2006, SEC.3 and P.L.158-2006, SEC.3.

IC 5-10.3-6-9

Participation of political subdivision with retirement system

Sec. 9. Participation of Political Subdivision with Retirement Systems. If a political subdivision has a retirement system for its employees, it must conduct a referendum, at which seventy-five percent (75%) of all active and retired members vote for participation, before it may follow the procedures in this chapter for participation.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-6-10

Transfer of assets

Sec. 10. (a) If a political subdivision with a retirement system becomes a participant, the moneys and securities in the retirement system shall be transferred to the fund. If the securities to be transferred are not acceptable to the board, they shall be converted to cash, which shall be transferred to the fund.

(b) If there are insufficient funds transferred under subsection (a), then the political subdivision shall pay the fund, either in a single

payment or in installment payments approved by the board, the amount needed. If the political subdivision is unable to make any payment, the board may reduce proportionately each benefit payable to retired members.

(c) The liabilities of a retirement system which is transferred to the fund are not liabilities of the fund, except as provided by agreement between the fund and the political subdivision.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.23-2011, SEC.19.

IC 5-10.3-6-11

(Repealed by P.L.16-1986, SEC.85.)

IC 5-10.3-7

Chapter 7. Membership; Creditable Service; Contributions; Withdrawal

IC 5-10.3-7-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 5 of this chapter by P.L.184-2001 apply only to members of the public employees' retirement fund or the Indiana state teachers' retirement fund who retire after June 30, 2001.

As added by P.L.220-2011, SEC.79.

IC 5-10.3-7-0.3

Legalization of certain actions under section 2 of chapter

Sec. 0.3. Actions taken before April 16, 1987, that would have been valid under section 2 of this chapter, as amended by P.L.62-1987, are legalized and validated.

As added by P.L.220-2011, SEC.80.

IC 5-10.3-7-1

Members of fund

Sec. 1. (a) This section does not apply to:

(1) members of the general assembly; or

(2) employees covered by section 3 of this chapter.

(b) As used in this section, "employees of the state" includes:

(1) employees of the judicial circuits whose compensation is paid from state funds;

(2) elected and appointed state officers;

(3) prosecuting attorneys and deputy prosecuting attorneys of the judicial circuits, whose compensation is paid in whole or in part from state funds, including participants in the prosecuting attorneys retirement fund established under IC 33-39-7;

(4) employees in the classified service;

(5) employees of any state department, institution, board, commission, office, agency, court, or division of state government receiving state appropriations and having the authority to certify payrolls from appropriations or from a trust fund held by the treasurer of state or by any department;

(6) employees of any state agency that is a body politic and corporate;

(7) except as provided under IC 5-10.5-7-4, employees of the board of trustees of the Indiana public retirement system;

(8) persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the United States Secretary of Agriculture; and

(C) are excluded from coverage as federal employees by the federal Social Security program under 42 U.S.C. 410;

(9) the directors and employees of county offices of family and children;

(10) employees of the center for agricultural science and heritage (the barn); and

(11) members and employees of the state lottery commission.

(c) An employee of the state or of a participating political subdivision who:

(1) became a full-time employee of the state or of a participating political subdivision in a covered position; and

(2) had not become a member of the fund;

before April 1, 1988, shall on April 1, 1988, become a member of the fund unless the employee is excluded from membership under section 2 of this chapter.

(d) Except as otherwise provided, any individual who becomes a full-time employee of the state or of a participating political subdivision in a covered position after March 31, 1988, becomes a member of the fund on the date the individual's employment begins unless the individual is excluded from membership under section 2 of this chapter.

(e) An individual:

(1) who becomes a full-time employee of a political subdivision in a covered position after June 30, 2015;

(2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board to require an employee in the covered position to become a member of the fund; and

(3) who is not excluded from membership under section 2 of this chapter;

becomes a member of the fund on the date the individual's employment begins.

(f) An individual:

(1) who becomes a full-time employee of a political subdivision in a covered position after an ordinance or resolution described in subdivision (2) that is adopted by the political subdivision has been approved by the board;

(2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(A) to allow an employee in the covered position to become a member of the fund or a member of the public employees' defined contribution plan at the discretion of the employee; and

(B) to require an employee in a covered position to make an election under IC 5-10.3-12-20.5 in order to become a member of the plan;

(3) who does not make an election under IC 5-10.3-12-20.5 to become a member of the public employees' defined contribution plan; and

(4) who is not excluded from membership under section 2 of this chapter;

becomes a member of the fund on the date the individual's employment begins.

(g) An individual:

(1) who becomes a full-time employee of a political subdivision in a covered position after an ordinance or resolution described in subdivision (2) that is adopted by the political subdivision has been approved by the board;

(2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(A) to allow an employee in the covered position to become a member of the fund or the public employees' defined contribution plan at the discretion of the employee; and

(B) to require an employee to make an election under section 1.1 of this chapter in order to become a member of the fund;

(3) who does make an election under section 1.1 of this chapter to become a member of the fund; and

(4) who is not excluded from membership under section 2 of this chapter;

becomes a member of the fund on the date the individual's employment begins.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1978, P.L.24, SEC.4; Acts 1982, P.L.37, SEC.2; P.L.41-1983, SEC.7; P.L.31-1984, SEC.1; P.L.35-1985, SEC.23; P.L.16-1986, SEC.2; P.L.61-1987, SEC.1; P.L.46-1988, SEC.6; P.L.62-1989, SEC.1; P.L.4-1993, SEC.7; P.L.5-1993, SEC.18; P.L.98-2004, SEC.67; P.L.91-2004, SEC.1; P.L.35-2012, SEC.81; P.L.195-2013, SEC.9; P.L.241-2015, SEC.19.

IC 5-10.3-7-1.1

Election by employee of political subdivision to become fund member; failure to make election

Sec. 1.1. (a) An individual:

(1) who becomes a full-time employee of a political subdivision in a covered position after an ordinance or resolution described in subdivision (2) that is adopted by the political subdivision has been approved by the board;

(2) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(A) to allow an employee in the covered position to become a member of the fund or the public employees' defined contribution plan at the discretion of the employee; and

(B) to require an employee to make an election under this section in order to become a member of the fund; and

(3) who is not excluded from membership under section 2 of

this chapter;

may elect to become a member of the fund.

(b) An election under this section:

(1) must be made in writing on a form prescribed by the board;

(2) must be filed with the board; and

(3) is irrevocable.

(c) An individual who:

(1) is eligible to make the election under this section; and

(2) does not make the election;

becomes a member of the public employees' defined contribution plan.

(d) An individual described in subsection (a) who separates from employment with a political subdivision and later returns to employment with the political subdivision having had an opportunity to make an election under this section during an earlier period of employment with the political subdivision is not entitled to a second opportunity to make an election under this section with respect to the individual's employment with the political subdivision.

As added by P.L.241-2015, SEC.20. Amended by P.L.209-2016, SEC.1.

IC 5-10.3-7-2

Exclusions from membership

Sec. 2. The following employees may not be members of the fund:

(1) Officials of a political subdivision elected by vote of the people, unless the governing body specifically provides for the participation of locally elected officials.

(2) Employees occupying positions normally requiring performance of service of less than six hundred (600) hours during a year who:

(A) were hired before July 1, 1982; or

(B) are employed by a participating school corporation.

(3) Independent contractors or officers or employees paid wholly on a fee basis.

(4) Employees who occupy positions that are covered by other pension or retirement funds or plans, maintained in whole or in part by appropriations by the state or a political subdivision, except:

(A) the federal Social Security program; and

(B) the prosecuting attorneys retirement fund established by IC 33-39-7-9.

(5) Managers or employees of a license branch of the bureau of motor vehicles commission, except those persons who may be included as members under IC 9-14-10.

(6) Employees, except employees of a participating school corporation, hired after June 30, 1982, occupying positions normally requiring performance of service of less than one thousand (1,000) hours during a year.

(7) Persons who:

(A) are employed by the state;

(B) have been classified as federal employees by the Secretary of Agriculture of the United States; and

(C) are covered by the federal Social Security program as federal employees under 42 U.S.C. 410.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1978, P.L.24, SEC.5; Acts 1982, P.L.37, SEC.3; P.L.31-1984, SEC.2; P.L.42-1986, SEC.1; P.L.62-1987, SEC.1; P.L.61-1987, SEC.2; P.L.341-1989(ss), SEC.5; P.L.62-1989, SEC.2; P.L.2-1991, SEC.26; P.L.98-2004, SEC.68; P.L.195-2013, SEC.10; P.L.198-2016, SEC.10.

IC 5-10.3-7-2.5
Constables

Sec. 2.5. Notwithstanding the provisions of section 2 of this chapter, any constable who:

(1) is not otherwise eligible for membership in the public employees' retirement fund; and

(2) was enrolled erroneously in the public employees' retirement fund as a contributing member;

is eligible for membership in the public employees' retirement fund and is entitled to receive the benefits provided by that fund.

As added by Acts 1981, P.L.51, SEC.1.

IC 5-10.3-7-2.7
Police officers and firefighters

Sec. 2.7. (a) This section applies only to an individual who:

(1) began service as a police officer or firefighter and became a member of a police officers' pension fund or firefighters' pension fund before 1980;

(2) began service in another position (referred to in this section as the "PERF position") and was enrolled erroneously as a contributing member of the public employees' retirement fund with respect to the PERF position before 1980;

(3) made contributions to the public employees' retirement fund with respect to the PERF position as if the individual had been legally enrolled in that fund;

(4) after 1991 was denied service credit in the public employees' retirement fund with respect to all or part of the individual's service in the PERF position because of the individual's service in the police officer or firefighter position described in subdivision (1); and

(5) claims service credit in PERF and applies for membership in PERF before January 1, 2000.

(b) Notwithstanding the provisions of section 2 of this chapter, an individual described in subsection (a) who:

(1) is not otherwise eligible for membership in the public

employees' retirement fund; and

(2) was enrolled erroneously in the public employees' retirement fund as a contributing member;

is eligible for membership in the public employees' retirement fund and is entitled to receive the benefits provided by that fund.

As added by P.L.195-1999, SEC.21.

IC 5-10.3-7-3

Optional membership

Sec. 3. (a) Members of the general assembly, including members who:

(1) completed their service before July 1, 1987; and

(2) were not members of the fund during their service in the general assembly;

are entitled to become, at their option, members of the fund. A member of the general assembly who completed his service before July 1, 1987, in order to become a member of the fund must apply to the board for membership and must present evidence satisfactory to the board of his prior service. Such a member of the general assembly may become a member without any service after June 30, 1987.

(b) Notwithstanding the exclusion specified in section 2(4) of this chapter, a member of the general assembly who is a member of the Indiana state teachers' retirement fund and who retires after June 30, 1980, may choose at his retirement date to become a member of the public employees' retirement fund and to receive his retirement benefit from the fund.

(c) An employee who:

(1) was hired before July 1, 1982; or

(2) is employed by a participating school corporation;

and who is occupying a position normally requiring performance of services of less than one thousand (1,000) hours a year may at his option be a member of the fund.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1980, P.L.28, SEC.8; Acts 1982, P.L.37, SEC.4; P.L.30-1984, SEC.2; P.L.381-1987(ss), SEC.2; P.L.46-1988, SEC.7.

IC 5-10.3-7-3.5

State lottery commission members and employees

Sec. 3.5. (a) As used in this section, "commission" refers to the state lottery commission established under IC 4-30-3-1.

(b) Not later than July 1, 2014, for each member or employee of the commission who:

(1) is a participant in a defined benefit retirement plan offered by the commission before July 1, 2013; and

(2) becomes a member of the fund on July 1, 2013, under IC 4-30-3-14.5;

the commission shall transfer from the lottery commission defined

benefit retirement plan to the retirement allowance account of the fund the amount required to fund the pension portion of each participant's accrued retirement benefit, calculated as if the participant had been in the fund during the participant's service with the lottery commission as of July 1, 2013. If the assets in the lottery commission defined benefit retirement plan are not sufficient to fund the retirement benefit accrued as of July 1, 2013, for the participants described in this subsection, the commission shall pay to the fund, either in a single payment or in installment payments approved by the board, the amount needed to fund the accrued retirement benefits as described in this subsection.

(c) No amounts shall be transferred as of July 1, 2013, to the annuity savings account of the fund for a member described in subsection (b).

(d) A member or employee of the commission who becomes a member of the fund on July 1, 2013, is entitled to receive creditable service in the fund for all service performed for the commission before July 1, 2013.

(e) The liabilities of a retirement plan offered by the commission before July 1, 2013, whose participants are transferred on July 1, 2013, to the fund are not liabilities of the fund, except as provided by agreement between the fund and the commission.

(f) This section shall not be interpreted to diminish the amount of the benefits previously accrued by any member of the commission's plan who is transferred to the fund under this section. To the extent that the member's benefit exceeds the amount due from the fund, the remaining obligation shall be that of the commission alone.

(g) A member or employee of the commission who becomes a member of the fund on July 1, 2013, under IC 4-30-3-14.5 is vested in the pension portion of the member's retirement benefit from the fund. To the extent that the amount transferred to the fund under this section is not sufficient to fund the cost for vesting under this subsection, the remaining obligation shall be that of the commission alone.

As added by P.L.195-2013, SEC.11.

IC 5-10.3-7-4
Creditable service

Sec. 4. Except as provided in section 7.5 of this chapter, creditable service is determined as specified in IC 5-10.2-3-1. Members also receive credit for service as specified in this chapter.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.60-1987, SEC.2.

IC 5-10.3-7-4.3
Public employees' defined contribution plan service credit purchase

Sec. 4.3. (a) A member of the fund who is also a member of the

public employees' defined contribution plan may purchase and claim years of service credit in the fund subject to the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has at least ten (10) years of credited service in a covered position in the fund before the member may claim the years of service credit.

(3) After acquiring one (1) year of credited service in the fund and before the member retires, the member must make the following contributions to the fund:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member makes a contribution for the service credit.

(ii) A percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit that the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(b) A member:

(1) who terminates employment before becoming eligible to receive a monthly allowance; or

(2) who receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under this section plus accumulated interest after submitting an application for a refund to the fund in the manner prescribed by the board.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit in the fund.

(2) A member may elect to make a transfer of the vested portion of the member's annuity savings account balance attributable to participation in the public employees' defined contribution plan to purchase service credit in the fund.

(3) The board may deny an application for the purchase of service credit in the fund if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(4) A member may not claim the service credit for the purpose of determining eligibility or computing benefits unless the member has made all the payments required for the purchase of the service credit.

As added by P.L.209-2016, SEC.2.

IC 5-10.3-7-4.5

Out-of-state service credit purchase

Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase and claim out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least ten (10) years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after

submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.5-1997, SEC.4. Amended by P.L.22-1998, SEC.8; P.L.8-2015, SEC.2.

IC 5-10.3-7-4.6

In-state service credit purchase

Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase and claim service credit for the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member has received verification from the fund that the service in the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund is, as of that date, valid.

(b) At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section.

(c) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.195-1999, SEC.22. Amended by P.L.8-2015, SEC.3.

IC 5-10.3-7-4.7

Purchase of service credit earned in 1977 police officers' and firefighters' pension and disability fund

Sec. 4.7. (a) As used in this section, "1977 fund" refers to the 1977 police officers' and firefighters' pension and disability fund established by IC 36-8-8-4.

(b) A member may purchase and claim service credit for the member's prior service in a position covered by the 1977 fund subject to the following:

(1) The member must have at least one (1) year of credited service in the fund.

(2) The member must not have attained vested status in and may not be an active member of the 1977 fund.

(3) The member must have at least ten (10) years of credited service in the fund before the member may claim the service credit.

(4) Before the member retires, the member must make contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member makes a contribution for the service credit.

(ii) A percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of 1977 fund service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(5) The member must receive verification from the fund that the member's service in the 1977 fund is valid.

(c) If a member meets the requirements to purchase service credit under this section and applies to purchase service credit under this section, the board shall transfer from the 1977 fund to the retirement allowance account of the fund:

(1) the member's contributions made under IC 36-8-8-8(a), if the contributions were not returned to the member under IC 36-8-8-8(c); plus

(2) the present value of the unreduced benefit payable upon retirement under IC 36-8-8-10 that is attributable to the member.

The amount a member must contribute to the fund under subsection (b)(4) is reduced by the amount transferred to the fund under this subsection.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations

under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(f) If the requirements of subsection (b) are satisfied, credit for the member's service in a position covered by the 1977 fund that is purchased under this section is waived.

(g) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(h) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(i) The member's employer may pay all or a part of the member's contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (d), (e)(1), (e)(3), and (g) do not apply.

As added by P.L.8-2015, SEC.4.

IC 5-10.3-7-4.8

State quasi-governmental entity service credit purchase

Sec. 4.8. (a) As used in this section, "state quasi-governmental entity service" means service in Indiana that would be considered creditable service if performed by an employee of a member of the fund by an individual who:

(1) provided the service as an employee of a body corporate and politic, nonprofit corporation established by the state, or other quasi-governmental entity that performed a state governmental function; and

(2) was not a member of the fund under section 1 of this chapter during the period of employment.

(b) A member may purchase and claim state quasi-governmental entity service credit subject to the following:

(1) The member must have at least one (1) year of credited service in the fund.

(2) The member must have at least ten (10) years of in-state credited service before the member may claim the service credit.

(3) Before the member retires, the member must make contributions to the fund:

(A) that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of state quasi-governmental entity service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member must provide verification of the service with the state quasi-governmental entity in a manner prescribed by the fund.

(c) State quasi-governmental entity service that qualifies a member for retirement in a private retirement system or a federal retirement system may not be granted under this section.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.148-2007, SEC.1. Amended by P.L.8-2015, SEC.5.

IC 5-10.3-7-5
Military service credit

Sec. 5. (a) A member who:

(1) enters the United States armed services;

(2) leaves the member's contributions in the fund;

(3) except as provided in subsection (c), resumes service with the member's employer within one hundred twenty (120) days after the member's unconditional discharge; and

(4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after discharge;

is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if the member:

(1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after the member's unconditional discharge; and

(2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase and claim not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service

credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.43-1991, SEC.5; P.L.5-1997, SEC.5; P.L.184-2001, SEC.8; P.L.8-2015, SEC.6.

IC 5-10.3-7-6
Leave service credit

Sec. 6. Leave Service. (a) A member is entitled to service credit for adoption leave of not more than one (1) year and for leaves of absence, granted under rules in force at the time of the leave, totaling six (6) months or less during any period of four (4) consecutive years.

(b) A member may make contributions during the leave of absence based on his rate of compensation on the date his leave of absence began.

(c) Notwithstanding any law, this section must be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes unless the leave is described in subsection (a).

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.5-1997, SEC.6; P.L.195-1999, SEC.23.

IC 5-10.3-7-7
Service credits for public service

Sec. 7. (a) A member with at least one (1) year of service in a position covered by the fund after January 1, 1946, shall receive credit for years of service at any time as any of the following:

(1) A member of the general assembly.

(2) An elected state official.

(3) A prosecuting attorney of a judicial circuit.

(4) A judge who is covered by the judges' retirement system but who is ineligible for its benefits.

(5) A member of the armed services if the member joined the armed services while the member was a member of the general assembly, including credit for the unexpired term if the unexpired term of the member of the general assembly was

longer than the armed service.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.381-1987(ss), SEC.3; P.L.5-1988, SEC.34.

IC 5-10.3-7-7.5

Exclusion of service before prior service credit date contained in resolution

Sec. 7.5. Notwithstanding IC 5-10.2-3-1, for the purpose of computing benefits the creditable service of a member covered by an ordinance or resolution adopted by a political subdivision's governing body under IC 5-10.3-6-1(e) excludes all service with the political subdivision before the prior service credit date contained in the resolution. However, service with the political subdivision before the prior service credit date shall be considered for the purpose of determining eligibility for benefits.

As added by P.L.60-1987, SEC.3. Amended by P.L.241-2015, SEC.21.

IC 5-10.3-7-7.7

Employees of township trustee's office; service credit

Sec. 7.7. (a) For the purposes of computing benefits and determining eligibility, a member who:

(1) has at least one (1) year of service in a position covered by the fund;

(2) became a member of the fund after December 31, 1987;

(3) was at least sixty (60) years of age when the member joined the fund; and

(4) before January 1, 1988, was an employee of a township trustee's office:

(A) located in a county having a consolidated city; and

(B) participating in the fund;

is entitled to service credit as provided in subsections (b) and (c).

(b) A member who is qualified under subsection (a) is entitled to service credit for the time the member:

(1) was an employee of a township trustee's office described in subsection (a)(4);

(2) was employed in a position covered by the fund; and

(3) was not a member of the fund.

(c) To receive service credit under this section, a member must pay into the fund the amount the member would have contributed if the member had been a member of the fund for the period described in subsection (b).

As added by P.L.1-1990, SEC.59.

IC 5-10.3-7-7.8

Repealed

(Repealed by P.L.1-1990, SEC.60.)

IC 5-10.3-7-7.9
Service credits; eligibility; computation

Sec. 7.9. (a) This section applies to a person who is or was an employee of the office of a township executive in a county having a consolidated city.

(b) Except as provided in subsection (d), for the purposes of computing benefits and determining eligibility, a member who:

(1) has at least one (1) year of service in a position covered by the fund;

(2) became a member of the fund after December 31, 1987;

(3) was at least sixty (60) years of age when the member joined the fund; and

(4) was an employee of the state or a political subdivision participating in the fund, or both, before January 1, 1988;

is entitled to service credit as provided in subsection (c).

(c) A member who is qualified under subsection (b) is entitled to service credit for the time the member:

(1) was an employee of the state or a political subdivision participating in the fund, or both;

(2) was employed in a position covered by the fund; and

(3) was not a member of the fund.

(d) To receive service credit under this section, a member must pay into the fund the amount the member would have contributed if the member had been a member of the fund for the period described in subsection (c).

As added by P.L.1-1990, SEC.61.

IC 5-10.3-7-8
Other service

Sec. 8. Other Service. The board may establish rules to govern the determination of service in cases not specifically provided for in this article or in IC 5-10.2-3.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-7-9
Member contributions

Sec. 9. (a) This section:

(1) does not apply to a retired member who begins a period of reemployment in a covered position more than thirty (30) days after the member's retirement, except as provided in subdivision (2); or

(2) applies to the entire period of reemployment for a retired member of the public employees' retirement fund who, before July 1, 2013, begins a period of reemployment in a covered position.

(b) Each member shall contribute three percent (3%) of the member's compensation to the fund as specified in IC 5-10.2-3. However, for a member who is a state employee, the employer shall

pay the contribution for the member, and for a member who is not a state employee, the employer may pay all or a part of the contribution for the member.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.41-1983, SEC.8; P.L.35-1985, SEC.22; P.L.55-1989, SEC.23; P.L.246-2001, SEC.11; P.L.195-2013, SEC.12.

IC 5-10.3-7-9.5

Rollover contributions; trustee to trustee transfers; liability for income tax consequences of transfers

Sec. 9.5. (a) The fund may accept cash rollover contributions from a member who is making payments for additional service credits under this chapter if the following conditions are met:

(1) The rollover contribution must represent:

(A) all or a portion of the member's interest in a retirement plan of a former employer which is qualified under Section 401(a) of the Internal Revenue Code and which permits the interest to be transferred to the fund as a qualifying rollover contribution under the Internal Revenue Code;

(B) all or a portion of the member's interest from an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code;

(C) all or a portion of the member's interest in:

(i) a qualified plan described in Section 403(a) of the Internal Revenue Code; or

(ii) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(D) all or a portion of the member's interest in an eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(2) The amount of the rollover contributions may not exceed the amount of payment required to purchase the service credits under this chapter.

(3) The rollover contributions may contain only tax-deferred contributions and earnings on the contributions, and may not include any post-tax contributions.

(4) The member must be otherwise eligible to purchase the service credit under this chapter.

(b) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from:

(1) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(2) an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(c) The fund, the board, and their respective members, officers, and employees do not have any responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the fund under this section. The board may require, as a condition to the fund's acceptance of a rollover contribution:

(1) satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code; and

(2) reasonable releases or indemnifications from the member against any and all liabilities that may be connected with the transfer.

(d) Cash transferred to the fund as a rollover contribution shall be deposited in the retirement allowance account.

(e) A member who terminates employment before satisfying the eligibility requirements necessary for a pension or disability benefit may withdraw the member's rollover contribution, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under IC 5-10.2-3 to be eligible for a refund of the member's rollover amount.

(f) Except as provided in this section, the fund shall not accept any other rollover contributions from a member.

(g) The board shall administer this section in accordance with the rollover provisions of the Internal Revenue Code and any applicable regulations.

As added by P.L.5-1997, SEC.7. Amended by P.L.61-2002, SEC.8.

IC 5-10.3-7-9.6

State required to make certain contributions

Sec. 9.6. (a) The state shall initiate the contributions required by section 9 of this chapter, as amended by P.L.35-1985, as part of salary and fringe benefit adjustments provided for state employees after June 30, 1986.

(b) The state shall initiate the contributions required by section 9 of this chapter for each governor, lieutenant governor, attorney general, and state superintendent of public instruction elected or appointed to office after November 7, 1988.

(c) The state shall initiate, for compensation paid after June 30, 1987, the contributions required under section 9 of this chapter for the following persons whose compensation is paid in whole or in part from state funds:

(1) Prosecuting attorneys.

(2) Deputy prosecuting attorneys.

(3) Juvenile court referees and full-time magistrates appointed under IC 31-6-9-2 (before its repeal, now codified at IC 31-31-3).

(4) The master commissioners and full-time magistrates

appointed under IC 33-4-1-2.1 (before its repeal, now codified at IC 33-33-2-3), IC 33-4-1-74.3 (before its repeal, now codified at IC 33-33-75-2), IC 33-4-1-75.1 (as amended by P.L.378-1987(ss), before its repeal, now codified at IC 33-33-71-3), and IC 33-4-1-82.1 (before its repeal, now codified at IC 33-33-82-3).

(5) The court commissioner and a full-time magistrate appointed under IC 33-5-29.5-7.1 (as amended by P.L.378-1987(ss), before its repeal, now codified at IC 33-33-45-10).

As added by P.L.220-2011, SEC.81.

IC 5-10.3-7-10
Membership records

Sec. 10. Each department shall submit to the board certified membership records containing the names, titles, rates of compensation, dates of birth, length of service, and other pertinent information required by the board about the department's employees. A department must submit the membership record to the board not more than thirty (30) days after the member's date of hire.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.195-1999, SEC.24.

IC 5-10.3-7-11
Payroll preparation

Sec. 11. The director shall certify to the department the names of the employees for whom deductions or payments of contributions must be made. In the preparation of payrolls, each department shall indicate:

(1) the total compensation of each employee;
(2) the amount of each member's contribution; and
(3) the net amount payable to each member.

No compensation may be paid and no payroll may be processed unless the deduction or payment is made for members' contributions.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.41-1983, SEC.9; P.L.5-1990, SEC.10.

IC 5-10.3-7-12
Certification of deductions; transfer to fund

Sec. 12. A certified copy of each department's payroll or an equivalent certified list of members shall be sent to the board together with a warrant issued by the department for members' contributions.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.41-1983, SEC.10.

IC 5-10.3-7-12.5
Reports, records, or membership payments; failure to submit

Sec. 12.5. (a) An employer or department shall make the reports, membership records, or payments required by IC 5-10.3-6 or by sections 10 through 12 of this chapter:

(1) not more than thirty (30) days after the end of the calendar quarter, if applicable;

(2) by another due date specified in section 10 of this chapter; or

(3) by an alternate due date established by the rules of the board.

(b) If the employer or department does not make the reports, records, or payments within the time specified in subsection (a):

(1) the board may fine the employer or department one hundred dollars ($100) for each additional day that the reports, records, or payments are late, to be withheld under IC 5-10.3-6-7; and

(2) if the employer or department is habitually late, as determined by the board, the board shall report the employer or the department to the auditor of state for additional withholding under IC 5-10.3-6-7.

(c) After December 31, 2009, an employer or department shall submit:

(1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and

(2) both:

(A) employer contributions determined under IC 5-10.2-2-11, IC 5-10.3-12-24, or IC 5-10.3-12-24.5; and

(B) contributions paid by or on behalf of a member under section 9 of this chapter or IC 5-10.3-12-23;

by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

As added by P.L.195-1999, SEC.25. Amended by P.L.165-2009, SEC.6; P.L.109-2015, SEC.22; P.L.241-2015, SEC.22.

IC 5-10.3-7-13

Suspension of membership; withdrawal of contributions

Sec. 13. Suspension of Membership; Withdrawal of Contributions. Each member who suspends his membership and withdraws his contributions plus interest credits is covered by IC 5-10.2-3.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-7-14

Governor's waiver of membership

Sec. 14. Governor's Waiver of Membership. A governor who makes an irrevocable choice under IC 4-3-3-1.1 to receive a retirement benefit other than the retirement benefit from the fund waives his right to membership in the fund and to any benefit from

the fund on and after the date of his irrevocable choice. After the governor makes that irrevocable choice, he is entitled to withdraw in a lump sum from the fund the amount of his contributions plus interest credited to him.
As added by Acts 1980, P.L.9, SEC.4.

IC 5-10.3-7-15
Reinstatements of eligibility

Sec. 15. A person who has fifteen (15) or more years of creditable service in the fund and has withdrawn from the fund before reaching the age of sixty-five (65) years may apply for reinstatement of eligibility, if the person:

(1) makes the application before July 1, 1998, and within ninety (90) days after reaching the age of sixty-five (65) years; and

(2) demonstrates that further employment with an employer covered by the fund is impractical due to health or other conditions as determined by the board.

The board has the ultimate authority whether to grant reinstatements of eligibility.
As added by P.L.5-1997, SEC.8.

IC 5-10.3-8
Chapter 8. Benefits

IC 5-10.3-8-0.1
Application of certain amendments to chapter
Sec. 0.1. The addition of section 13 of this chapter by P.L.191-2002 applies to monthly benefits payable by the public employees' retirement fund after December 31, 2002.
As added by P.L.220-2011, SEC.82.

IC 5-10.3-8-1
Conditions and computation
Sec. 1. Retirement and Retirement Benefits. The conditions for a member's retirement and the computation of his retirement benefit are stated in IC 5-10.2-4.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-8-2
State legislators; average of annual compensation; computation
Sec. 2. In computing the pension for a member of the general assembly, the average of the annual compensation is the highest compensation which the member received in any one (1) year while engaged in a position covered by the fund in state service, as a teacher, and in service with a political subdivision.
As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.381-1987(ss), SEC.4.

IC 5-10.3-8-3
Retirement benefit options
Sec. 3. Retirement Benefit Options. A member may have his retirement benefits paid under the options specified in IC 5-10.2-4-7.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-8-4
Disability retirement; conditions; computation
Sec. 4. Disability Retirement and Disability Retirement Benefit. The conditions for a member's disability retirement and the computation of his disability retirement benefit are stated in IC 5-10.2-4-6.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-8-5
Claims of error
Sec. 5. A member may petition the board to correct an error in the determination of the member's:
(1) creditable service; or
(2) benefit;
at any time. The petition must contain the necessary information to

sustain the member's claim of error. The board shall investigate the claim and, if error is found, shall order the member's records corrected. If no error is found and the member petitioned the board to correct the error within six (6) years after the determination of the member's creditable service or benefit, the member may appeal the board's decision under IC 4-21.5.
As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.99-2010, SEC.4.

IC 5-10.3-8-6
Death settlements
Sec. 6. Death Settlements. The conditions for payments upon the death of a member before retirement are stated in IC 5-10.2-3.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-8-7
Re-employment of retired members
Sec. 7. Re-employment of Retired Members. The re-employment of retired members is covered under IC 5-10.2-4.
As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-8-8
Payment of retirement benefit
Sec. 8. Except as provided under IC 5-10.2-4-7(f), the retirement benefit is payable in equal monthly installments. The benefit may not be increased, decreased, revoked or repealed except for error or by action of the general assembly.
As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.115-2009, SEC.12.

IC 5-10.3-8-9
Benefits exempted from legal process; reimbursement of employers; withholding payments while charges of criminal taking from employer pending
Sec. 9. (a) All benefits, refunds of contributions, and money in the fund are exempt from levy, sale, garnishment, attachment, or other legal process. However, the member's contributions or benefits, or both, may be transferred to reimburse the member's employer for loss resulting from the member's criminal taking of the employer's property by the board if the board receives adequate proof of the loss. The loss resulting from the member's criminal taking of the member's employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.
(b) The board may withhold payment of a member's contributions and interest if the employer of the member notifies the board that felony or misdemeanor charges accusing the member of the criminal taking of the employer's property have been filed.

(c) The board may withhold payment of a member's contributions and interest under subsection (b) until the final resolution of the criminal charges.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.28-1984, SEC.6; P.L.22-1993, SEC.5; P.L.15-2013, SEC.2.

IC 5-10.3-8-10

Assignment of benefits

Sec. 10. Assignment of Benefits. A member or a beneficiary may not assign any payment except for:

(1) premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in whole or in part by:

(A) a state agency; or

(B) any association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of the retired members of the fund; and

(2) dues to any association which proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of the retired members of the fund.

As added by Acts 1977, P.L.53, SEC.3. Amended by Acts 1980, P.L.28, SEC.9; P.L.12-2008, SEC.2.

IC 5-10.3-8-11

Federal agricultural employees; federal and state portions of retirement or disability benefit; limitations

Sec. 11. (a) The retirement or disability benefit (including the annuity) provided under this chapter at the date of retirement or disability to a member who:

(1) has been classified as a federal employee by the Secretary of Agriculture of the United States;

(2) was employed after July 1, 1955; and

(3) retires after December 31, 1978, and before July 1, 1987;

may not exceed at the date of retirement or disability, when added to his federal civil service benefit, seventy-four percent (74%) of the average of the annual compensation used in computing his benefit under this chapter. If the sum of his retirement or disability benefit and his federal civil service benefit does exceed seventy-four percent (74%), then the state pension portion of the benefit shall be reduced by the board so that the sum does not exceed that percent. In determination of the annual compensation under this section no more than two (2) tax supported retirement benefits shall be utilized. However, the annuity portion of the benefit may not be reduced by this subsection.

(b) The retirement or disability benefit (excluding the annuity) provided under this chapter at the date of retirement or disability to a member who:

(1) has been classified as a federal employee by the Secretary of Agriculture of the United States;

(2) was employed after July 1, 1955; and

(3) retires after June 30, 1987, and before July 1, 1995;

may not exceed at the date of retirement or disability, when added to the member's federal civil service benefit, eighty-five percent (85%) of the average of the annual compensation used in computing the member's benefit under this chapter. If the sum of the retirement or disability benefit (excluding the annuity) and the federal civil service benefit exceeds eighty-five percent (85%), the state pension portion of the benefit shall be reduced by the board so that the sum does not exceed that percent.

(c) The retirement or disability benefit (excluding the annuity) provided under this chapter at the date of retirement or disability to a member who:

(1) has been classified as a federal employee by the Secretary of Agriculture of the United States;

(2) was employed after July 1, 1955; and

(3) retires after June 30, 1995;

may not exceed at the date of retirement or disability, when added to the member's federal civil service benefit, one hundred percent (100%) of the average of the annual compensation used in computing the member's benefit under this chapter. If the sum of the retirement or disability benefit (excluding the annuity) and the federal civil service benefit exceeds one hundred percent (100%), the state pension portion of the benefit shall be reduced by the board so that the sum does not exceed that percent.

As added by Acts 1978, P.L.24, SEC.6. Amended by P.L.61-1987, SEC.3; P.L.10-1995, SEC.5.

IC 5-10.3-8-12

Stopping member's benefit payments; grounds

Sec. 12. The board may stop a member's benefit if either of the following occurs:

(1) The member does any of the following while receiving the benefit:

(A) Fails to report for a required examination, unless excused by the board.

(B) Disobeys the requirements of the board regarding the examination.

(C) Refuses to repay an overpayment of benefits.

(2) The board has reasonable cause to believe:

(A) that the member has died; or

(B) in the case of a member receiving disability benefits under IC 5-10.2-4-6, that the member no longer has a disability.

As added by P.L.22-1993, SEC.6. Amended by P.L.99-2007, SEC.17.

IC 5-10.3-8-13

Public employees' retirement fund benefits; cost of living increase

Sec. 13. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable to a member of the fund (or to a survivor or beneficiary of a member of the fund) shall be increased beginning on January 1, 2003, by the lesser of:

(1) two percent (2%); or

(2) the annual cost of living adjustment computed under 42 U.S.C. 415 and published in the Federal Register in accordance with 42 U.S.C. 215(i)(2)(D).

(b) The increase described in subsection (a) is payable to a member of the fund (or to a survivor or beneficiary of a member of the fund) who has been retired or disabled for at least one (1) year on January 1, 2003.

As added by P.L.191-2002, SEC.2.

IC 5-10.3-8-14

Retirement medical benefits account

Sec. 14. (a) Except as provided in subsection (d), this section applies to employees of the state who are:

(1) members of the fund; and

(2) paid by the auditor of state by salary warrants.

(b) Except as provided in subsection (d), this section does not apply to the employees of the state employed by:

(1) a body corporate and politic of the state created by state statute; or

(2) a state educational institution (as defined in IC 21-7-13-32).

(c) As used in this section, "employees of the state" has the meaning set forth in IC 5-10.3-7-1.

(d) The chief executive officer of a body or institution described in subsection (b) may elect to have this section apply to the employees of the state employed by the body or institution by submitting a written notice of the election to the director. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director; or

(2) July 1, 2013.

(e) The board shall adopt provisions to establish a retirement medical benefits account within the fund under Section 401(h) or as a separate fund under another applicable section of the Internal Revenue Code for the purpose of converting unused excess accrued leave to a monetary contribution for an employee of the state to fund on a pretax basis benefits for sickness, accident, hospitalization, and medical expenses for the employee and the spouse and dependents of the employee after the employee's retirement. The state may match all or a portion of an employee's contributions to the retirement medical benefits account established under this section.

(f) The board is the trustee of the account described in subsection (e). The account must be qualified, as determined by the Internal

Revenue Service, as a separate account within the fund whose benefits are subordinate to the retirement benefits provided by the fund.

(g) The board may adopt rules under IC 5-10.5-4-2 that it considers appropriate or necessary to implement this section after consulting with the state personnel department. The rules adopted by the board under this section must:

(1) be consistent with the federal and state law that applies to:

(A) the account described in subsection (e); and

(B) the fund; and

(2) include provisions concerning:

(A) the type and amount of leave that may be converted to a monetary contribution;

(B) the conversion formula for valuing any leave that is converted;

(C) the manner of employee selection of leave conversion; and

(D) the vesting schedule for any leave that is converted.

(h) The board may adopt the following:

(1) Account provisions governing:

(A) the investment of amounts in the account; and

(B) the accounting for converted leave.

(2) Any other provisions that are necessary or appropriate for operation of the account.

(i) The account described in subsection (e) may be implemented only if the board has received from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate.

(j) To the extent allowed by:

(1) the Internal Revenue Code; and

(2) rules adopted by:

(A) the board under this section; and

(B) the state personnel department under IC 5-10-1.1-7.5;

employees of the state may convert unused excess accrued leave to a monetary contribution under this section and under IC 5-10-1.1-7.5.

As added by P.L.220-2005, SEC.6. Amended by P.L.44-2007, SEC.2; P.L.35-2012, SEC.82; P.L.54-2013, SEC.1; P.L.205-2013, SEC.76; P.L.91-2014, SEC.15; P.L.241-2015, SEC.23.

IC 5-10.3-8-15

Allocation of benefits; distribution of death benefit

Sec. 15. (a) The board may adopt rules to allow a member who designates more than one (1) beneficiary to allocate benefit shares in percentage increments.

(b) This subsection applies in the case of a member who dies after June 30, 2013. Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article vests with the designated

beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.

As added by P.L.99-2010, SEC.5. Amended by P.L.15-2013, SEC.3.

IC 5-10.3-9

Chapter 9. Administration of Other Retirement Plans

IC 5-10.3-9-1

Petitions; requisites

Sec. 1. Petition for Administration. (a) The members of a retirement system, other than the Indiana state teachers' retirement fund, may petition the board to assume the administration of their retirement system if:

(1) the system was in existence on March 31, 1947; and

(2) the system is maintained by the state or a political subdivision.

(b) The petition must be signed by at least sixty percent (60%) of the members of the retirement system and must be approved by the employer of the members and the trustees or administrator of the system.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-9-2

Actuarial investigation; audit of accounts

Sec. 2. Actuarial Investigation and Audit of Accounts. After the board receives the petition:

(1) the actuary shall determine the actuarial soundness of the retirement system; and

(2) the state board of accounts shall audit the records and accounts of the retirement system.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-9-3

Administration by board

Sec. 3. Administration by the Board. After reviewing the actuarial investigation and audit, the board may choose to administer the plan as a trustee in compliance with the law which created the plan.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-9-4

Advisory board

Sec. 4. Advisory Board. The board of trustees or administrators of the retirement system shall act as advisors to the fund's director.

As added by Acts 1977, P.L.53, SEC.3. Amended by P.L.5-1990, SEC.11.

IC 5-10.3-9-5

Repealed

(As added by Acts 1977, P.L.53, SEC.3. Repealed by P.L.115-2009, SEC.21.)

IC 5-10.3-9-6

Investments

Sec. 6. Investments. All investments made after the transfer shall be made by the board.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-9-7

Separate records

Sec. 7. Separate Records. The board shall keep separate detailed records of the general or annuitant's reserve of each retirement system which it administers.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-9-8

Limited liability

Sec. 8. Limited Liability. The liabilities of a retirement system which is administered by the board are not liabilities of the fund, except as provided for in the agreement between the retirement system and the board.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-10

Chapter 10. Construction of Codification

IC 5-10.3-10-1

Purpose

Sec. 1. Purpose of Codification. This article is intended to be a codification and restatement of applicable or corresponding provisions in prior law. A citation to prior law in the Indiana Code shall be construed as a citation to the appropriate provision of this article if the prior law is reenacted in the same or restated form by this article.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-10-2

Headings

Sec. 2. Headings. The headings prefixed to sections of this article are included for organizational purposes and do not affect the meaning, application, or construction of the sections.

As added by Acts 1977, P.L.53, SEC.3.

IC 5-10.3-11
Chapter 11. Pension Relief Fund

IC 5-10.3-11-0.3
Repealed
(As added by P.L.220-2011, SEC.83. Repealed by P.L.6-2012, SEC.29.)

IC 5-10.3-11-1
Creation; administration; revenues
Sec. 1. There is created within the public employees' retirement fund a separate account known as the pension relief fund. This fund is administered by the board of trustees of the Indiana public retirement system, referred to as the "state board" in this chapter. The pension relief fund consists of revenues received under IC 6-7-1-28.1(4), IC 7.1-4-12-1, any appropriations to the fund, and earnings on these revenues.
As added by Acts 1980, P.L.8, SEC.45. Amended by P.L.26-1996, SEC.3; P.L.23-2011, SEC.20.

IC 5-10.3-11-2
Powers and duties of state board
Sec. 2. The state board shall:
(1) make payments from the pension relief fund;
(2) administer the pension relief fund in accordance with the powers and duties granted it in IC 5-10.3-5-3 through IC 5-10.3-5-6, IC 5-10.5-4, and IC 5-10.5-6; and
(3) provide by rule and regulation for the implementation of this chapter.
As added by Acts 1980, P.L.8, SEC.45. Amended by P.L.35-2012, SEC.83.

IC 5-10.3-11-3
Payments to units of local government; restriction
Sec. 3. The pension relief fund may be used only for making payments to cities, counties, towns, and townships, referred to as "units of local government" in this chapter, having pension funds established under IC 18-1-12, IC 19-1-18, IC 19-1-24, IC 19-1-25-4, IC 19-1-30, IC 19-1-37, or IC 19-1-44 (all before their repeal). Payments received by the units may be used only for:
(1) pension payments from a pension fund listed in this section; or
(2) withdrawals under section 6 of this chapter.
As added by Acts 1980, P.L.8, SEC.45. Amended by P.L.182-2009(ss), SEC.74.

IC 5-10.3-11-4
Certification of information to state board; determination of total

pension payments

Sec. 4. (a) Monies from the pension relief fund shall be paid annually by the state board under the procedures specified in this section.

(b) Each year, before a date set by the state board, each unit of local government must certify to the state board:

(1) the amount of payments made during the preceding year for benefits under its pension funds covered by this chapter, referred to in this section as "pension payments";

(2) the data determined necessary by the state board to perform an actuarial valuation of the unit's pension funds covered by this chapter;

(3) the names required to prepare the list specified in subsection (c); and

(4) any other information that is necessary for the state board to make distributions to units under this chapter.

A unit is ineligible to receive a distribution under this section if it does not supply the complete information required by this subsection or a substantial amount of the information required if it is accompanied by an affidavit of the chief executive officer of the unit detailing the steps which have been taken to obtain the information and the reasons the complete information has not been obtained. The reporting requirement of this subsection is in addition to the reporting requirement of IC 5-11-20.

(c) Each year, before a date set by the state board, the state board shall prepare a list of all police officers and firefighters, active, retired, and deceased if their beneficiaries are eligible for benefits, who are members of a police or fire pension fund that was established before May 1, 1977. The list may not include police officers, firefighters, or their beneficiaries for whom no future benefits will be paid. The state board shall then compute the present value of the accrued liability to provide the pension and other benefits to each person on the list.

(d) Each year, before a date set by the state board, the state board shall determine the total pension payments made by all units of local government for the preceding year and shall estimate the total pension payments to be made to all units in the calendar year in which the July 1 occurs and in the following calendar year.

As added by Acts 1980, P.L.8, SEC.45. Amended by Acts 1982, P.L.39, SEC.1; P.L.25-1994, SEC.8; P.L.26-1996, SEC.4; P.L.38-2001, SEC.1; P.L.146-2008, SEC.35; P.L.47-2013, SEC.2.

IC 5-10.3-11-4.5

Repealed

(As added by P.L.47-1988, SEC.1. Amended by P.L.55-1989, SEC.24; P.L.1-1994, SEC.19; P.L.118-2000, SEC.3. Repealed by P.L.146-2008, SEC.814.)

IC 5-10.3-11-4.7
Distributions to units of local government

Sec. 4.7. (a) In 2009 and each year thereafter, the state board shall distribute from the pension relief fund to each unit of local government the total amount of pension, disability, and survivor benefit payments from the 1925 police pension fund (IC 36-8-6), the 1937 firefighters' pension fund (IC 36-8-7), and the 1953 police pension fund (IC 36-8-7.5) to be made by the unit in the calendar year, as estimated by the state board under section 4 of this chapter.

(b) The state board shall make the distributions under subsection (a) in two (2) equal installments before July 1 and before October 2 of each year.

As added by P.L.38-2001, SEC.2. Amended by P.L.28-2006, SEC.1; P.L.234-2007, SEC.277; P.L.146-2008, SEC.36; P.L.115-2010, SEC.4.

IC 5-10.3-11-5
Annual report

Sec. 5. At least annually the state board shall report in writing to each affected unit of local government the following information:

(1) The projected pension payments for the next twenty (20) years.

(2) The present value of the total future projected pension payments.

As added by Acts 1980, P.L.8, SEC.45. Amended by P.L.47-1985, SEC.7; P.L.26-1996, SEC.5.

IC 5-10.3-11-6
Separate accounts

Sec. 6. (a) The state board shall maintain separate accounts for each unit of local government for purposes of this section. The accounts are separate and distinct accounts within the public employees' retirement fund and the pension relief fund.

(b) A unit of local government may do the following:

(1) Make deposits at any time to the separate account established for the unit under this section.

(2) Withdraw once each year from the unit's separate account all or a part of the balance in the account to pay pension benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5.

(3) Direct the state board at any time to pay from the unit's separate account all or a part of either or both of the following:

(A) The unit's employer contributions under IC 36-8-8-6.

(B) The contributions paid by the unit for a member under IC 36-8-8-8(a).

As added by P.L.38-2001, SEC.3. Amended by P.L.146-2008, SEC.37; P.L.182-2009(ss), SEC.75.

IC 5-10.3-12

Chapter 12. Public Employees' Defined Contribution Plan

IC 5-10.3-12-1

Applicability of chapter

Sec. 1. (a) Except as otherwise provided in this section, this chapter applies to the following:

(1) An individual who:

(A) on or after the effective date of the plan, becomes for the first time a full-time employee of the state:

(i) in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(ii) who is paid by the auditor of state by salary warrants; and

(B) makes the election described in section 20 of this chapter to become a member of the plan.

(2) An individual:

(A) who becomes a full-time employee of a participating political subdivision in a covered position after an ordinance or resolution described in clause (C) that is adopted by the political subdivision has been approved by the board;

(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board to require an employee in the covered position to become a member of the plan.

(3) An individual:

(A) who becomes a full-time employee of a political subdivision in a covered position after an ordinance or resolution described in clause (C) that is adopted by the political subdivision has been approved by the board;

(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7;

(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and

(ii) to require an employee in a covered position to make an election under section 20.5 of this chapter in order to become a member of the plan; and

(D) who makes an election under section 20.5 of this chapter to become a member of the plan.

(4) An individual:

(A) who becomes a full-time employee of a political

subdivision in a covered position after an ordinance or resolution described in clause (C) that is adopted by the political subdivision has been approved by the board;

(B) who would otherwise be eligible for membership in the fund under IC 5-10.3-7;

(C) who is employed by a political subdivision that has elected in an ordinance or resolution adopted under IC 5-10.3-6-1 and approved by the board:

(i) to allow an employee in the covered position to become a member of the fund or a member of the plan at the discretion of the employee; and

(ii) to require an employee to make an election under IC 5-10.3-7-1.1 in order to become a member of the fund; and

(D) who does not make an election under IC 5-10.3-7-1.1 to become a member of the fund.

(5) An individual who makes an election described in section 20.3 of this chapter.

(6) An individual:

(A) who is a retired member (as defined in IC 5-10.3-1-5) of the fund;

(B) who is prohibited from making contributions to the fund under IC 5-10.2-4-8(e) during a period of reemployment that begins more than thirty (30) days after the member retired; and

(C) who, on or after the date:

(i) the state files a notice; or

(ii) a participating political subdivision files an adopted ordinance or resolution;

with the board in accordance with section 32 of this chapter, begins, or is engaged in, a period of reemployment with the state or a participating political subdivision as a full-time employee more than thirty (30) days after the individual's retirement in a position that would otherwise be covered by the fund.

(b) Except as provided in subsection (c), this chapter does not apply to an individual who, on or after the effective date of the plan:

(1) becomes for the first time a full-time employee of the state in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7; and

(2) is employed by:

(A) a body corporate and politic of the state created by state statute; or

(B) a state educational institution (as defined in IC 21-7-13-32).

(c) The chief executive officer of a body or institution described in subsection (b) may elect, by submitting a written notice of the election to the director, to have this chapter apply to individuals who,

as employees of the body or institution, become for the first time full-time employees of the state in positions that would otherwise be eligible for membership in the fund under IC 5-10.3-7. An election under this subsection is effective on the later of:

(1) the date the notice of the election is received by the director; or

(2) March 1, 2013.

As added by P.L.22-2011, SEC.2. Amended by P.L.54-2013, SEC.2; P.L.241-2015, SEC.24; P.L.193-2016, SEC.14; P.L.209-2016, SEC.3.

IC 5-10.3-12-2
"Account"

Sec. 2. As used in this chapter, "account" means the plan account established for a member under section 21(b) of this chapter.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-3
"Annuity savings account"

Sec. 3. As used in this chapter, "annuity savings account" means the annuity savings account maintained under IC 5-10.2-2-2(a)(1).

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-4
"Board"

Sec. 4. As used in this chapter, "board" has the meaning set forth in IC 5-10.3-1-1.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-5
"Compensation"

Sec. 5. As used in this chapter, "compensation" has the meaning set forth in IC 5-10.2-3-2(a).

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-6
"Dies in the line of duty"

Sec. 6. As used in this chapter, "dies in the line of duty" has the meaning set forth in IC 5-10-11-2.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-7
"Effective date"

Sec. 7. As used in this chapter, "effective date" means the first day of the month that is six (6) months after the month in which the Internal Revenue Service issues an approval of the plan.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-7.5
"Employees of the state"
Sec. 7.5. As used in this chapter, "employees of the state" has the meaning set forth in IC 5-10.3-7-1.
As added by P.L.241-2015, SEC.25.

IC 5-10.3-12-8
"Employer"
Sec. 8. As used in this chapter, "employer" means the state or a participating political subdivision.
As added by P.L.22-2011, SEC.2. Amended by P.L.241-2015, SEC.26.

IC 5-10.3-12-9
"Employer contribution subaccount"
Sec. 9. As used in this chapter, "employer contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(2) of this chapter.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-10
"Fund"
Sec. 10. As used in this chapter, "fund" has the meaning set forth in IC 5-10.3-1-3.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-11
"Internal Revenue Code"
Sec. 11. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 5-10.2-1-3.5.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-12
"Member"
Sec. 12. As used in this chapter, "member" means an individual who has elected or is required to participate in the plan.
As added by P.L.22-2011, SEC.2. Amended by P.L.241-2015, SEC.27.

IC 5-10.3-12-13
"Member contribution account"
Sec. 13. As used in this chapter, "member contribution subaccount" means the subaccount in a member's plan account established under section 21(b)(1) of this chapter.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-14
"Normal retirement age"

Sec. 14. As used in this chapter, "normal retirement age" for a member means the member is at least sixty-two (62) years of age with at least five (5) years of participation in the plan.
As added by P.L.22-2011, SEC.2. Amended by P.L.66-2013, SEC.1.

IC 5-10.3-12-14.5
"Participating political subdivision"
Sec. 14.5. As used in this chapter, "participating political subdivision" means a political subdivision which is participating in the plan as specified in IC 5-10.3-6.
As added by P.L.241-2015, SEC.28.

IC 5-10.3-12-15
"Plan"
Sec. 15. As used in this chapter, "plan" refers to the public employees' defined contribution plan established by section 18 of this chapter.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-16
"Years of participation"
Sec. 16. As used in this chapter, "years of participation" means all periods of participation in the plan in a covered position, plus any additional service for which this chapter provides years of participation credit.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-17
Applicability of other laws
Sec. 17. Except as otherwise provided in this chapter or by federal law, and subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the provisions of IC 5-10.3 that apply to the annuity savings account apply to an account established under this chapter.
As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-18
Establishment and administration of plan; Internal Revenue Service approval
Sec. 18. (a) The public employees' defined contribution plan is established for the purpose of providing amounts funded by an employer and a member for the use of the member or the member's beneficiaries or survivors after the member's retirement.
(b) The board shall adopt provisions to implement the plan established under subsection (a) as follows:
(1) The board shall initially offer the plan using the annuity savings account, subject to obtaining the approval of the Internal Revenue Service in a manner satisfactory to the board

to preserve the qualified status of the plan and the fund. The plan as provided under this subdivision is a component within the fund.

(2) If the approval of the Internal Revenue Service to offer the plan using the annuity savings account cannot be obtained in a manner satisfactory to the board, the board shall offer the plan as a separate fund under Section 401(a) or another applicable section of the Internal Revenue Code.

(c) The board shall administer the plan.

(d) The board may adopt a plan document that it considers appropriate or necessary to administer the plan.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-19

Authorization to request Internal Revenue Service rulings or determination letters

Sec. 19. The board may request from the Internal Revenue Service any rulings or determination letters that the board considers necessary or appropriate in order to implement or administer the plan.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-20

Plan membership; election; fund membership

Sec. 20. (a) This section applies only to an individual who, on or after the effective date of the plan, becomes for the first time a full-time employee of the state in a position that would otherwise be eligible for membership in the fund under IC 5-10.3-7.

(b) An individual to whom this section applies may elect to become a member of the plan for all service credit that the member accrues in a covered position as an employee of the state. An election under this section:

(1) must be made in writing;

(2) must be filed with the board, on a form prescribed by the board; and

(3) is irrevocable.

(c) Except as provided in section 32(a) of this chapter, an individual who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund for all service credit that the member accrues in a covered position as an employee of the state.

As added by P.L.22-2011, SEC.2. Amended by P.L.241-2015, SEC.29; P.L.209-2016, SEC.4.

IC 5-10.3-12-20.3

Election during July 2016, by first time state employee who is fund member

Sec. 20.3. (a) This section applies to an individual who:

(1) is an employee of the state on July 1, 2016;
(2) became for the first time, after January 1, 2013, a full-time employee of the state in a position that is eligible for membership in the fund under IC 5-10.3-7; and
(3) is a member (as defined in IC 5-10.3-1-5) of the fund.

(b) An individual to whom this section applies may elect to become a member of the plan. An election under this section:
(1) must be made in writing;
(2) must be filed with the board, on a form prescribed by the board, not later than July 30, 2016; and
(3) is irrevocable.

(c) If an individual makes the election described in subsection (b), the following apply:
(1) The individual's service from the date, after January 1, 2013, that the individual first became a full-time employee of the state until the date immediately preceding the date of the individual's election under subsection (b) is considered participation in the plan for purposes of vesting in the employer contribution subaccount under section 25 of this chapter, and the individual waives service credit in the fund for the service.
(2) The amount credited to the individual's annuity savings account in the fund on the date of the individual's election under subsection (b) is transferred to the individual's member contribution subaccount.
(3) The amounts paid to the fund by the state as employer normal cost contributions for the individual from the date, after January 1, 2013, that the individual first became a full-time employee of the state until the date immediately preceding the date of the individual's election under subsection (b) are transferred to the individual's employer contribution subaccount.

As added by P.L.193-2016, SEC.15.

IC 5-10.3-12-20.5
Election by employee of political subdivision to become plan member; failure to make election

Sec. 20.5. (a) This section applies to an individual described in section 1(a)(3) of this chapter who is otherwise eligible to become a member of the plan.

(b) An individual described in subsection (a) may elect to become a member of the plan on the date the individual begins the individual's employment in a covered position with a political subdivision that participates in the plan. The election applies to all service credit that the member accrues in a covered position as an employee of the political subdivision while the political subdivision participates in the plan.

(c) An election under this section:
(1) must be made in writing;

(2) must be filed with the board on a form prescribed by the board; and

(3) is irrevocable.

(d) Except as provided in section 32(b) of this chapter, an individual described in subsection (a) who does not elect to become a member of the plan becomes a member (as defined in IC 5-10.3-1-5) of the fund for all service credit that the member accrues in a covered position as an employee of the political subdivision while the political subdivision participates in the fund.

As added by P.L.241-2015, SEC.30. Amended by P.L.209-2016, SEC.5.

IC 5-10.3-12-21

Plan; member accounts; rollover accounts; member with fund annuity savings account

Sec. 21. (a) The plan consists of the following:

(1) Each member's contributions to the plan under section 23 of this chapter.

(2) Contributions made by an employer to the plan on behalf of each member under section 24 or 24.5 of this chapter.

(3) Rollovers to the plan by a member under section 29 of this chapter.

(4) All earnings on investments or deposits of the plan.

(5) All contributions or payments to the plan made in the manner provided by the general assembly.

(b) The plan shall establish an account for each member. A member's account consists of two (2) subaccounts credited individually as follows:

(1) The member contribution subaccount consists of:

(A) the member's contributions to the plan under section 23 of this chapter; and

(B) the net earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

(2) The employer contribution subaccount consists of:

(A) the employer's contributions made on behalf of the member to the plan under section 24 or 24.5 of this chapter; and

(B) the earnings on the contributions described in clause (A) as determined under section 22 of this chapter.

The board may combine the two (2) subaccounts established under this subsection into a single account, if the board determines that a single account is administratively appropriate and permissible under applicable law.

(c) If a member makes rollover contributions under section 29 of this chapter, the plan shall establish a rollover account as a separate subaccount within the member's account.

(d) If:

(1) the board offers the plan using the annuity savings account;

and

(2) an individual is both a member of the plan and a member (as defined in IC 5-10.3-1-5) of the fund;

the board shall account for the individual's contributions and the employer contributions made on behalf of the individual under the fund separately from the individual's contributions and the employer's contributions made on behalf of the individual under the plan.

As added by P.L.22-2011, SEC.2. Amended by P.L.6-2012, SEC.30; P.L.35-2012, SEC.84; P.L.241-2015, SEC.31; P.L.209-2016, SEC.6.

IC 5-10.3-12-22

Alternative investment programs; stable value fund program; requirements and rules; administrative fees

Sec. 22. (a) Subject to the board obtaining the approval of the Internal Revenue Service as described in section 18(b) of this chapter, the board shall establish:

(1) a stable value fund as the initial regular investment program for the plan; and

(2) the alternative investment programs (as described by IC 5-10.2-2-3 and IC 5-10.2-2-4) within the annuity savings account as the initial alternative investment programs for the plan.

If the board considers it necessary or appropriate, the board may establish different or additional alternative investment programs for the plan.

(b) The requirements and rules that apply to the alternative investment programs within the annuity savings account are the initial requirements and rules that apply to the alternative investment programs within the plan, including the following:

(1) The board's investment guidelines and limits for the alternative investment programs.

(2) A member's selection of and changes to the member's investment options.

(3) The valuation of a member's account.

(4) The allocation and payment of administrative expenses for the alternative investment programs.

(c) If the board considers it necessary or appropriate, the board may establish different or additional requirements and rules that apply to the alternative investment programs within the plan.

(d) The board shall determine the appropriate administrative fees to be charged to the member accounts.

As added by P.L.22-2011, SEC.2. Amended by P.L.6-2012, SEC.31; P.L.193-2016, SEC.16.

IC 5-10.3-12-23

Member required contributions; additional contributions; crediting; employer pick-up and payment

Sec. 23. (a) Each member's contribution to the plan is equal to three percent (3%) of the member's compensation.

(b) For a member who is an employee of the state, the state shall pay the member's contribution on behalf of the member each year.

(c) For a member who is an employee of a political subdivision, the political subdivision may pay all or part of the member's contribution on behalf of the member.

(d) To the extent permitted by the Internal Revenue Code and applicable regulations, a member of the plan may make contributions to the plan in addition to the contribution required under subsection (a). IC 5-10.2-3-2(c) and IC 5-10.2-3-2(d) govern additional contributions made under this subsection.

(e) Member contributions will be credited to the member's account as specified in IC 5-10.2-3.

(f) Although designated as employee contributions, the contributions made under subsection (b) are picked up and paid by the state as the employer in lieu of the contributions being paid by the employee in accordance with Section 414(h)(2) of the Internal Revenue Code.

(g) Although designated as employee contributions, the contributions made under subsection (c) by a political subdivision may be picked up and paid by the employer instead of the contributions being paid by the employee in accordance with Section 414(h)(2) of the Internal Revenue Code.

(h) A member may not receive any amounts paid by an employer under this section directly instead of having the amounts paid to the plan.

As added by P.L.22-2011, SEC.2. Amended by P.L.5-2014, SEC.1; P.L.241-2015, SEC.32.

IC 5-10.3-12-24

State employer contribution; contribution rate determination; minimum rate; amounts credited; electronic submission of contributions

Sec. 24. (a) The state shall make employer contributions to the plan based on the rate determined under this section.

(b) The state's contribution rate for the plan is equal to the employer's contribution rate for the fund as determined by the board under IC 5-10.2-2-11(b). The amount credited from the employer's contribution rate to the member's account shall not be greater than the normal cost of the fund. Any amount not credited to the member's account shall be applied to the unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(c) The state's minimum contribution under this section is equal to three percent (3%) of the compensation of all members of the plan who are employees of the state.

(d) The state shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5.

As added by P.L.22-2011, SEC.2. Amended by P.L.241-2015, SEC.33.

IC 5-10.3-12-24.5
Political subdivision employer contribution; contribution rate determination; amounts credited; electronic submission of contributions

Sec. 24.5. (a) A participating political subdivision shall make employer contributions to the plan based on the rate determined under this section.

(b) A participating political subdivision's contribution rate for the plan is equal to the sum of:

(1) the contribution rate determined by the participating political subdivision under IC 5-10.3-6-1(c); and

(2) the sum, for each member employed by the participating political subdivision, of:

(A) the member's additional contribution to the plan under section 23(d) of this chapter; multiplied by

(B) the participating political subdivision's matching rate determined under IC 5-10.3-6-1(d).

(c) For each employee of a participating political subdivision, the amount credited to the member's account is the part of the employer's contribution determined under subsection (b) that is attributable to the member's compensation and the member's additional contributions.

(d) A participating political subdivision shall submit the employer contributions determined under this section as provided in IC 5-10.2-2-12.5.

As added by P.L.241-2015, SEC.34.

IC 5-10.3-12-25
Member contributions belong to member; vesting schedule for employer contributions; forfeiture of amounts not vested

Sec. 25. (a) Member contributions and net earnings on the member contributions in the member contribution subaccount belong to the member at all times and do not belong to any employer.

(b) A member is vested in the employer contribution subaccount in accordance with the following schedule:

Years of participation in the plan	Vested percentage of employer contributions and earnings
1	20%
2	40%
3	60%
4	80%
5	100%

For purposes of vesting in the employer contribution subaccount, only a member's full years of participation in the plan may be

counted.

(c) The amount that a member may withdraw from the member's account is limited to the vested portion of the account.

(d) A member who attains normal retirement age is fully vested in all amounts in the member's account.

(e) If a member separates from service with the member's employer before the member is fully vested in the employer contribution subaccount, the amount in the employer contribution subaccount that is not vested is forfeited as of the date the member separates from service.

(f) Amounts forfeited under subsection (e) must be used to reduce the unfunded accrued liability of the fund as determined under IC 5-10.2-2-11(a)(3) and IC 5-10.2-2-11(a)(4).

(g) A member may not earn creditable service (as defined in IC 5-10.2-3-1(a)) under the plan.

As added by P.L.22-2011, SEC.2. Amended by P.L.6-2012, SEC.32; P.L.241-2015, SEC.35.

IC 5-10.3-12-26

Member accounts; withdrawals; forms of payment

Sec. 26. (a) Subject to the provisions of the Internal Revenue Code applicable to qualified plan distributions, a member who:

(1) terminates service in a covered position; and

(2) does not perform any service in a position covered by the fund for at least thirty (30) days after the date on which the member terminates service;

is entitled to withdraw amounts in the member's account to the extent the member is vested in the account. A member must make a required withdrawal from the member's account not later than the required beginning date under the Internal Revenue Code.

(b) The member may elect to have withdrawals paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) if the member has attained normal retirement age, a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. The board shall give members information about these forms of payment and any information required by federal law to accompany such distributions.

(d) Unless otherwise required by federal or state law, the requirements and rules that apply to the distribution of the annuity savings account apply to distributions from a member's account.

As added by P.L.22-2011, SEC.2. Amended by P.L.6-2012, SEC.33; P.L.66-2013, SEC.2.

IC 5-10.3-12-27
Member accounts; beneficiary or survivor withdrawals; forms of payment

Sec. 27. (a) If a member dies:

(1) while in service in a position covered by the plan but not in the line of duty; or

(2) after terminating service in a position covered by the plan but before withdrawing the member's account;

to the extent that the member is vested, the member's account shall be paid to the beneficiary or beneficiaries designated by the member on a form prescribed by the board. The amount paid shall be valued as provided in IC 5-10.2-2-3 and IC 5-10.2-2-4. The board shall invest the total amount in the member's account in the stable value fund not later than thirty (30) days after receiving notification of a member's death.

(b) If there is no properly designated beneficiary, or if no beneficiary survives the member, the member's account shall be paid to:

(1) the surviving spouse of the member;

(2) if there is not a surviving spouse, the surviving dependent or dependents of the member in equal shares; or

(3) if there is not a surviving spouse or dependent, the member's estate.

(c) The beneficiary or beneficiaries designated under subsection (a) or a survivor determined under subsection (b) may elect to have the member's account paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) a monthly annuity in accordance with rules of the board.

A monthly annuity is an option only on or after the beneficiary or survivor attains sixty-two (62) years of age. The board shall establish the forms of annuity by rule, in consultation with the board's actuary. Further, the board may establish a minimum account balance or a minimum monthly payment amount that is required in order for a beneficiary or survivor to select the monthly annuity option.

(d) If a member dies in the line of duty while in service in a covered position, the designated beneficiary or beneficiaries or the surviving spouse or dependents, as applicable, are entitled to payment of the member's account as provided in this section. In addition, if the member was not fully vested in the employer contribution subaccount, the account is deemed to be fully vested for purposes of withdrawal under this section.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-28
Plan exempt from legal process; assignment of payments

Sec. 28. (a) All assets in the plan are exempt from levy, sale, garnishment, attachment, or other legal process.

(b) A member, beneficiary, or survivor may not assign any payment under this chapter except for the following:

(1) Premiums on a life, hospitalization, surgical, or medical group insurance plan maintained in part by a state agency.

(2) Dues to an association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the retired members in the plan.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-29

Rollover contributions; rollover accounts

Sec. 29. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations and guidance, the plan may accept, on behalf of any member who is employed in a covered position, a rollover distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's account in the plan. The member shall be fully vested in the member’s rollover account.

(c) A member may direct the investment of the member's rollover account into any alternative investment option that the board may make available to the member's rollover account under section 22 of this chapter.

(d) A member may withdraw the member's rollover account from the plan in a lump sum or direct a rollover to an eligible retirement plan at any time. Upon attainment of normal retirement age, in addition to these payment options, the member may withdraw the member's rollover account as a monthly annuity as established by the board in accordance with the annuity options that are available for the member's account in the plan. A member must make a required withdrawal from the member’s account in the plan not later than the required beginning date under the Internal Revenue Code.

As added by P.L.22-2011, SEC.2.

IC 5-10.3-12-30

Member accounts; disability withdrawals; forms of payment

Sec. 30. (a) If a member becomes disabled while in a covered position, subject to any federal law limitations concerning qualified

plan distributions and the member furnishing proof of the member's qualification for Social Security disability benefits to the board, to the extent that the member is vested, the member may make a withdrawal from the member's account.

(b) The member may elect to have the withdrawal paid as:

(1) a lump sum;

(2) a direct rollover to another eligible retirement plan; or

(3) a monthly annuity in accordance with the rules of the board.

(c) The board may establish a minimum account balance or a minimum monthly payment amount in order for a member to select the monthly annuity option.

As added by P.L.22-2011, SEC.2. Amended by P.L.6-2012, SEC.34.

IC 5-10.3-12-31

Effect of reemployment on plan participation

Sec. 31. (a) If a member of the plan separates from employment with the member's employer, later begins employment with the same or a different employer in a position covered by the plan:

(1) the member resumes the member's participation in the plan; and

(2) the member is entitled to receive credit for the member's years of participation in the plan before the member's separation.

Any amounts forfeited by the member under section 25(e) of this chapter may not be restored to the member's account.

(b) An individual who returns to state employment having had an opportunity to make an election under section 20 of this chapter during an earlier period of state employment is not entitled to a second opportunity to make an election under section 20 of this chapter.

(c) An individual described in section 1(a)(3) of this chapter who returns to employment with a participating political subdivision having had an opportunity to make an election under section 20.5 of this chapter during an earlier period of employment with the participating political subdivision is not entitled to a second opportunity to make an election under section 20.5 of this chapter with respect to that employer.

As added by P.L.22-2011, SEC.2. Amended by P.L.241-2015, SEC.36; P.L.209-2016, SEC.7.

IC 5-10.3-12-32

Election by state or participating political subdivision to allow plan participation by retired reemployed fund members

Sec. 32. (a) Notwithstanding section 20 and section 31(b) of this chapter, the state may elect to allow an individual who meets the following conditions to begin or resume membership in the plan for a period of reemployment with the state on the later of the date the board receives notice that the state has made an election under this

subsection or the date on which the individual's period of reemployment begins:

(1) The individual is a retired member (as defined in IC 5-10.3-1-5) of the fund.

(2) The individual is prohibited from making contributions to the fund under IC 5-10.2-4-8(e) during a period of reemployment that begins more than thirty (30) days after the member retired.

(3) On or after the date the board receives notice that the state has made an election under this subsection, the individual begins, or is engaged in, a period of reemployment with the state in a position that would otherwise be covered by the fund.

An election by the state under this subsection must be made as provided under IC 5-10.2-2-23 and is effective on the date that notice of the election is filed with the board.

(b) Notwithstanding section 20.5 and section 31(c) of this chapter, a participating political subdivision may adopt an ordinance or resolution allowing an individual who meets the following conditions to begin or resume membership in the plan for a period of reemployment with the participating political subdivision on the later of the date the ordinance or resolution adopted by the participating political subdivision is filed with the board or the date on which the individual's period of reemployment begins:

(1) The individual is a retired member (as defined in IC 5-10.3-1-5) of the fund.

(2) The individual is prohibited from making contributions to the fund under IC 5-10.2-4-8(e) during a period of reemployment that begins more than thirty (30) days after the member retired.

(3) On or after the date a participating political subdivision files an ordinance or resolution adopted under this subsection, the individual begins, or is engaged in, a period of reemployment with a participating political subdivision as a full-time employee in a position that would otherwise be covered by the fund.

An election by a participating political subdivision under this subsection is effective on the date the ordinance or resolution adopted by a participating political subdivision is filed with the board.

As added by P.L.209-2016, SEC.8.

IC 5-10.4

ARTICLE 10.4. STATE TEACHERS' RETIREMENT FUND

IC 5-10.4-1

Chapter 1. General Provisions

IC 5-10.4-1-0.3

Legalization of payment of certain benefits

Sec. 0.3. If before June 1, 1985, the board approved a member's choice of retirement date that preceded the member's application for benefits, payments made as a result of the choice of retirement date are legalized.

As added by P.L.220-2011, SEC.84.

IC 5-10.4-1-0.4

Retention of certain accrued creditable service

Sec. 0.4. (a) The definitions in IC 21-6.1-1 (before its repeal, now codified in this chapter) apply throughout this section.

(b) Notwithstanding IC 21-6.1-4-5 (as amended by P.L.214-1995, before its repeal, now codified at IC 5-10.4-4-7) and IC 21-6.1-4-13(a) (as added by P.L.214-1995, before its repeal, now codified at IC 5-10.4-4-14), and subject to IC 21-6.1-4-13(b) (as added by P.L.214-1995, before its repeal, now codified at IC 5-10.4-4-14), a member who accrued creditable service before January 1, 1995, for leave for other educational employment approved by the board:

(1) retains the creditable service accrued before January 1, 1995, resulting from the leave for other educational employment that was approved by the board; and

(2) continues to accrue creditable service after December 31, 1994, resulting from the leave for other educational employment that was approved before January 1, 1995, by the board.

As added by P.L.220-2011, SEC.85.

IC 5-10.4-1-1

Purpose

Sec. 1. This article supplements IC 5-10.2 and may not be construed or administered to diminish or nullify the rights, privileges, and benefits conferred by IC 5-10.2, except for the granting and purchase of service credit under IC 21-6.1-4 (before its repeal) or IC 5-10.4-4.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-2

Application

Sec. 2. The definitions in this chapter apply throughout this

article.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-3
"1996 account"
Sec. 3. "1996 account" refers to the 1996 account established within the fund under IC 5-10.4-2-2.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-4
"Americans with Disabilities Act"
Sec. 4. "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-5
"Board"
Sec. 5. "Board" refers to the board of trustees of the Indiana public retirement system established by IC 5-10.5-3-1.
As added by P.L.2-2006, SEC.28. Amended by P.L.23-2011, SEC.21.

IC 5-10.4-1-6
"Director"
Sec. 6. "Director" refers to the director of the Indiana public retirement system established by IC 5-10.5-2-1.
As added by P.L.2-2006, SEC.28. Amended by P.L.35-2012, SEC.85.

IC 5-10.4-1-7
"Fund"
Sec. 7. "Fund" refers to the Indiana state teachers' retirement fund:
(1) established by; and
(2) operating under;
this article.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-8
"Governing body"
Sec. 8. "Governing body" means:
(1) a board of school commissioners;
(2) a metropolitan board of education;
(3) a board of trustees; or
(4) another board or commission;
charged by law with the responsibility of administering the affairs of a school corporation.
As added by P.L.2-2006, SEC.28. Amended by P.L.233-2015, SEC.8.

IC 5-10.4-1-9

"Member"

Sec. 9. "Member" means a person qualifying for membership in the fund under IC 5-10.4-4-1.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-10

"Member's contribution"

Sec. 10. "Member's contributions" includes contributions paid by the employer of a member for the member to the fund.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-11

"Military service"

Sec. 11. "Military service" means service in the military, naval, or air service of the United States armed forces.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-12

"Pre-1996 account"

Sec. 12. "Pre-1996 account" refers to the pre-1996 account established within the fund under IC 5-10.4-2-2.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-13

"School corporation"

Sec. 13. "School corporation" means a public school corporation established by and under Indiana law. The term includes any:

(1) school city;
(2) school town;
(3) consolidated school corporation;
(4) metropolitan school district;
(5) township school corporation;
(6) county school corporation;
(7) united school corporation; or
(8) community school corporation.

As added by P.L.2-2006, SEC.28. Amended by P.L.233-2015, SEC.9.

IC 5-10.4-1-14

"State superintendent"

Sec. 14. "State superintendent" refers to the state superintendent of public instruction.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-15

"Transfer"

Sec. 15. "Transfer" includes the acts of selling and assigning.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-1-16
"Trustee"

Sec. 16. "Trustee" means a member of the board.

As added by P.L.2-2006, SEC.28. Amended by P.L.35-2012, SEC.86.

IC 5-10.4-2
Chapter 2. Fund

IC 5-10.4-2-1
Establishment of fund

Sec. 1. (a) The Indiana state teachers' retirement fund is established to be used to pay benefits to teachers and to supervisors of teachers in the public schools after specified years of service and under other specified circumstances.

(b) The board is responsible for the control and management of the fund.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-2-2
Accounts

Sec. 2. (a) The board shall segregate the fund into the following accounts:

(1) The pre-1996 account.

(2) The 1996 account.

(b) The board shall segregate each of the accounts established under subsection (a) into the following subaccounts:

(1) The annuity savings account.

(2) The retirement allowance account.

(c) Except as provided in subsection (d), member contributions shall be credited to the annuity savings account within the pre-1996 account.

(d) Member contributions made after June 30, 1995, with respect to the following members shall be credited to the annuity savings account within the 1996 account:

(1) An individual who first became a member of the fund after June 30, 1995.

(2) A member who:

(A) before July 1, 1995, served in a position covered by the fund; and

(B) after June 30, 1995, and before July 1, 2005, was hired by another school corporation or institution covered by the fund or rehired by a prior employer.

(3) A member described in subdivision (2) who, after June 30, 2005, is hired by another school corporation or institution covered by the fund or rehired by a prior employer.

(e) Member contributions made to the pre-1996 account with respect to a member covered by subsection (d) shall be transferred to the annuity savings account within the 1996 account.

(f) Employer contributions made after June 30, 1995, with respect to members described in subsection (d) shall be credited to the retirement allowance account within the 1996 account. Employer contributions made after June 30, 1995, with respect to all other members shall be credited to the retirement allowance account within

the pre-1996 account.

(g) The board shall administer these accounts and subaccounts as specified in IC 5-10.2-2.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-2-2.5

Adjustment of employer compensation rate because of certain savings

Sec. 2.5. The board shall adjust the employer contribution rate for the Indiana state teachers' retirement fund to take into account any actuarial savings resulting from the amendment to IC 21-6.1-2-2 (before its repeal, now codified at section 2 of this chapter) by P.L.291-2001.

As added by P.L.220-2011, SEC.86.

IC 5-10.4-2-3

Proration of expenses among accounts

Sec. 3. (a) The board shall:

(1) prorate the expenses of administration of the fund between the retirement allowance accounts; and

(2) pay the prorated expenses from those accounts.

(b) The board shall pay the expenses for the administration of the system as provided in IC 5-10.5-6-5.

As added by P.L.2-2006, SEC.28. Amended by P.L.35-2012, SEC.87.

IC 5-10.4-2-4

Required appropriation

Sec. 4. (a) The general assembly shall appropriate an amount from the state general fund that is sufficient to cover the state's actuarial liability for each member covered by the pre-1996 account and for each state employee covered by the 1996 account. The board may reduce this liability by the amount of interest earned on the deposits in the fund. This liability is determined by the actuarial investigation required by IC 5-10.2-2-9.

(b) The actuarial investigation and the board shall include in the determination of the liability, contribution rate, and appropriation the amount necessary to fully fund any past and estimated future cost of living increases for members of the pre-1996 account and the 1996 account, amortized over a term determined by the board that does not exceed thirty (30) years.

(c) The board shall:

(1) prepare its budget based on this investigation and for other specified expenditures; and

(2) submit the budget to the governor or to another officer or committee authorized by law to recommend the necessary appropriation.

(d) Each school corporation shall contribute to the 1996 account as specified in IC 5-10.4-7.

(e) If members receive compensation from federal funds, the board shall determine the employer's contribution, excluding administrative expenses, at the end of each fiscal year, to be paid from federal funds. The amount shall be determined by a method adopted by the board that results in an equitable sharing of the employer contribution by the federal government on account of members receiving compensation from federal funds.

As added by P.L.2-2006, SEC.28. Amended by P.L.111-2015, SEC.3.

IC 5-10.4-2-5

Pension stabilization fund

Sec. 5. (a) The pension stabilization fund is established. The pension stabilization fund is a part of the pre-1996 account and shall be administered by the board in accordance with the powers and duties granted to the board by IC 5-10.4-3-10 through IC 5-10.4-3-14, IC 5-10.5-4, and IC 5-10.5-6.

(b) The following shall be deposited in the pension stabilization fund:

(1) Amounts allocated to the pension stabilization fund under IC 4-30-16-3.

(2) A part of the employer reserve balance as determined by the budget director so that the employer reserve is sufficient for the cash flow needs.

(3) Other amounts appropriated to the pension stabilization fund by the general assembly.

(c) Payments from the pension stabilization fund must equal the pre-1996 account liabilities for the current fiscal year minus the prior year's state general fund payments for the pre-1996 account multiplied by the pension stabilization percentage set forth in subsection (d).

(d) The pension stabilization percentage is one hundred six percent (106%). The budget agency, after review by the budget committee and with the approval of the governor, may change the pension stabilization percentage so that the present value of future payments from the fund equal the fund's balance plus the present value of future receipts to the fund, but the payments may not allow the fund balance to be negative.

(e) Money in the pension stabilization fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.2-2006, SEC.28. Amended by P.L.35-2012, SEC.88.

IC 5-10.4-2-5.5

Allocation from pension stabilization fund certain amounts

Sec. 5.5. The board shall allocate from the pension stabilization fund (IC 21-6.1-2-8, before its repeal, now codified at section 5 of this chapter) to the fund's 1996 account an amount equal to the unfunded liability for individuals who were members of the fund's pre-1996 account before July 1, 1995, (and survivors and

beneficiaries of these members) who after June 30, 1995, became members of the Indiana state teachers' retirement fund's 1996 account.
As added by P.L.220-2011, SEC.87.

IC 5-10.4-2-6
Allocation of interest income

Sec. 6. The board shall do the following:

(1) Credit interest to the members' annuity savings accounts in the guaranteed fund (before January 1, 2017), actual earnings to the stable value fund (after December 31, 2016), and actual earnings to the alternative investment programs.

(2) After complying with subdivision (1), distribute any remaining undistributed income reserve as of the end of each accounting period as determined by the rules of the board.

As added by P.L.2-2006, SEC.28. Amended by P.L.99-2010, SEC.6; P.L.193-2016, SEC.17.

IC 5-10.4-3
Chapter 3. Board

IC 5-10.4-3-1
Repealed
(As added by P.L.2-2006, SEC.28. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.4-3-2
Repealed
(As added by P.L.2-2006, SEC.28. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.4-3-3
Repealed
(As added by P.L.2-2006, SEC.28. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.4-3-4
Repealed
(As added by P.L.2-2006, SEC.28. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.4-3-5
Repealed
(As added by P.L.2-2006, SEC.28. Amended by P.L.107-2010, SEC.3. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.4-3-6
Repealed
(As added by P.L.2-2006, SEC.28. Amended by P.L.107-2010, SEC.4. Repealed by P.L.23-2011, SEC.31.)

IC 5-10.4-3-7
Financial information; annualization of data
Sec. 7. The board shall annually analyze the fund's:
(1) income and expenditures;
(2) actuarial condition;
(3) reserve accounts;
(4) investments; and
(5) such other data as necessary to interpret the fund's condition and the board's administration of the fund;
for internal control purposes.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-3-8
Repealed
(As added by P.L.2-2006, SEC.28. Repealed by P.L.23-2011,

SEC.31.)

IC 5-10.4-3-9
Management of property

Sec. 9. (a) The board is responsible for the fund's property. The board may take and hold any property given outright or on condition to the fund and shall perform the conditions accepted. Unless restricted by a condition, the board may transfer the property when necessary for the fund's benefit.

(b) The board shall receipt:

(1) property belonging to or coming into the fund and shall judiciously invest the property; and

(2) money coming into the fund and, except as specified in sections 13 and 14 of this chapter, shall deposit the money as authorized by the board.

(c) The board shall direct the fund's disbursements on itemized vouchers approved by the president of the board and the director or, in the absence or incapacity of both officers, by another trustee directed by order of the board.

As added by P.L.2-2006, SEC.28. Amended by P.L.115-2009, SEC.13.

IC 5-10.4-3-10
Investments

Sec. 10. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board also shall diversify investments in accordance with prudent investment standards, subject to the limitations and restrictions set forth in IC 5-10.2-2-18.

(b) The board may:

(1) make or have investigations made concerning investments; and

(2) contract for and employ investment counsel to advise and assist in the purchase and sale of securities.

(c) The board is not subject to IC 4-13, IC 4-13.6, or IC 5-16 when managing real property as an investment. A management agreement entered into by the board shall ensure that the management agent acts in a prudent manner regarding the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for the management of real property as an investment:

(1) may not exceed a four (4) year term and must be based upon guidelines established by the board;

(2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as

utilities, cleaning, maintenance, and minor tenant finish needs;
(3) shall establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and
(4) may provide specific guidelines for the board to:
(A) purchase new properties;
(B) contract for the construction or repair of properties; and
(C) lease or sell properties;
without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all the following:
(1) Each beneficiary of the trust.
(2) Each settlor empowered to revoke or modify the trust.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-3-11
Compliance with federal law

Sec. 11. The board's transactions under section 10 of this chapter are subject to IC 5-10.2-2-1.5.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-3-12
Form of securities

Sec. 12. Each security may be held in bearer form or registered in the name of:
(1) the fund;
(2) a nominee created by the board; or
(3) a nominee of a custodian bank or safekeeping bank, approved by the board.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-3-13
Custodial agreements

Sec. 13. (a) The board may enter into a custodial agreement on terms the board considers in the best interest of the fund with a bank or trust company that is domiciled in the United States and approved by the board to:
(1) act in a fiduciary capacity; and
(2) manage custodial accounts;
on behalf of the fund.

(b) The agreement described in subsection (a) may authorize the

custodian to:

(1) hold the fund's securities and other investments in the name of the fund or a nominee, or in bearer form;

(2) collect the income and other receipts from the securities and other investments and deposit them subject to the instructions of the board or the board's representative;

(3) reinvest the receipts on the direction of the board or the board's representative;

(4) maintain accounting records and prepare reports as may be required for use by the fund and the state board of accounts; and

(5) perform other services for the board that are appropriate and customary for the custodian.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

As added by P.L.2-2006, SEC.28. Amended by P.L.90-2008, SEC.3.

IC 5-10.4-3-14
Management of custodial account

Sec. 14. All income and other receipts from securities may be:

(1) collected by the custodian bank or safekeeping bank approved for that purpose by the board and deposited in the custodial account or a checking account of the board;

(2) reinvested from the custodial account or checking account when the board determines that the receipts may be safely invested; or

(3) withdrawn by the board for the immediate needs of the fund from the checking account or custodial account.

As added by P.L.2-2006, SEC.28. Amended by P.L.115-2009, SEC.14.

IC 5-10.4-3-15
Conflict of interest prohibited

Sec. 15. (a) Except as otherwise provided, a trustee or employee of the board may not have any direct interest in the income of an investment made by the board or may not receive any pay or emolument for services connected with any investment made by the board.

(b) The board may purchase a security or financial interest issued or owned by a:

(1) custodian bank or trust company; or

(2) subsidiary, parent corporation, or holding company of a custodian bank or trust company.

(c) A trustee or employee may not become an obligor for money loaned by or borrowed from the fund.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-3-16
Criminal penalties

Sec. 16. A person who recklessly violates section 10, 12, 14, or 15 of this chapter is subject to criminal prosecution under IC 35-44.2-2-4.

As added by P.L.2-2006, SEC.28. Amended by P.L.126-2012, SEC.16.

IC 5-10.4-4

Chapter 4. Fund Membership; Employee Contributions; Creditable Service; Purchase of Service; Fund Withdrawal

IC 5-10.4-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 8 of this chapter by P.L.201-2007 apply to members of the Indiana state teachers' retirement fund who retire after June 30, 2007.

As added by P.L.220-2011, SEC.88.

IC 5-10.4-4-0.2

Application of certain amendments to chapter

Sec. 0.2. The amendments made to IC 21-6.1-4-6.1 (before its repeal, now codified at section 8 of this chapter) by P.L.184-2001 apply only to members of the public employees' retirement fund or the Indiana state teachers' retirement fund who retire after June 30, 2001.

As added by P.L.220-2011, SEC.89.

IC 5-10.4-4-1

Membership

Sec. 1. (a) The members of the fund include:

(1) legally qualified and regularly employed teachers in the public schools;

(2) persons employed by a governing body, who were qualified before their election or appointment;

(3) legally qualified and regularly employed teachers at Ball State University, Indiana State University, University of Southern Indiana, and Vincennes University;

(4) legally qualified and regularly employed teachers in a state educational institution whose teachers devote their entire time to teaching;

(5) legally qualified and regularly employed teachers in state benevolent, charitable, or correctional institutions;

(6) legally qualified and regularly employed teachers in an experimental school in a state university who teach elementary or high school students;

(7) as determined by the board, certain instructors serving in a state educational institution extension division not covered by a state retirement law;

(8) employees and officers of the department of education and of the fund who were qualified before their election or appointment;

(9) a person who:

(A) is employed as a nurse appointed under IC 20-34-3-6 by a school corporation located in a city having a population of more than eighty thousand (80,000) but less than eighty

thousand four hundred (80,400); and

(B) participated in the fund before December 31, 1991, in the position described in clause (A); and

(10) persons who are employed by the fund.

(b) Teachers in any state institution who accept the benefits of a state supported retirement benefit system comparable to the fund's benefits may not come under the fund unless permitted by law or the rules of the board.

(c) The members of the fund do not include substitute teachers who have not obtained an associate degree or a baccalaureate degree.

As added by P.L.2-2006, SEC.28. Amended by P.L.2-2007, SEC.95; P.L.119-2012, SEC.14.

IC 5-10.4-4-2
Creditable service

Sec. 2. (a) Creditable service is determined under IC 5-10.2-3-1 and this chapter.

(b) A member, whether or not the member is employed under a contract, must serve at least:

(1) one hundred twenty (120) days in a year; or

(2) sixty (60) days in each of two (2) years;

to receive one (1) year of service credit in the fund.

(c) Except as otherwise specified, a member may not be granted more than one (1) year of credit for service in a calendar year or fiscal year.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-4-3
Creditable service earned under prior law

Sec. 3. (a) Except as provided in subsection (b), a member who served the public schools in a capacity that subsequently was designated by the state as a service for which a license is specified, is eligible to receive service credit for the total length of that service.

(b) A member whose service was recognized as creditable on March 11, 1953, may receive for prior uncredited years served in the same capacity service credit that is not more than the minimum number of years required for a retirement benefit.

(c) If a person presents a claim for prior service in the form established by the board, the board shall issue to the person a certificate of the amount of prior service allowed by the board.

(d) A member may waive the member's rights to prior service, only if the waiver is made at the time of transfer to the fund.

(e) A member shall retain all service credit earned under the law before July 1, 1975.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-4-4
Out-of-state service

Sec. 4. (a) As used in this section, "out-of-state service" means service in any state in a comparable position that would be creditable service if performed in Indiana. The term includes comparable service performed:

(1) on a United States military installation;

(2) in a federal prison; or

(3) at an educational facility operated or supervised by the Bureau of Indian Affairs.

(b) In computing the service credit for a member who began teaching in Indiana before July 1, 1981, and who has served as a public school teacher out of state, the board may include the greater of:

(1) eight (8) years of out-of-state service rendered before July 1, 1981; or

(2) one (1) year of out-of-state service rendered before July 1, 1981, for every four (4) years of in-state service.

(c) In addition, a member may purchase and claim out-of-state service credit that has not been claimed under subsection (b) subject to the limitations of subsections (d) and (e) if the member satisfies the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund that meet the following requirements:

(A) The contributions are equal to the product of the following:

(i) For service credit purchased before January 1, 1994, the member's salary when the member first became a member of the fund. For service credit purchased after December 31, 1993, the member's salary at the time the member actually makes a contribution for the service credit.

(ii) For service credit purchased before January 1, 1994, normal cost, as determined by the actuary of the fund. For purposes of this section, "normal cost" means the value of the annual amount required to fund the prospective benefits promised an employee for the work the employee has performed. For service credit purchased after December 31, 1993, a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) The contributions are for any accrued interest, at a rate determined by the actuary for the fund, for the period from

the member's initial membership in the fund to the date payment is made by the member.

(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(d) Out-of-state years that qualify a member for retirement in an out-of-state system or in a federal retirement system may not be granted under this section.

(e) After April 1, 1965, at least ten (10) years of in-state service is required before a member may claim any out-of-state service credits.

(f) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under this section after July 1, 1998:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(h) Contributions received after July 1, 1993, for the purchase of service credit under this section must be applied against the unfunded accrued liability of the fund.

As added by P.L.2-2006, SEC.28. Amended by P.L.8-2015, SEC.7.

IC 5-10.4-4-5

Private teaching service

Sec. 5. (a) As used in this section, "private teaching service" means service in Indiana as a teacher in a private school, kindergarten through postsecondary, that would be creditable service if performed in an accredited public school in Indiana.

(b) A member may purchase and claim private teaching service credit subject to the following:

(1) The member must have at least one (1) year of credited service in the fund.

(2) The member must have at least ten (10) years of in-state

credited service before the member may claim the service credit.

(3) Before the member retires, the member must make contributions to the fund:

(A) that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of private teaching service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The fund must receive verification from the private school that the private teaching service occurred.

(c) Service for years of private teaching that qualify a member for retirement in an out-of-state system, a private retirement system, or a federal retirement system may not be granted under this section.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.2-2006, SEC.28. Amended by P.L.8-2015, SEC.8.

IC 5-10.4-4-6
Substitute teaching service

Sec. 6. (a) As used in this section, "substitute teaching service" means service in Indiana as a substitute teacher that is not covered under section 1(c) of this chapter but is served by a person who has other service that is covered under section 1(a) of this chapter.

(b) A member may purchase and claim substitute teaching service if:

(1) the member has at least one (1) year of creditable service in the fund;

(2) before the member retires, the member makes contributions to the fund:

(A) that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of substitute teaching service the member intends to purchase; and

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member; and

(3) the fund receives verification from the school corporation that the substitute teaching service occurred.

(c) Service for years of substitute teaching that qualify a member for retirement in an out-of-state system or in a federal retirement system may not be granted under this section.

(d) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of

service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

As added by P.L.2-2006, SEC.28. Amended by P.L.8-2015, SEC.9.

IC 5-10.4-4-7

Leaves of absence

Sec. 7. (a) Except as provided in section 8 of this chapter, a member may be given credit for leaves of absence for study, professional improvement, and temporary disability if the leave credit does not exceed one-seventh (1/7) of the total years of service claimed for retirement (referred to as the one-seventh rule). A member granted a leave in these instances for exchange teaching and for other educational employment approved individually by the board is considered a teacher and is entitled to the benefits of the fund if for or during the leave the member pays into the fund the member's contributions. A leave for other educational employment is not subject to the one-seventh rule.

(b) In each case of a teacher requesting a leave of absence to work in a federally supported educational project, the board must determine that the project is educational in nature and serves state citizens who might otherwise be served by the public schools or state educational institutions. The board shall make this determination for a one (1) year period, which is later subject to review and reapproval.

(c) Subject to this chapter, leaves of absence specified in IC 20-28-10-1, IC 20-28-10-2, IC 20-28-10-3, or IC 20-28-10-4 and adoption leave of not more than one (1) year must be credited to retirement.

(d) Notwithstanding any law, this section must be administered in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act but is not entitled to receive credit for service for benefit purposes unless the leave is described in subsection (a), (b), or (c).

As added by P.L.2-2006, SEC.28. Amended by P.L.2-2007, SEC.96.

IC 5-10.4-4-8

Military service credit; teachers; college teacher education; employees at state institutions of higher learning

Sec. 8. (a) This subsection applies to a member who retires before July 1, 1980. A member who had completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to credit for that

service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if before or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter.

(b) This subsection applies to a member who retires after June 30, 1980. A member who completed four (4) years of approved college teacher education before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection (g), the member returns to active teaching service not later than twenty-four (24) months after the completion of active military service.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(c) This subsection applies to a member who retires after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

(1) The member has an honorable discharge.

(2) Except as provided in subsection (g), the member returns to a four (4) year approved college teacher training program not later than twenty-four (24) months after the completion of active military service and subsequently completes that program.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(d) This subsection applies to a member who retires after May 1,

1991, and who is employed at a state educational institution. A member who had begun but had not completed baccalaureate or post-baccalaureate education before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

(1) The member received an honorable discharge.

(2) Except as provided in subsection (g), the member returns to baccalaureate or post-baccalaureate education not later than twenty-four (24) months after completion of active military service and subsequently completes that education.

(3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(e) For purposes of this section, a member returns to active teaching service on the earlier of:

(1) the date on which the member signs a teacher's contract; or

(2) the date on which the member is first employed in a position covered by this article.

(f) For purposes of this section, a member returns to:

(1) a teacher training program; or

(2) baccalaureate or post-baccalaureate education;

on the date the member registers for or enrolls in classes that the member attends.

(g) The board shall extend the twenty-four (24) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than twenty-four (24) months after the member's discharge from military service. However, the board may not extend the deadline beyond forty-eight (48) months after the member's discharge.

(h) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (g), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(i) Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment

and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

(j) Subject to this section, an active member may purchase and claim not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member serves on active duty in the armed services of the United States for at least six (6) months.

(3) The member receives an honorable discharge from the armed services.

(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of:

(i) the member's salary at the time the member actually makes a contribution for the service credit;

(ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and

(iii) the number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(k) The following apply to the purchase of service credit under subsection (j):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of

service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

(l) This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service for which the member receives service credit under the terms of a military or another governmental retirement plan.

As added by P.L.2-2006, SEC.28. Amended by P.L.119-2006, SEC.3; P.L.2-2007, SEC.97; P.L.201-2007, SEC.1; P.L.115-2009, SEC.15; P.L.8-2015, SEC.10.

IC 5-10.4-4-9

Computation of state liability

Sec. 9. The board shall determine the actuarial liability resulting from the years of service of the members in the fund and shall determine the state's share of the liability. The board shall distribute the payment of this liability over a period of years that will be equitable to the state and the fund, not to exceed thirty (30) years.

As added by P.L.2-2006, SEC.28. Amended by P.L.111-2015, SEC.4.

IC 5-10.4-4-10

Designation of beneficiary; allocation of benefits

Sec. 10. (a) The director shall obtain a designation of beneficiary as soon as possible from each member.

(b) The board may adopt rules to allow a member who designates more than one (1) beneficiary to allocate benefit shares in percentage increments.

(c) Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article vests with the designated beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.

As added by P.L.2-2006, SEC.28. Amended by P.L.115-2009, SEC.16; P.L.99-2010, SEC.7.

IC 5-10.4-4-11

Member contributions to fund

Sec. 11. (a) This section does not apply to a member who is reemployed more than thirty (30) days after the member's retirement in a position covered by the fund.

(b) Each member shall contribute to the fund three percent (3%) of the member's compensation as set forth in IC 5-10.2-3. However, the member's employer may pay the contribution on behalf of the

member.

(c) If a member's employer elects to pay the members' contributions for its employees, the employer must initiate the payments as part of salary and fringe benefit adjustments provided to these employees.

As added by P.L.2-2006, SEC.28. Amended by P.L.72-2007, SEC.8; P.L.76-2008, SEC.5.

IC 5-10.4-4-12

Cash rollover contributions

Sec. 12. (a) The fund may accept cash rollover contributions from a member who is making payments for additional service credits under this chapter if the following conditions are met:

(1) The rollover contribution must represent:

(A) all or a part of the member's interest in a retirement plan of a former employer that is qualified under Section 401(a) of the Internal Revenue Code and that permits the interest to be transferred to the fund as a qualifying rollover contribution under the Internal Revenue Code;

(B) all or a part of the member's interest from an individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code;

(C) all or a part of the member's interest in:

(i) a qualified plan described in Section 403(a) of the Internal Revenue Code; or

(ii) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(D) all or a part of the member's interest in an eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(2) The amount of the rollover contributions may not exceed the amount of payment required to purchase the service credits under this chapter.

(3) The rollover contributions may contain only tax deferred contributions and earnings on the contributions and may not include any posttax contributions.

(4) The member must be otherwise eligible to purchase the service credit under this chapter.

(b) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from:

(1) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(2) an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(c) The fund, the board, and their respective members, officers, and employees do not have any responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the fund under this section. The board may require, as a condition to the fund's acceptance of a rollover contribution:

(1) satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code; and

(2) reasonable releases or indemnifications from the member against any liabilities that may be connected with the transfer.

(d) Cash transferred to the fund as a rollover contribution shall be deposited in the retirement allowance account in the pre-1996 account or the 1996 account, whichever is appropriate.

(e) A member who terminates employment before satisfying the eligibility requirements necessary for a pension or disability benefit may withdraw the member's rollover contribution, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under IC 5-10.2-3 to be eligible for a refund of the member's rollover amount.

(f) Except as provided in this section, the fund shall not accept any other rollover contributions from a member.

(g) The board shall administer this section in accordance with the rollover provisions of the Internal Revenue Code and any applicable regulations.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-4-13

Withdrawal provisions

Sec. 13. A member who suspends membership is subject to the withdrawal provisions of IC 5-10.2-3.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-4-14

Service not related to governmental unit; contribution of employer share

Sec. 14. (a) After December 31, 1994, creditable service does not accrue under:

(1) this chapter;

(2) IC 5-10.2-3-1;

(3) IC 20-28-10-1;

(4) IC 20-28-10-2;

(5) IC 20-28-10-3; or

(6) any other law concerning the fund for leave for other educational employment;

unless the creditable service is directly related to a governmental unit under Section 414(d) of the Internal Revenue Code (as defined in

IC 5-10.2-1-3.5).

(b) After June 30, 1995, for members receiving credit for leave for other educational employment under section 7 of this chapter or subsection (a), the board shall assess an actuarially determined employer share amount against the appropriate entity to be paid to the state general fund.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5
Chapter 5. Benefits

IC 5-10.4-5-0.2
Application of certain amendments to chapter
Sec. 0.2. The amendments made to IC 21-6.1-5-9 (before its repeal, now codified at section 9 of this chapter) by P.L.190-2003 apply to retirement benefits payable by the Indiana state teachers' retirement fund after June 30, 2003.
As added by P.L.220-2011, SEC.90.

IC 5-10.4-5-0.3
Validation of certain actions taken by public schools
Sec. 0.3. Actions taken by the public schools after December 31, 1986, and before March 5, 1988, that would have been valid under IC 21-6.1-5-6 (before its repeal), as amended by P.L.46-1988, are validated.
As added by P.L.220-2011, SEC.91.

IC 5-10.4-5-1
Disability benefit
Sec. 1. (a) A member who becomes disabled after June 30, 1984, may receive a benefit under this section and sections 2 through 4 of this chapter. If the member qualifies for disability retirement under IC 5-10.2-4-6, the member may choose to receive a benefit under IC 5-10.2-4-6 instead of under this section and sections 2 through 4 of this chapter.
(b) A member who:
(1) is an active teacher;
(2) has earned at least five (5) service credits; and
(3) suffers a temporary or permanent disability that continues for at least six (6) months;
may receive a classroom disability benefit for as long as the disability exists.
(c) Except as provided in subsection (d), a teacher must apply not later than one (1) year after the date of the disability to receive a classroom disability benefit under this chapter.
(d) The board may waive the requirement described in subsection (c) if the board finds extenuating circumstances that justifiably prevented the person from applying within the time required. The board shall adopt rules specifying the extenuating circumstances that must be shown before a waiver may be granted under this subsection.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-2
Calculation of disability benefit
Sec. 2. (a) The monthly classroom disability benefit paid under section 1 of this chapter is determined in STEP THREE of the

following formula:

STEP ONE: Subtract five (5) from the total years of service credit earned by the member before the date of the member's disability.

STEP TWO: Multiply the remainder determined under STEP ONE by five dollars ($5).

STEP THREE: Add the STEP TWO result and one hundred twenty-five dollars ($125).

(b) A classroom disability benefit payment is charged against the retirement allowance account.

(c) Classroom disability benefits may not begin until ordered by the board after the member undergoes a medical examination by a physician selected by the board. If the medical examination conducted by a physician selected and paid by the board establishes to the board's satisfaction that the disability no longer exists, the member may not receive a classroom disability benefit.

(d) If a member on a classroom disability benefit refuses to submit at least annually to a medical examination by a physician selected by the board, the board shall discontinue the member's benefits until the member withdraws the refusal. If the refusal continues for at least one (1) year, the member may forfeit the right to receive classroom disability benefits.

(e) To the extent required by the federal Americans with Disabilities Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

(1) kept in separate medical files for each member; and

(2) treated as confidential medical records.

(f) This section shall be administered in a manner that is consistent with the federal Americans with Disabilities Act, to the extent required by the Act.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-3

Deduction from death benefits

Sec. 3. (a) If a member dies while on a classroom disability benefit, the member's total classroom disability benefit payments are deducted from the funds that are paid to the member's estate or designated beneficiary.

(b) If a member stops receiving a classroom disability benefit, returns to teaching, and dies before retirement, the member's total classroom disability benefit payments are deducted from any death benefit payable to the member's estate or designated beneficiary.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-4

Election to terminate disability benefit at retirement age

Sec. 4. After reaching sixty-five (65) years of age or an earlier retirement date selected by the member, the member may request that

the member's classroom disability benefit payments cease and the member's retirement benefits begin. A member's retirement benefits may not be reduced because the member received classroom disability benefits.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-5
Prohibition against mandatory retirement age
Sec. 5. The state or a school corporation may not enforce a mandatory retirement age against members employed in the public schools.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-6
Eligibility for retirement benefits
Sec. 6. A member is eligible for retirement benefits as specified in IC 5-10.2-4.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-7
Member-legislators
Sec. 7. (a) As used in this section, "member-legislator" means a member who has at least:
(1) twenty (20) years of service credit as a teacher; and
(2) ten (10) years of service in the general assembly.
(b) Notwithstanding IC 5-10.2-4-3 or IC 5-10.2-4-3.1, in computing the pension for a member-legislator, the average of the annual compensation is the sum of the salaries in any one (1) year for a member-legislator's:
(1) position covered by the fund; and
(2) service in the general assembly.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-8
Designation of retirement date
Sec. 8. (a) A member who:
(1) has ceased employment in the public schools; and
(2) is eligible for retirement benefits;
shall designate a retirement date as described in IC 5-10.2-4-1.
(b) A member who chooses to begin receiving retirement benefits at the time the member ceases employment is entitled to receive the proportionate amount of the member's monthly benefit for the month in which the cessation occurred.
(c) Annually the board may require a member to execute an affidavit stating the member's eligibility for a retirement benefit.
As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-9

Schedule; initial pension benefit

Sec. 9. (a) The fund shall make a member's first pension benefit payment not more than ninety (90) days after the date the member completes and files an application for retirement benefits.

(b) After the first pension benefit payment and except as provided under IC 5-10.2-4-7(f), a person entitled to benefits shall receive a retirement benefit payment by the tenth day of each month.

As added by P.L.2-2006, SEC.28. Amended by P.L.115-2009, SEC.17.

IC 5-10.4-5-10

Cancellation of uncashed benefit check

Sec. 10. (a) If a benefit check issued by the fund is outstanding and unpaid for more than six (6) months after the date the check is issued, the benefit check is canceled.

(b) A benefit check canceled under subsection (a) may not be honored, cashed, or accepted for payment or deposit by an individual, a bank, a trust company, a savings association, or any other financial institution or person.

(c) The cancellation of a benefit check under this section does not discharge the fund's obligation to pay the benefit for which the canceled benefit check was issued.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-11

Payment options

Sec. 11. A member may have the member's retirement benefits paid under the options specified in IC 5-10.2-4-7.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-12

Death before retirement; payment of benefits

Sec. 12. If a member dies before retirement, the member's benefits are paid as specified in IC 5-10.2-3-7.5, IC 5-10.2-3-7.6, and IC 5-10.2-3-8.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-13

Calculation of benefit; teaching after initial retirement

Sec. 13. IC 5-10.2-4-8 applies to the reemployment of a retired member.

As added by P.L.2-2006, SEC.28. Amended by P.L.72-2007, SEC.9; P.L.76-2008, SEC.6; P.L.115-2009, SEC.18.

IC 5-10.4-5-14

Benefits exempted from legal process; reimbursement of employers; withholding of payments while charges of criminal taking from employer pending

Sec. 14. (a) The benefits payable from the fund are exempt from seizure or levy on attachment, supplemental process, and all other processes. However, the member's contributions or benefits, or both, may be transferred by the board to reimburse the member's employer for loss resulting from the member's criminal taking of the employer's property if the board receives adequate proof of the loss. The loss resulting from the member's criminal taking of the member's employer's property must be proven by an order for restitution in favor of the employer issued by the sentencing court following a felony or misdemeanor conviction.

(b) The board may withhold payment of a member's contributions and interest if the employer of the member notifies the board that felony or misdemeanor charges accusing the member of the criminal taking of the employer's property have been filed.

(c) The board may withhold payment of a member's contributions and interest under subsection (b) until the final resolution of the criminal charges.

As added by P.L.2-2006, SEC.28. Amended by P.L.15-2013, SEC.4.

IC 5-10.4-5-14.5
Assignment of benefits

Sec. 14.5. A member's transfer of a benefit payment is void. However, a member may assign benefits for paying:

(1) premiums on a group, life, hospitalization, surgical, or medical insurance plan maintained in whole or in part by a state agency; and

(2) dues to any association that proves to the board's satisfaction that the association has as members at least twenty percent (20%) of the number of retired members of the fund.

As added by P.L.15-2013, SEC.5.

IC 5-10.4-5-15
Termination of benefits; grounds

Sec. 15. (a) The board may stop a member's benefit if the member does any of the following while receiving the benefit:

(1) Fails to report for a required examination, unless excused by the board.

(2) Disobeys the requirements of the board regarding the examination.

(3) Refuses to repay an overpayment of benefits.

(b) The board also may stop a member's benefit if the board has reasonable cause to believe that:

(1) the member has died; or

(2) in the case of a member receiving disability benefits under IC 5-10.2-4-6 or classroom disability benefits under section 1 of this chapter, the member no longer has a disability.

As added by P.L.2-2006, SEC.28. Amended by P.L.99-2007, SEC.18.

IC 5-10.4-5-16
Retirement before July 1, 1975; limitations on reductions in benefits

Sec. 16. The computation of benefits described in section 2 of this chapter applies to benefits payable on and after July 1, 1975, and includes benefits payable to members who retired or whose employment was terminated before that date. However, a member's benefits may not be reduced below the amount paid to the member before July 1, 1975. The benefits for a member who retired before January 1, 1956, shall be computed by multiplying fifteen dollars ($15) by the member's years of service and then actuarially adjusting the product obtained to take into account a member's early retirement and the retirement option selected by a member using the factors in effect on July 1, 1975.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-5-17
Claims of error

Sec. 17. A member may petition the board to correct an error in the determination of the member's:

(1) creditable service; or
(2) benefit;

at any time. The petition must contain the necessary information to sustain the member's claim of error. The board shall investigate the claim and, if an error is found, shall order the member's records corrected. If no error is found and the member petitioned the board to correct the error within six (6) years after the determination of the member's creditable service or benefit, the member may appeal the board's decision under IC 4-21.5.

As added by P.L.99-2010, SEC.8.

IC 5-10.4-6

Chapter 6. Restricted Benefits

IC 5-10.4-6-1

Members retired on July 1, 1967; additional monthly benefit

Sec. 1. (a) In addition to any other benefit received from the fund, a person who, on July 1, 1967:

(1) received a retirement benefit from the fund; and

(2) did not receive a benefit under the federal Social Security Act;

shall receive thirty-five dollars ($35) per month.

(b) There is annually appropriated to the fund from money not otherwise appropriated in the state general fund an amount sufficient to pay the benefit described in subsection (a).

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-2

Members retired under law enacted before January 1, 1949; increased benefit

Sec. 2. (a) After July 9, 1949, a member receiving a retirement benefit under Acts 1915, c.182, or any statute amendatory of or supplemental to it enacted before January 1, 1949, is eligible, subject to Acts 1949, c.130, s.2(j), to receive a retirement benefit approximately equal to the state's proportionate share of a retirement benefit provided by Acts 1949, c.130 for up to thirty (30) years of service. These members shall make written application for these benefits to the board at any time. Applications must be based on the service record established in the office of the fund on April 1, 1949. Except as provided under IC 5-10.2-4-7(f), this retirement benefit must begin on the tenth of the month following acknowledgment of the application.

(b) The board shall establish, with the advice of the fund's actuary, a simplified table for computing the increases under this section for the years of service. The board may provide by resolution for participation by the members receiving benefits under this section in the additional annuity fund.

(c) Within a reasonable time, the board shall issue to each member of the fund a service certificate that includes the following:

(1) The member's name.

(2) The member's last known address.

(3) The member's account number.

(4) The law under which the member is participating in the fund.

(5) The contribution due from the member.

(6) A certification of the total years of creditable service that the member has as of a date fixed by the board.

(d) The service certificate described in subsection (c) is final and conclusive regarding service in the fund. However, a member may,

not later than one (1) year from the issuance or notification of the certificate, request that the board modify the member's service certificate.

As added by P.L.2-2006, SEC.28. Amended by P.L.115-2009, SEC.19.

IC 5-10.4-6-3

Members retired under law enacted before January 1, 1951; increased benefit

Sec. 3. (a) After July 9, 1951, a member receiving or entitled to receive a retirement benefit that accrued before July 11, 1951, under Acts 1915, c.182, or any statute amendatory of or supplemental to Acts 1915, c.182 enacted before January 1, 1951, is eligible to receive an increase in benefit. This benefit must be, when adjusted by the board to Acts 1951, c.142, s.2 (j), the equivalent of the retirement benefit for which the member would be eligible if the teacher had retired as a member of the fund under Acts 1951, c.142 with the beginning age, years of teaching and equivalent service, and payments made by the member at retirement.

(b) A member who has completed at least twenty (20) years of service is eligible to receive a retirement benefit from state sources of not less than four hundred twenty dollars ($420) a year.

(c) There is appropriated annually to the fund from the state general fund, in addition to other appropriations for the fund, an amount sufficient to pay the retirement benefits specified in this section.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-4

Minimum benefit after June 30, 1965; members with at least 30 years of creditable service; appropriation

Sec. 4. (a) Beginning July 1, 1965, a person who receives a retirement benefit shall receive from the fund an amount that when added to the person's pension benefit derived from state sources and the person's Social Security benefit earned as a teacher equals at least one hundred seventeen dollars and fifty cents ($117.50) per month for a person with thirty (30) years of creditable service. The amount of the benefit must be adjusted actuarially for more or fewer years of service.

(b) There is annually appropriated to the fund from money not otherwise appropriated in the state general fund an amount sufficient to pay the benefits described in this section.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-5

Supplemental minimum benefit; retirees at least 65 years of age

Sec. 5. (a) A retired member is entitled to a supplemental retirement benefit to be paid by the fund as long as the member

meets the following conditions:

(1) The member currently receives an annuity, a pension, or other retirement benefit from the fund.

(2) The member is at least sixty-five (65) years of age.

(3) The amount of all annuities, pensions, and retirement benefits for which the member is eligible under the federal Social Security Act is less than two hundred dollars ($200) per month.

(b) The amount of the supplemental retirement benefit to which a qualifying retired member is entitled each month is the difference between two hundred dollars ($200) and the total of all annuities, pensions, and retirement benefits that the member is eligible to receive under the federal Social Security Act.

(c) A retired member who:

(1) is not eligible for an annuity, a pension, or a retirement benefit under the federal Social Security Act; and

(2) qualifies under subsection (a);

is entitled to a supplemental retirement benefit of two hundred dollars ($200) per month.

(d) The general assembly shall biennially appropriate to the fund from money not otherwise appropriated in the state general fund the amount necessary to satisfy this section.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-6

Postretirement increase payable after June 30, 1978

Sec. 6. (a) In addition to the increase provided in IC 5-10.2-5-6, the monthly benefit payable after June 30, 1978, to a member, or a survivor or beneficiary of a member who retired or was disabled:

(1) before July 2, 1962, is increased by three percent (3%);

(2) after July 1, 1962, and before July 2, 1967, is increased by two percent (2%); and

(3) after July 1, 1967, and before July 2, 1972, is increased by one percent (1%).

(b) This section does not apply to benefits payable in a lump sum.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-7

Restriction on charging postretirement increase to annuity reserve

Sec. 7. The costs of postretirement increases for the following persons may not be charged against the retired teacher annuity reserve:

(1) A member of the fund who has received a lump sum payment under IC 5-10.2-4-2.

(2) Survivors and beneficiaries of a member described in subdivision (1).

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-8
Postretirement increase payable after December 31, 2002

Sec. 8. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2002, to a member of the fund (or to a survivor or beneficiary of a member of the fund) who retired or was disabled:

(1) after July 1, 1995, and before July 2, 2000, shall be increased by one percent (1%);

(2) after July 1, 1977, and before July 2, 1995, shall be increased by two percent (2%); and

(3) before July 2, 1977, shall be increased by three percent (3%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-9
Postretirement increase payable after December 31, 2003

Sec. 9. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the fund (or to a survivor or beneficiary of a member of the fund) who retired or was disabled:

(1) after July 1, 1996, and before July 2, 2001, shall be increased by one percent (1%);

(2) after July 1, 1978, and before July 2, 1996, shall be increased by two percent (2%); and

(3) before July 2, 1978, shall be increased by three percent (3%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-6-10
Postretirement increase payable after December 31, 2004

Sec. 10. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2004, to a member of the fund (or to a survivor or beneficiary of a member of the fund) who retired or was disabled:

(1) after July 1, 1996, and before July 2, 2002, shall be

increased by one percent (1%);

(2) after July 1, 1978, and before July 2, 1996, shall be increased by two percent (2%); and

(3) before July 2, 1978, shall be increased by three percent (3%).

(b) The increases specified in this section:

(1) are based on the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7

Chapter 7. School Corporation Reports and Administration

IC 5-10.4-7-1

Notice to teachers of benefits; requirement to include benefits in contracts

Sec. 1. (a) The administrative officers of a school corporation or other institution covered by the fund shall:

(1) notify each person to be employed in a teaching position that the person's obligations under this article are a condition of employment; and

(2) make the obligations a part of the teacher's contract.

(b) Except in cases where:

(1) the contribution is made on behalf of the member; or

(2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);

a teacher's contract shall be construed to require the deduction of contributions to meet the teachers' contractual obligations to the fund and the state.

As added by P.L.2-2006, SEC.28. Amended by P.L.72-2007, SEC.10; P.L.1-2009, SEC.19; P.L.195-2013, SEC.13.

IC 5-10.4-7-2

Duty of teacher to complete record form

Sec. 2. A teacher new to the service, when the teacher first signs a contract, shall complete a record form prescribed by the board. The completed form shall be forwarded to the board.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7-3

Requirement to deduct member contribution from salary; report to member

Sec. 3. (a) Unless the member's contribution is made on behalf of the member or the member is a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e), the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall:

(1) deduct from each member's salary the member's contribution for the fund; and

(2) issue to each member, on behalf of the board, a statement for each contribution deducted.

(b) The statement described in subsection (a)(2) is evidence that the member has credit from the fund for payment of the stated contribution.

As added by P.L.2-2006, SEC.28. Amended by P.L.72-2007, SEC.11; P.L.1-2009, SEC.20; P.L.195-2013, SEC.14.

IC 5-10.4-7-4
Officer's bond required to cover failure to deduct employee contribution

Sec. 4. (a) The treasurer of a school corporation, the township trustee, and the appropriate officer of any other institution covered by the fund is liable on the officer's official bond for failure to deduct, report, and pay the contributions to the board.

(b) The board, by an action in its name prosecuted by the attorney general, may recover the contributions.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7-5
Reports; new employee information

Sec. 5. (a) Not later than October 1 of each year, the administrative and executive officers of a school corporation or other institution covered by the fund shall report to the board, on forms furnished by the board, the following information:

(1) The members of the fund employed by the school corporation or other institution.

(2) The hire or rehire date of each member listed in subdivision (1).

(3) The retirement account number of each member listed in subdivision (1).

(b) The officers described in subsection (a) shall report periodically during the year as to the members of the fund employed after the reporting date so that contributions and other information may be verified.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7-6
Reports; member contributions

Sec. 6. (a) As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due a teacher.

(b) Not later than January 15, April 15, July 15, and October 15 of each year or an alternate due date established by the rules of the board, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report as provided in section 7 of this chapter, on a form furnished by the board, to the board accompanied by a warrant for payment of:

(1) the total net contributions to the fund made for or by the members in the preceding three (3) months; and

(2) subject to IC 5-10.2-2-11.5, the employer contributions as required by section 11 of this chapter.

(c) Amendatory reports to correct errors or omissions may be required and made.

(d) After December 31, 2009, the treasurer of a school

corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall submit:

(1) the employer report described in section 7 of this chapter in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and

(2) the:

(A) employer contributions; and

(B) contributions paid by or on behalf of a member;

described in subsection (b) by electronic funds transfer in accordance with IC 5-10.2-2-12.5.

As added by P.L.2-2006, SEC.28. Amended by P.L.165-2009, SEC.7; P.L.182-2009(ss), SEC.73.

IC 5-10.4-7-7

Reports; employment information

Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year or an alternate due date established by the rules of the board, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding reporting period, except substitute teachers;

(2) the total salary and other compensation paid for personal services to each member in the reporting period;

(3) the sum of contributions made for or by each member, except for a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);

(4) the sum of employer contributions made by the school corporation or other institution, except for a retired member for whom or on whose behalf an employer may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);

(5) the number of days each member received salary or other compensation for teaching services; and

(6) any other information that the board determines necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under this article.

As added by P.L.2-2006, SEC.28. Amended by P.L.72-2007, SEC.12; P.L.1-2009, SEC.21; P.L.165-2009, SEC.8; P.L.195-2013, SEC.15.

IC 5-10.4-7-8

Penalties; failure to make report

Sec. 8. If the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund fails to make the reports and payments as required in section 6 or 7 of this chapter, the following apply:

(1) The officer has an additional thirty (30) days to make the reports and payments without a penalty.

(2) If the reports and payments are not made within thirty (30) days after the deadlines required by section 6 or 7 of this chapter, the board may fine the school corporation, township, or institution that the officer serves one hundred dollars ($100) for each additional day that the reports and payments are late.

(3) If the officer is habitually late, as determined by the board, the school corporation, township, or institution that the officer serves is ineligible to receive any distribution of money from the state for school purposes until the reports and payments are received and approved by the board.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7-9

Reimbursement of expenses of state superintendent related to enforcement of penalties

Sec. 9. Expenses of the state superintendent necessary in administering section 8 of this chapter must be paid from the funds of the board on a voucher approved by the director.

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7-10

Separate accounts for each school corporation and each employer group

Sec. 10. (a) Except as provided in subsection (b), the board shall maintain separate reserve accounts within the 1996 account for each school corporation.

(b) If the board sets a group employer rate under IC 5-10.2-2-11(b), the board shall maintain separate reserve accounts within the 1996 account for each employer group.

(c) Credits and charges to these accounts must be made as prescribed in IC 5-10.2-2.

As added by P.L.2-2006, SEC.28. Amended by P.L.115-2009, SEC.20.

IC 5-10.4-7-11

Employer contribution rate

Sec. 11. (a) Annually the board shall certify to each school corporation and each school corporation shall pay its employer contribution rate to the fund, computed as specified in IC 5-10.2-2 for the employer contribution for teachers covered by the 1996 account, including the school corporation's share of administration

expenses for the 1996 account.

(b) The board shall determine the amount of unfunded accrued liability of the school corporations. The board shall determine the unfunded accrued liability by individual employers or by a group of employers. The school corporations shall pay the amount in a lump sum or amortize the amount over a period determined by the board.

(c) The payments by school corporations for the amounts described in subsections (a), (b), and (d) are allocated to the school corporations and not to the state.

(d) If a school corporation's account shows a deficit, the board may require the school corporation to make additional payments necessary to eliminate the deficit in addition to the employer contributions computed under subsections (a) and (b).

As added by P.L.2-2006, SEC.28.

IC 5-10.4-7-12

Recovery of amounts due from school corporation

Sec. 12. (a) If a school corporation fails to make the payments required by this chapter, the amount payable may be:

(1) withheld by the auditor of state from money payable to the school corporation and transferred to the fund; or

(2) recovered in a suit in the circuit or superior court of the county in which the school corporation is located.

(b) The suit described in subsection (a)(2) shall be:

(1) an action by the state on the relation of the board; and

(2) prosecuted by the attorney general.

As added by P.L.2-2006, SEC.28.

IC 5-10.5

ARTICLE 10.5. INDIANA PUBLIC PENSION MODERNIZATION ACT

IC 5-10.5-1

Chapter 1. Definitions

IC 5-10.5-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-1-2

"Board"

Sec. 2. "Board" refers to the board of trustees of the system established by IC 5-10.5-3-1.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-1-3

"Director"

Sec. 3. "Director" refers to the director of the system.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-1-4

"Public employees' retirement fund"

Sec. 4. "Public employees' retirement fund" means the public employees' retirement fund established under IC 5-10.2 and IC 5-10.3.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-1-5

"Public pension and retirement funds of the system"

Sec. 5. "Public pension and retirement funds of the system" means the public pension and retirement funds listed in IC 5-10.5-2-2.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-1-6

"System"

Sec. 6. "System" refers to the Indiana public retirement system established by IC 5-10.5-2-1.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-1-7

"Teachers' retirement fund"

Sec. 7. "Teachers' retirement fund" means the Indiana state teachers' retirement fund established under IC 5-10.2 and IC 5-10.4.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-2

Chapter 2. Indiana Public Retirement System

IC 5-10.5-2-1

System established

Sec. 1. On July 1, 2011, the Indiana public retirement system is established.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-2-2

Funds comprising the system

Sec. 2. The system consists of the following public pension or retirement funds:

(1) The public employees' retirement fund established under IC 5-10.2 and IC 5-10.3.

(2) The Indiana state teachers' retirement fund established under IC 5-10.2 and IC 5-10.4.

(3) The Indiana judges' retirement fund established under IC 33-38-6.

(4) The prosecuting attorneys retirement fund established under IC 33-39-7.

(5) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund established under IC 5-10-5.5.

(6) The 1977 police officers' and firefighters' pension and disability fund established under IC 36-8-8.

(7) The legislators' retirement system established under IC 2-3.5.

(8) The pension relief fund established under IC 5-10.3-11.

(9) The special death benefit fund established under IC 5-10-10.

(10) The state employees' death benefit fund established under IC 5-10-11.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-2-3

Independent body corporate and politic

Sec. 3. The system is an independent body corporate and politic. The system is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-2-4

Board, system, and employees are public employees

Sec. 4. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board, the system, and all employees of the board or the system are public employees (as defined in IC 34-6-2-38).

As added by P.L.23-2011, SEC.22. Amended by P.L.100-2012,

SEC.16.

IC 5-10.5-2-5
System management and administration

Sec. 5. The system shall be managed and administered by a board of trustees established under IC 5-10.5-3.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-2-6
Each fund is separate fund

Sec. 6. Each public pension or retirement fund listed in section 2 of this chapter is a separate fund managed by the board under this article and the retirement law applicable to the public pension or retirement fund. The obligations of the state and political subdivisions for benefit payments are specified in the retirement law applicable to each public pension or retirement fund.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-3

Chapter 3. Board of Trustees

IC 5-10.5-3-1

Board established; purpose

Sec. 1. (a) The board of trustees of the Indiana public retirement system is established.

(b) The board shall manage and administer each public pension or retirement fund that comprises the system in accordance with:

(1) this article; and

(2) the retirement law applicable to the public pension or retirement fund.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-3-2

Composition; appointment; vacancies; trustee education; education expense reimbursement

Sec. 2. (a) The board is composed of nine (9) trustees appointed by the governor as follows:

(1) At least one (1) trustee must have experience in economics, finance, or investments.

(2) At least one (1) trustee must have experience in executive management or benefits administration.

(3) The director of the budget agency or the budget agency director's designee serving as an ex officio voting member of the board. An individual appointed under this subdivision to serve as the budget agency director's designee:

(A) is subject to section 5 of this chapter; and

(B) serves as a permanent designee until replaced by the budget agency director.

(4) Two (2) trustees nominated by the speaker of the house of representatives as follows:

(A) One (1) must be an active or retired police officer or firefighter who is a member of the 1977 police officers' and firefighters' pension and disability fund.

(B) One (1) must be a member of the teachers' retirement fund with at least ten (10) years of creditable service.

(5) Two (2) trustees nominated by the president pro tempore of the senate as follows:

(A) One (1) must be a member of the public employees' retirement fund with at least ten (10) years of creditable service.

(B) One (1) must be a member of the teachers' retirement fund with at least ten (10) years of creditable service.

(6) One (1) trustee nominated by the auditor of state. The individual nominated under this subdivision may be the auditor of state or another individual who has experience in professional financial accounting or actuarial science.

(7) One (1) trustee nominated by the treasurer of state. The individual nominated under this subdivision may be the treasurer of state or another individual who has experience in economics, finance, or investments.

(b) If a vacancy on the board occurs, the governor shall, not later than forty-five (45) days after the date the vacancy occurs, appoint an individual to fill the vacancy using the criteria in subsection (a).

(c) During the first year after an individual's initial appointment as a trustee and each year thereafter during which the individual serves as a trustee, the individual is strongly encouraged to complete at least twelve (12) hours of trustee education, at least two (2) hours in each of the following areas:

(1) Fiduciary duties and responsibilities of a trustee.
(2) Ethics.
(3) Governance process and procedures.
(4) Retirement plan design and administration.
(5) Investments.
(6) Actuarial principles and methods.

(d) Subject to the director's approval, each trustee is entitled to reimbursement for reasonable expenses actually incurred in fulfilling the educational requirements under subsection (c). The director shall give a preference for reimbursement for in-state training that meets the requirements under subsection (c), if in-state training is available.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-3-3
Term of office

Sec. 3. (a) A trustee shall serve a term of four (4) years, beginning on July 1 following the trustee's appointment.

(b) Whenever a trustee is appointed to fill a vacancy caused by death or resignation, the trustee shall serve the unexpired term of the trustee's predecessor.

(c) A trustee shall serve until the trustee's successor is appointed and qualified.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-3-4
Expired

(As added by P.L.23-2011, SEC.22. Expired 1-1-2016 by P.L.23-2011, SEC.22.)

IC 5-10.5-3-5
Oath of office; qualification for membership

Sec. 5. (a) Each trustee shall take an oath of office. The oath must be:

(1) subscribed to by the trustee making the oath;
(2) certified by the officer before whom the trustee takes the oath; and

(3) filed with the secretary of state.

(b) A trustee is qualified for membership on the board when the trustee's oath is filed with the secretary of state.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-3-6

Expense reimbursement

Sec. 6. (a) Each trustee is entitled to reimbursement for necessary expenses actually incurred through service on the board.

(b) Trustee expenses shall be paid from fund assets.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-3-7

Officers; election; term of office

Sec. 7. (a) Not later than December 31 each year, the board shall elect a chair and vice chair from its members to serve as the officers of the board.

(b) An officer shall serve for one (1) year or until the officer's successor is elected and qualified.

As added by P.L.23-2011, SEC.22. Amended by P.L.15-2013, SEC.6.

IC 5-10.5-3-8

Meetings; open to the public; record of proceedings

Sec. 8. (a) The board shall hold regular meetings at least quarterly.

(b) The board may hold special meetings:

(1) at the call of the chair; or

(2) with a written request signed by at least five (5) trustees.

(c) The board may hold its meetings at the system's general offices or at any other place in Indiana that the board designates.

(d) All meetings must be open to the public in accordance with IC 5-14-1.5.

(e) The board shall keep a record of its proceedings.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-3-9

Repealed

(As added by P.L.23-2011, SEC.22. Repealed by P.L.134-2012, SEC.7.)

IC 5-10.5-3-10

Voting; quorum

Sec. 10. (a) Five (5) trustees constitute a quorum for the transaction of business.

(b) Each trustee is entitled to one (1) vote.

(c) A majority vote of the trustees present is required for the board to adopt a resolution or take other action at a regular or special meeting.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-4

Chapter 4. Board Powers and Duties

IC 5-10.5-4-1

Duties

Sec. 1. The board shall do all of the following:

(1) Appoint and fix the salary of a director.

(2) Employ or contract with employees, auditors, technical experts, legal counsel, and other service providers as the board considers necessary to transact the business of the fund without the approval of any state officer, and fix the compensation of those persons.

(3) Establish a general office in Indianapolis for board meetings and for administrative personnel.

(4) Provide for the installation in the general office of a complete system of:

(A) books;

(B) accounts, including reserve accounts; and

(C) records;

to give effect to all the requirements of this article and to ensure the proper operation of the fund.

(5) Provide for a report at least annually to each member of the amount credited to the member in the annuity savings account in each investment program under IC 5-10.2-2.

(6) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies that are necessary for the fund's operation.

(7) Act on applications for benefits and claims of error filed by members.

(8) Have the accounts of the fund audited by the state board of accounts and if the board determines that it is advisable, have the operation of a public pension or retirement fund of the system audited by a certified public accountant.

(9) Publish for the members a synopsis of the fund's condition.

(10) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(11) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(12) Establish personnel programs and policies for the employees of the system.

(13) Submit a financial report before November 1 each year to the governor, the interim study committee on pension management oversight established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6, and the budget committee. The report under this subdivision must set forth a complete operating and financial statement covering its operations during

the most recent fiscal year, and include any other information requested by the chair of the interim study committee on pension management oversight established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6.

(14) Provide the necessary forms for administering the fund.

(15) Submit to the auditor of state or the treasurer of state vouchers or reports necessary to claim an amount due from the state to the system.

As added by P.L.23-2011, SEC.22. Amended by P.L.177-2011, SEC.1; P.L.53-2014, SEC.64; P.L.181-2015, SEC.9.

IC 5-10.5-4-2

Powers

Sec. 2. (a) The board may do any of the following:

(1) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board;

without adopting a rule under IC 4-22-2.

(2) Make contracts and sue and be sued as the board of trustees of the Indiana public retirement system.

(3) Delegate duties to its employees.

(4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, dental, vision, long term care, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.

(5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.

(6) For the 1977 police officers' and firefighters' pension and disability fund, deduct from benefits paid and remit to the appropriate entities amounts authorized by IC 36-8-8-17.2.

(7) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.

(8) Amortize prior service liability over a period of thirty (30) years or less.

(9) Recover payments made under false or fraudulent representation.

(10) Give bond for an employee for the fund's protection.

(11) Receive the state's share of the cost of the pension

contribution from the federal government for a member on leave of absence in order to work in a federally supported educational project.

(12) Summon and examine witnesses when adjusting claims.

(13) When adjusting disability claims, require medical examinations by doctors approved or appointed by the board. Not more than two (2) examinations may be conducted in one (1) year.

(14) Conduct investigations to help determine the merit of a claim.

(15) Meet an emergency that may arise in the administration of the board's trust.

(16) Determine other matters regarding the board's trust that are not specified.

(17) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(b) This subsection does not apply to investments of the board. A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(c) An agreement under subsection (a)(4) may be for a duration of three (3) years.

As added by P.L.23-2011, SEC.22. Amended by P.L.111-2015, SEC.5.

IC 5-10.5-4-2.5

Third party contracts for annuities; limitations

Sec. 2.5. Notwithstanding any other provision in this article, IC 5-10.2, IC 5-10.3, or IC 5-10.4, the board may not, before January 1, 2017, enter into an agreement with a third party provider to provide annuities for retiring members of:

(1) the public employees' retirement fund; or

(2) the teachers' retirement fund.

As added by P.L.177-2014, SEC.4.

IC 5-10.5-4-2.6

Annuity interest rates

Sec. 2.6. (a) This subsection applies after September 30, 2014, and before January 1, 2017.The following interest rates shall be used to determine the annuity amount purchasable by a member of the public employees' retirement fund or the teachers' retirement fund who elects to receive, as part of the member's retirement or disability benefit, an annuity provided by the amount credited to the member in the member's annuity savings account:

(1) After September 30, 2014, and before October 1, 2015, five and seventy-five hundredths percent (5.75%).

(2) After September 30, 2015, and before January 1, 2017, the greater of:

(A) the interest rate for similar annuities being purchased in the private market as determined by the board; or

(B) four and one-half percent (4.5%).

(b) This subsection applies after December 31, 2016, whenever the board enters into an agreement with a third party provider to provide annuities for retiring members of the public employees' retirement fund or the teachers' retirement fund. The interest rate used to determine the annuity amount purchasable by a member is equal to the rate for similar annuities being purchased in the private market as recommended by the third party provider.

As added by P.L.177-2014, SEC.5.

IC 5-10.5-4-3

Powers to be interpreted broadly

Sec. 3. The board's powers as specified in this article or the retirement law applicable to a public pension or retirement fund of the system:

(1) shall be interpreted broadly to accomplish the purposes of this article or the applicable retirement law; and

(2) may not be construed as a limitation of powers.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-4-4

Direct deposit of benefits

Sec. 4. Members and beneficiaries of the public pension and retirement funds of the system may receive monthly benefits only by direct deposit or another method approved by the board.

As added by P.L.127-2015, SEC.2.

IC 5-10.5-5

Chapter 5. Investments

IC 5-10.5-5-1

Investment powers, duties, and limitations; penalties

Sec. 1. The board has the powers, duties, restrictions, limitations, and penalties in connection with the board's investment and management of the assets of the public pension and retirement funds of the system under the following provisions:

(1) IC 5-10.2-2-2.5.
(2) IC 5-10.2-2-13.
(3) IC 5-10.2-2-18.
(4) IC 5-10.3-3-7.1.
(5) IC 5-10.3-5-3.
(6) IC 5-10.3-5-3.1.
(7) IC 5-10.3-5-4.
(8) IC 5-10.3-5-5.
(9) IC 5-10.3-5-6.
(10) IC 5-10.4-3-7.
(11) IC 5-10.4-3-9.
(12) IC 5-10.4-3-10.
(13) IC 5-10.4-3-11.
(14) IC 5-10.4-3-12.
(15) IC 5-10.4-3-13.
(16) IC 5-10.4-3-14.
(17) IC 5-10.4-3-15.
(18) IC 5-10.4-3-16.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-5-2

Transactions subject to Internal Revenue Code qualification requirements

Sec. 2. The board's transactions under this chapter are subject to IC 2-3.5-3-3, IC 5-10-5.5-2.5, IC 5-10.2-2-1.5, IC 33-38-6-13, IC 33-39-7-22, and IC 36-8-8-2.5.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-6

Chapter 6. Director; Reports and Administration

IC 5-10.5-6-1

Director; executive officer; appointment

Sec. 1. (a) The director is the executive officer of the system and is responsible for the administration of the system.

(b) The director is appointed by and serves at the pleasure of the board.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-6-2

Director; duties

Sec. 2. The director shall do the following:

(1) Maintain a record of the board's proceedings.

(2) Keep the books and records of the system.

(3) Deposit payments made to the system with the custodian for the system's accounts.

(4) Sign vouchers for the payment of money from the system as authorized by the board.

(5) Execute a corporate surety bond in an amount specified by the board. The premium for the bond is an administrative expense of the system.

(6) Perform other duties as assigned by the board.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-6-3

Fund member records; requirements

Sec. 3. (a) The board shall maintain individual records for each member of a public pension or retirement fund of the system administered by the board.

(b) A member's record must include at least the following information:

(1) The member's name.

(2) Date of birth.

(3) Age at beginning service.

(4) Service record.

(5) Address.

(6) Contributions.

(7) Amounts withdrawn.

(8) Benefits paid.

(9) Social Security number.

(10) Any other information necessary for the fund to administer the member's account.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-6-4

Fund member records; confidentiality; exceptions

Sec. 4. (a) Records of:

(1) individual members of; and

(2) membership information concerning;

a public pension or retirement fund administered by the board are confidential, except for the name and years of service of a member.

(b) This section does not prohibit the board from providing fund records to an association or organization described in IC 2-3.5-4-12, IC 2-3.5-5-10, IC 5-10.3-8-10, IC 5-10.4-5-14.5, or IC 36-8-8-17.2.

As added by P.L.23-2011, SEC.22. Amended by P.L.15-2013, SEC.7.

IC 5-10.5-6-5

Administrative expenses; proration

Sec. 5. (a) Each public pension and retirement fund of the system shall pay the expenses of administration attributable to that public pension or retirement fund.

(b) The board shall:

(1) prorate the expenses of administration of the system that cannot be attributed to a particular public pension or retirement fund and the bond of the director among; and

(2) pay the prorated expenses from;

the public pension and retirement funds of the system.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-7

Chapter 7. Short Title and Saving Provisions

IC 5-10.5-7-1

Short title

Sec. 1. This article shall be known as and may be cited as the Indiana public pension modernization act.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-7-2

Transfer or assumption of tangible and intangible property; transfer of powers and duties

Sec. 2. (a) All powers, duties, liabilities, property, equipment, records, rights, and contracts of the:

(1) board of trustees of the public employees' retirement fund; and

(2) board of trustees of the teachers' retirement fund;

are transferred to or assumed by the board on July 1, 2011.

(b) The board shall provide indemnification of:

(1) the board of trustees of the public employees' retirement fund; and

(2) the board of trustees of the teachers' retirement fund;

as necessary or appropriate in regard to any liabilities of the public employees' retirement fund or the teachers' retirement fund assumed by the board.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-7-3

Transfer of fund and account balances

Sec. 3. Any amounts transferred under this subsection to the system that represent balances in any fund or account of the public employees' retirement fund or the teachers' retirement fund for the administration of the public pension and retirement funds administered by the public employees' retirement fund or the teachers' retirement fund before July 1, 2011, including any related services, shall be:

(1) deposited in a fund or account designed by the board; and

(2) used by the system for the administration of the public pension and retirement funds of the system and related services.

As added by P.L.23-2011, SEC.22.

IC 5-10.5-7-4

Transfer of employees

Sec. 4. The employees of the:

(1) public employees' retirement fund; and

(2) teachers' retirement fund;

become employees of the system on July 1, 2011, without change in compensation, seniority, or benefits. An employee of the public

employees' retirement fund who is a member of the public employees' retirement fund before July 1, 2011, and becomes an employee of the system after June 30, 2011, remains a member of the public employees' retirement fund after June 30, 2011. An employee of the teachers' retirement fund who is a member of the teachers' retirement fund before July 1, 2011, and becomes an employee of the system after June 30, 2011, remains a member of the teachers' retirement fund after June 30, 2011. An employee who becomes an employee of the system after June 30, 2011, is a member of the public employees' retirement fund, unless the director expressly determines otherwise.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-7-5
Rules and regulations

Sec. 5. Rules and regulations of:
(1) the public employees' retirement fund; and
(2) the teachers' retirement fund;
in effect before July 1, 2011, are considered, after June 30, 2011, rules and regulations of the system.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-7-6
References and cross-references

Sec. 6. (a) Any reference or cross-reference to:
(1) the board of trustees of the public employees' retirement fund; or
(2) the board of trustees of the teachers' retirement fund;
in the Indiana Code shall be treated after June 30, 2011, as a reference or cross-reference to the board.

(b) Any reference or cross-reference to:
(1) the director of the public employees' retirement fund; or
(2) the director of the teachers' retirement fund;
in the Indiana Code shall be treated after June 30, 2011, as a reference or cross-reference to the director.
As added by P.L.23-2011, SEC.22.

IC 5-10.5-7-7
Conflicts

Sec. 7. If any provision in this article conflicts with a provision in IC 5-10.2, IC 5-10.3, or IC 5-10.4, the provisions shall be read together to the extent possible with any conflict resolved in favor of the provision in this article.
As added by P.L.23-2011, SEC.22.

IC 5-11

ARTICLE 11. ACCOUNTING FOR PUBLIC FUNDS

IC 5-11-1

Chapter 1. State Board of Accounts Created

IC 5-11-1-1

Establishment; members; appointment; qualifications; terms; tenure

Sec. 1. (a) There is established a state board of accounts. The board consists of the state examiner and two (2) deputy examiners, as provided in this section.

(b) The principal officer of the board is the state examiner. To hold the office of state examiner, an individual must:

(1) be appointed by the governor;

(2) have the individual's appointment accepted by the legislative council in conformity with subsection (e); and

(3) be a certified public accountant with at least five (5) years of accounting experience, including at least three (3) years of single audit experience in the public or private sector.

(c) The governor shall also appoint two (2) deputy examiners. To hold the office of deputy examiner, an individual must:

(1) be appointed by the governor; and

(2) be a certified public accountant.

A deputy examiner is subordinate to the state examiner. In the case of deputy examiners appointed after June 30, 2014, at least one (1) of the deputy examiners must have at least three (3) years of experience with the state board of accounts at the time of appointment.

(d) Not more than two (2) of the three (3) individuals appointed to the state board of accounts may be members of the same political party. The term of a state examiner is four (4) years. However, the term of the state examiner serving on January 1, 2014, ends December 31, 2017. Notwithstanding the expiration of the term of a state examiner, the state examiner may continue to serve as acting state examiner until a state examiner is appointed or reappointed. The term of a deputy examiner is coterminous with the term of the state examiner.

(e) The governor shall submit to the executive director of the legislative services agency in an electronic format under IC 5-14-6 the name of an individual who the governor recommends for appointment under subsection (b) along with any supporting information that the governor determines is appropriate. The executive director of the legislative services agency shall submit the governor's recommendation along with any submitted supporting information to the members of the legislative council and place the information on the Internet web site maintained by the general assembly. At a meeting open to the public, the legislative council

may adopt a resolution to accept or reject a recommendation of the governor. The legislative council may reject a recommendation with or without cause. If the legislative council fails to adopt a resolution accepting or rejecting a recommendation within forty-five (45) days after the recommendation is submitted to the executive director of the legislative services agency in an electronic format under IC 5-14-6, the recommendation shall be treated as accepted by the legislative council. The state examiner serving on January 1, 2014, shall be treated as accepted by the legislative council to the same extent as if the legislative council had adopted a resolution that accepted the state examiner's appointment.

(f) IC 4-21.5 applies to an action under this subsection. The state examiner and the deputy examiners are subject to removal by the governor for incompetency (including failure to maintain the individual's status as a certified public accountant) or for misconduct of the office. If the governor seeks to remove the state examiner under this subsection, the governor shall notify the state examiner in writing of the governor's proposed action in conformity with IC 4-21.5-3-4 and submit a copy of the notice to the executive director of the legislative services agency in an electronic format under IC 5-14-6. The notice must state the reasons for the proposed action and indicate that the state examiner has fifteen (15) days after being given notice to petition for review of the proposed action. The notice must specify that a petition for review of the proposed action must be made in writing and be submitted to the executive director of the legislative services agency in accordance with IC 4-21.5-3-7. The notice must also state that the state examiner may petition the legislative council under IC 4-21.5-3-4 for a stay of the proposed action pending final resolution of the matter. If a timely petition is filed with the executive director of the legislative services agency, the legislative council shall conduct a proceeding under IC 4-21.5 to review the petition. The determination by the legislative council is a final order. A state examiner removed from office under this subsection may petition for judicial review of a final action of the legislative council under IC 4-21.5-5 in the circuit or a superior court of Marion County. A deputy examiner removed from office under this subsection may petition for judicial review regarding the removal in the circuit or a superior court of Marion County.

(g) A vacancy in the office of state examiner or deputy examiner must be filled in the same manner provided under this section for the appointment of the vacating officer. An individual appointed to fill a vacancy serves for the remainder of the vacating individual's term. *(Formerly: Acts 1909, c.55, s.1; Acts 1915, c.72, s.1; Acts 1941, c.110, s.1; Acts 1943, c.236, s.1; Acts 1945, c.176, s.1.) As amended by Acts 1980, P.L.30, SEC.1; P.L.3-1986, SEC.7; P.L.39-1996, SEC.1; P.L.246-2005, SEC.53; P.L.104-2014, SEC.2.*

IC 5-11-1-2

System of accounting and reporting

Sec. 2. The state board of accounts shall formulate, prescribe, and install a system of accounting and reporting in conformity with this chapter, which must comply with the following:

(1) Be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe.

(2) Exhibit true accounts and detailed statements of funds collected, received, obligated, and expended for or on account of the public for any and every purpose whatever, and by all public officers, employees, or other individuals.

(3) Show the receipt, use, and disposition of all public property and the income, if any, derived from the property.

(4) Show all sources of public income and the amounts due and received from each source.

(5) Show all receipts, vouchers, contracts, obligations, and other documents kept, or that may be required to be kept, to prove the validity of every transaction.

The state board of accounts shall formulate or approve all statements and reports necessary for the internal administration of the office to which the statements and reports pertain. The state board of accounts shall approve all reports that are published or that are required to be filed in the office of state examiner. The state board of accounts shall from time to time make and enforce changes in the system and forms of accounting and reporting as necessary to conform to law.

(Formerly: Acts 1909, c.55, s.2; Acts 1945, c.176, s.2.) As amended by Acts 1980, P.L.30, SEC.2; P.L.3-1986, SEC.8; P.L.39-1996, SEC.2; P.L.176-2009, SEC.2.

IC 5-11-1-3

Separate accounts

Sec. 3. Separate accounts shall be kept for every appropriation or fund of the state or any municipality. Separate accounts shall also be kept for each department, undertaking, enterprise, institution, and public service industry.

(Formerly: Acts 1909, c.55, s.3.) As amended by Acts 1980, P.L.30, SEC.3.

IC 5-11-1-4

Annual report required for approval of budget, supplemental appropriations or for issuance of debt

Sec. 4. (a) The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the

manner prescribed under IC 5-14-3.8-7.

(b) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year.

(c) As used in this subsection, "bonds" means any bonds, notes, or other evidences of indebtedness, whether payable from property taxes, other taxes, revenues, fees, or any other source. However, the term does not include notes, warrants, or other evidences of indebtedness that have a maturity of not more than five (5) years and that are made in anticipation of and to be paid from revenues of the political subdivision. Notwithstanding any other law, a county or municipality as provided in subsection (d) may not issue any bonds unless:

(1) the county or municipality has filed an annual financial report with the state examiner for the preceding fiscal year; and

(2) the annual financial report filed with the state examiner for the preceding fiscal year was prepared in accordance with all generally accepted accounting principles for financial accounting and reporting as established by the Governmental Accounting Standards Board. However, upon request of the county or municipality, the state examiner may waive the requirement under this subdivision.

The requirements under this subsection for the issuance of bonds by a county or municipality are in addition to any other requirements imposed under any other law. This subsection applies to the issuance of bonds authorized under any statute, regardless of whether that statute specifically references this subsection or the requirements under this subsection.

(d) The requirements under subsection (c) apply only to the following:

(1) After June 30, 2017, and before July 1, 2019, the requirements under subsection (c) apply to:

(A) a county with a population greater than two hundred fifty thousand (250,000); and

(B) a municipality with a population greater than two hundred fifty thousand (250,000).

(2) After June 30, 2019, and before July 1, 2020, the requirements under subsection (c) apply to:

(A) a county with a population greater than one hundred seventy-five thousand (175,000); and

(B) a municipality with a population greater than one hundred thousand (100,000).

(3) After June 30, 2020, the requirements under subsection (c) apply to:

(A) a county with a population greater than one hundred thousand (100,000); and

(B) a municipality with a population greater than

seventy-five thousand (75,000).

(Formerly: Acts 1909, c.55, s.4.) As amended by Acts 1980, P.L.30, SEC.4; P.L.3-1986, SEC.9; P.L.44-1991, SEC.1; P.L.50-2000, SEC.2; P.L.189-2005, SEC.1; P.L.176-2009, SEC.3; P.L.172-2011, SEC.11; P.L.137-2012, SEC.8; P.L.184-2015, SEC.5.

IC 5-11-1-5
Repealed

(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-1-6
Forms of reports

Sec. 6. The state board of accounts shall formulate, prescribe, and approve the forms for reports required to be made by this chapter.

(Formerly: Acts 1909, c.55, s.6.) As amended by Acts 1980, P.L.30, SEC.5; P.L.181-2015, SEC.10.

IC 5-11-1-7
Field examiners; private examiners; state colleges and universities; experts

Sec. 7. (a) The state examiner shall appoint assistants not exceeding the number required to administer this article. The assistants are to be known as "field examiners" and are at all times subject to the order and direction of the state examiner. Field examiners shall inspect and examine accounts of all state agencies, municipalities, and other governmental units, entities, or instrumentalities.

(b) The state examiner may engage or, in accordance with section 24 of this chapter, allow the engagement of private examiners to the extent the state examiner determines necessary to satisfy the requirements of this article. These examiners are subject to the direction of the state examiner while performing examinations under this article. The state examiner shall allow the engagement of private examiners for any state college or university subject to examination under this article if the state examiner finds that the private examiner is an independent certified public accountant firm with specific expertise in the financial affairs of educational organizations. These private examiners are subject to the direction of the state examiner while performing examinations under this article.

(c) The state examiner may engage experts to assist the state board of accounts in carrying out its responsibilities under this article.

(Formerly: Acts 1909, c.55, s.7.) As amended by Acts 1980, P.L.30, SEC.6; P.L.3-1986, SEC.10; P.L.181-2015, SEC.11; P.L.213-2015, SEC.61; P.L.149-2016, SEC.19.

IC 5-11-1-8
Field examiners

Sec. 8. All appointments of field examiners shall be made solely upon the ground of fitness and without regard to the political affiliation of the appointee. The state board of accounts is empowered to make and establish, and from time to time alter and amend, by-laws, rules and regulations for the proper enforcement of the provisions of this article and other laws placing duties and responsibilities on the state board of accounts.
(Formerly: Acts 1909, c.55, s.8.) As amended by Acts 1980, P.L.30, SEC.7; P.L.100-2012, SEC.17.

IC 5-11-1-9
Financial examinations; required inquiries; inefficiencies encountered; witnesses; records; process

Sec. 9. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every public office and officer, state office, state institution, and entity.

(b) An examination of an entity deriving:

(1) less than fifty percent (50%); or

(2) subject to subsection (h), at least fifty percent (50%) but less than two hundred thousand dollars ($200,000) if the entity is organized as a not-for-profit corporation;

of its disbursements during the period subject to an examination from appropriations, public funds, taxes, and other sources of public expense shall be limited to matters relevant to the use of the public money received by the entity.

(c) The examination of an entity described in subsection (b) may be waived by the state examiner if the state examiner determines in writing that all disbursements of public money during the period subject to examination were made for the purposes for which the money was received. However, the:

(1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs; and

(2) department of financial institutions established by IC 28-11-1-1 and the department's funds, accounts, and financial affairs;

shall be examined by the state board of accounts.

(d) On every examination under this section, inquiry shall be made as to the following:

(1) The financial condition and resources of each municipality, office, institution, or entity.

(2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.

(3) The methods and accuracy of the accounts and reports of the person examined.

The examinations may be made without notice.

(e) If during an examination of a state office under this chapter the examiner encounters an inefficiency in the operation of the state office, the examiner may comment on the inefficiency in the examiner's report.

(f) The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

(1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and examine any books, papers, documents, or electronically stored information for the purpose of making an examination.

(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(g) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to produce books, papers, or other records (including records stored in electronic data processing systems) for inspection and examination. The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness duly subpoenaed refuses to attend, refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the examiner may apply to the circuit court having jurisdiction of the witness for the enforcement of attendance and answers to questions as provided by the law governing the taking of depositions.

(h) The definitions in IC 20-24-1 apply throughout this subsection. Appropriations, public funds, taxes, and other sources of public money received by a nonprofit corporation as a charter school or organizer of a charter school for the purposes of a charter school may not be counted for the purpose of applying subsection (b)(2). Unless the nonprofit corporation receives other public money that would qualify the nonprofit corporation for a full examination of all accounts and financial affairs of the entity under subsection (b)(2), an examination of a charter school or organizer of a charter school must be limited to matters relevant to the use of the public money

received for the charter school. This subsection does not prohibit the state examiner, personally or through the deputy examiners, field examiners, or private examiners, from examining the accounts in which appropriations, public funds, taxes, or other sources of public money are applied that are received by a nonprofit corporation as a charter school or organizer of a charter school relating to the operation of the charter school.

(Formerly: Acts 1909, c.55, s.9; Acts 1945, c.176, s.3.) As amended by Acts 1978, P.L.2, SEC.506; Acts 1980, P.L.30, SEC.8; P.L.3-1986, SEC.11; P.L.63-1989, SEC.1; P.L.70-1995, SEC.1; P.L.39-1996, SEC.3; P.L.50-1999, SEC.1; P.L.4-2005, SEC.25; P.L.213-2007, SEC.2; P.L.217-2007, SEC.2; P.L.172-2011, SEC.12; P.L.280-2013, SEC.3; P.L.181-2015, SEC.12.

IC 5-11-1-9.5

Confidential reporting; grounds for examination; retaliation; relief

Sec. 9.5. (a) An individual may report suspected malfeasance, misfeasance, or nonfeasance by a public officer to the state board of accounts. The individual's identity is confidential unless a civil proceeding is pending under IC 5-11-5-1(a) and the court orders disclosure.

(b) The state examiner may not undertake an examination of a public office, officer, or institution based on the allegation of an individual, organization, or institution that a violation of the law has occurred unless:

(1) the individual or representative of the organization or institution makes the allegation in the form of a sworn statement that the individual or representative believes the allegation to be true; or

(2) the state examiner has probable cause to believe that a violation of the law has occurred.

(c) A public office, officer, or institution may not retaliate against an employee of the state or a political subdivision for making a report under subsection (a) or a sworn statement described in subsection (b).

(d) An individual who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against by the individual's employer in the terms and conditions of employment as a result of the individual's good faith reporting actions under this section is entitled to all relief necessary to make the individual whole.

(e) Relief under subsection (d) for an individual bringing an action against a person who is not a state officer or state agency includes the following:

(1) Reinstatement with the same seniority status the individual would have but for the act described in subsection (d).

(2) Two (2) times the amount of back pay that is owed to the individual.

(3) Interest on the back pay that is owed to the individual.

(4) Compensation for any special damages sustained by the individual as a result of the act described in subsection (d), including costs and expenses of litigation and reasonable attorney's fees.

(f) An individual may bring an action against a person who is not a state officer or state agency for the relief provided in this section in a court with jurisdiction.

As added by P.L.51-1985, SEC.1. Amended by P.L.52-2015, SEC.1.

IC 5-11-1-9.7

Withdrawal or removal of counties from solid waste management districts

Sec. 9.7. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine the division under IC 13-21-4-4 of the responsibility for legal obligations entered into by a joint solid waste management district upon the withdrawal or removal of a county from the district.

(b) Not later than one hundred twenty (120) days after the effective date of the withdrawal or removal, the state examiner shall issue a report of the examination under subsection (a) to:

(1) the board of directors of the joint solid waste management district; and

(2) the executive of the county that withdrew or was removed from the joint solid waste management district.

(c) A report under this section may be used as evidence in an action seeking to enforce the payment of legal obligations entered into by a joint solid waste management district.

As added by P.L.74-2002, SEC.1.

IC 5-11-1-10

Failure to file report; interference with examiners; offense

Sec. 10. A public officer who:

(1) fails to make, verify, and file with the state examiner any report required by this chapter;

(2) fails to follow the directions of the state examiner in keeping the accounts of the officer's office;

(3) refuses the state examiner, deputy examiner, field examiner, or private examiner access to the books, accounts, papers, documents, cash drawer, or cash of the officer's office; or

(4) interferes with an examiner in the discharge of the examiner's official duties;

commits a Class B infraction and forfeits office.

(Formerly: Acts 1909, c.55, s.10.) As amended by Acts 1978, P.L.2, SEC.507; P.L.3-1986, SEC.12.

IC 5-11-1-11

Records of money collected; public inspection

Sec. 11. There shall be kept in the office of each public officer, board, commission, agency, instrumentality, and institution in this state, a record of money collected for the public treasury, the forms and records for which, for each class of offices, shall be devised and formulated by the state board of accounts. Such records as are provided for in this section shall be public records and must be accessible to the public during regular office hours.
(Formerly: Acts 1909, c.55, s.11.) As amended by Acts 1980, P.L.30, SEC.9.

IC 5-11-1-12
Repealed
(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-1-13
Warrants or checks of state or municipality; receipts or quietus; correctness of claims
Sec. 13. Each officer having authority to draw the warrant or check of the state or of any municipality referred to in this chapter in disbursing its funds, or who has authority to execute the receipt or quietus of the state or of such municipality in settlement with public officers or with debtors, before presenting the same for allowance to the board or other authority required to pass upon the same, shall make an examination of all claims as to their form, the authentication thereof as required by law, whether they are based upon contract or statutory authority, and as to their apparent correctness, and upon presenting the same to file therewith his certificate in writing as to such matters in respect to each and all of such claims. Where the authority to pass upon and allow such claim is lodged in such officer, he shall, before drawing a warrant or check therefor, certify to the correctness thereof over his official signature. Before issuing the receipt or quietus of the state or municipality to any debtor or any officer making settlement, he shall examine the report, account or settlement sheet upon which settlement is made, and require of such debtor or officer, or to otherwise secure, all such information, accounts, vouchers or exhibits as shall be necessary to satisfy such officer issuing such receipt or quietus of the correctness of such report, account or settlement sheet, and to certify thereon that he has made such examination and is satisfied as to its correctness, and no such warrant, check, receipt, or quietus shall be issued by any such officer until such certificate shall have been executed and filed with such claim, report, account or settlement sheet. Where it is not practical for the officer to certify to the correctness of each revenue or claim document, the state board of accounts may prescribe other methods of preaudit to be performed before approval by the officer or his employees.
(Formerly: Acts 1909, c.55, s.13.) As amended by Acts 1980, P.L.30, SEC.10.

IC 5-11-1-14
Salaries and traveling expenses of state examiner, deputies, and assistants

Sec. 14. The salaries and necessary traveling expenses of the state examiner, his deputies, and assistants when engaged in the business of the state shall be paid as otherwise provided by law.

(Formerly: Acts 1909, c.55, s.15.) As amended by Acts 1980, P.L.30, SEC.11.

IC 5-11-1-15
Bonds and crime policies for faithful performance

Sec. 15. (a) The state examiner, deputy examiners, and field examiners shall each give bond for the faithful performance of the examiner's duties, as follows:

(1) The state examiner in the sum of five thousand dollars ($5,000), to be approved by the governor.

(2) Each deputy examiner in the sum of three thousand dollars ($3,000), to be approved by the governor.

(3) Each field examiner in the sum of one thousand dollars ($1,000), to be approved by the state examiner. However, field examiners may be covered by a blanket bond or crime insurance policy endorsed to include faithful performance under IC 5-4-1-15.1 subject to approval of the state examiner.

(b) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

(Formerly: Acts 1909, c.55, s.16; Acts 1967, c.268, s.1.) As amended by P.L.3-1986, SEC.13; P.L.49-1995, SEC.6.

IC 5-11-1-16
Definitions

Sec. 16. (a) As used in this article, "municipality" means any county, township, city, town, school corporation, special taxing district, or other political subdivision of Indiana.

(b) As used in this article, "state" means any board, commission, department, division, bureau, committee, agency, governmental subdivision, military body, authority, or other instrumentality of the state, but does not include a municipality.

(c) As used in this article, "public office" means the office of any and every individual who for or on behalf of the state or any municipality or any public hospital holds, receives, disburses, or keeps the accounts of the receipts and disbursements of any public funds.

(d) As used in this article, "public officer" means any individual who holds, receives, disburses, or is required by law to keep any account of public funds or other funds for which the individual is accountable by virtue of the individual's public office.

(e) As used in this article, "entity" means any provider of goods, services, or other benefits that is:

(1) maintained in whole or in part at public expense; or

(2) supported in whole or in part by appropriations or public funds or by taxation.

The term does not include the state or a municipality (as defined in this section).

(f) As used in this article, a "public hospital" means either of the following:

(1) An institution licensed under IC 16-21 and which is owned by the state or an agency of the state or one which is a municipal corporation. A hospital is a municipal corporation if its governing board members are appointed by elected officials of a municipality.

(2) A state institution (as defined in IC 12-7-2-184).

(g) As used in this article, "audit committee" refers to the audit and financial reporting subcommittee of the legislative council established by IC 2-5-1.1-6.3.

(h) As used in this article, "audited entity" has the meaning set forth in IC 2-5-1.1-6.3.

(Formerly: Acts 1909, c.55, s.17.) As amended by Acts 1980, P.L.30, SEC.12; P.L.3-1986, SEC.14; P.L.2-1992, SEC.52; P.L.2-1993, SEC.44; P.L.104-2014, SEC.3; P.L.181-2015, SEC.13.

IC 5-11-1-17

Repealed

(Repealed by Acts 1978, P.L.2, SEC.521.)

IC 5-11-1-18

Examinations without notice; disclosure; offense

Sec. 18. All examinations under this chapter may be made without notice to the officers whose accounts are to be examined, and without notice to any clerk, deputy, employee, or other person employed in or connected with the office or the business of such an officer. A person who recklessly communicates knowledge of any proposed examination of any public account:

(1) that the board has determined to make without notice under this section; and

(2) to the officer in charge of the account or to any other unauthorized person;

commits a Class B misdemeanor.

(Formerly: Acts 1909, c.55, s.19.) As amended by Acts 1978, P.L.2, SEC.509; P.L.181-2015, SEC.14.

IC 5-11-1-19

Copyrighting uniform bookkeeping system; purchase of public office supplies

Sec. 19. No system for uniform bookkeeping or any book, record, or form which may be adopted after April 5, 1909, shall be copyrighted unless it shall be deemed expedient by the governor that

a copyright be procured in the name of the state, and if any such copyright be procured, the acceptance by the state or by any municipality of any bid for printed supplies of any sort shall operate as a license from the state to the successful bidder to manufacture any such copyrighted books, records, or forms included in such bid for public use without payment of royalty. All public books, records, and stationery used in the offices for which examination is provided in this chapter shall be purchased by the state, municipality, or institution after the manner provided by law.
(Formerly: Acts 1909, c.55, s.20.) As amended by P.L.25-1986, SEC.36.

IC 5-11-1-20
Repealed
(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-1-21
Mandatory adoption of uniform system; refusal to adopt or failure to use; offense; penalty
Sec. 21. All public officers shall adopt and use the books, forms, records, and systems of accounting and reporting adopted by the state board of accounts, when directed so to do by the board, and all forms, books, and records shall be purchased by those officers in the manner provided by law. An officer who refuses to provide such books, forms, or records, fails to use them, or fails to keep the accounts of his office as directed by the board commits a Class C infraction and forfeits his office.
(Formerly: Acts 1909, c.55, s.22.) As amended by Acts 1978, P.L.2, SEC.510.

IC 5-11-1-22
Existing duties; effect of chapter
Sec. 22. The provisions of this chapter shall not be construed to relieve any officer of any duties required by law of him on April 5, 1909, with relation to the auditing of public accounts or the disbursement of public funds, but the provisions of this chapter shall be construed to be supplemental to all provisions of law existing on April 5, 1909, safeguarding the care and disbursement of public funds; and provided further, that the provisions of this chapter shall not be construed to limit or curtail the power of the governor of the state under laws existing on April 5, 1909, to make examination or investigation of any public office or to require reports therefrom.
(Formerly: Acts 1909, c.55, s.23.) As amended by P.L.25-1986, SEC.37.

IC 5-11-1-23
Repealed
(Repealed by P.L.5-1988, SEC.35.)

IC 5-11-1-24

Uniform compliance guidelines for examinations and reports

Sec. 24. (a) The state board of accounts shall establish in writing uniform compliance guidelines for the examinations and reports required by this chapter. The uniform compliance guidelines must include the standards that an entity must observe to avoid a finding that is critical of the audited entity for a reason other than the audited entity's failure to comply with a specific law.

(b) The state board of accounts may not establish guidelines for the auditing of an audited entity that are inconsistent with any federal audit guidelines that govern the audited entity.

(c) The state board of accounts must distribute the uniform compliance guidelines to each audited entity that the state board of accounts may audit.

(d) If the state board of accounts engages or authorizes the engagement of a private examiner to perform an examination under this chapter, the examination and report must comply with the uniform compliance guidelines established under subsection (a). If a person subject to examination under this chapter engages a private examiner, the contract with the private examiner must require the examination and report to comply with the uniform compliance guidelines established under subsection (a).

(e) An audited entity may not request proposals for performing examinations of an audited entity unless the request for proposals has been submitted to and approved by the state board of accounts.

As added by P.L.3-1986, SEC.15. Amended by P.L.39-1996, SEC.4; P.L.181-2015, SEC.15.

IC 5-11-1-24.4

Opt out of state board of accounts examination; selection of certified public accountant to perform examination; examination report

Sec. 24.4. (a) This section applies only to an audited entity (excluding a school corporation or a college or university (as defined in IC 21-7-13-10)) that has:

(1) an internal control officer; and

(2) an internal control department;

established by the legislative body of the audited entity. However, the requirements of this section do not apply to a consolidated city that hires an internal auditor or an independent certified public accountant, or both, as authorized under IC 36-3-4-24 to examine the books and records of the consolidated city.

(b) An audited entity may request in writing that the state board of accounts authorize the audited entity to:

(1) opt out of examinations by the state board of accounts; and

(2) engage a certified public accountant to conduct the examinations.

The request must be approved by resolution adopted by the legislative body for the audited entity.

(c) The state board of accounts shall, not more than sixty (60) days after receiving a written request under subsection (b):

(1) acknowledge receipt of the request; and

(2) notify the requesting audited entity that the request is:

(A) approved; or

(B) disapproved.

(d) The state board of accounts shall approve a request under subsection (b) by an audited entity if the state examiner determines that:

(1) the audited entity filed the written request under subsection (b) with the state board of accounts more than one hundred eighty (180) days before the beginning of the audited entity's fiscal year;

(2) the audited entity selects the certified public accountant in accordance with the selection procedure under this section;

(3) the certified public accountant selected by the audited entity is:

(A) licensed in Indiana; and

(B) qualified to conduct examinations in accordance with the government auditing standards adopted by the state board of accounts;

(4) the certified public accountant's examination shall:

(A) be conducted in accordance with the guidelines established by the state board of accounts; and

(B) make findings regarding the audited entity's compliance with the uniform compliance guidelines established by the state board of accounts;

(5) the certified public accountant's examination is paid for by the audited entity; and

(6) the certified public accountant's examination of the audited entity includes:

(A) all associated component units;

(B) audits required or necessary for federal financial assistance;

(C) findings of noncompliance with state law and uniform compliance guidelines as required by IC 5-11-5-1; and

(D) a separate report in accordance with the guidelines established by the state board of accounts for any items of noncompliance identified.

(e) The audited entity must use the following selection procedures:

(1) The legislative body of the audited entity shall establish an audit committee to facilitate the selection of a certified public accountant. The audit committee shall be composed of the following three (3) members:

(A) One (1) member of the legislative body appointed by the

legislative body.

(B) One (1) certified public accountant appointed by the legislative body who is not the fiscal officer or an employee of the audited entity.

(C) One (1) person appointed by the executive of the audited entity who is qualified due to an involvement with financial matters, and who is not the fiscal officer or an employee of the audited entity.

Each member shall be appointed for a three (3) year term and shall serve without compensation. However, a member appointed under subdivision (1)(A) who ceases to hold the office of legislative body member ceases to be a member of the audit committee. A member may not have a contractual relationship, financial interest, or political affiliation with the certified public accountant selected.

(2) The audit committee established under subdivision (1) shall do the following:

(A) Establish factors to evaluate the audit services provided by a certified public accountant, including:

(i) experience;

(ii) ability to perform the required services;

(iii) capability to follow the guidelines and standards adopted by the state board of accounts;

(iv) ability to timely complete all necessary components of the examination; and

(v) any other factors considered necessary by the audit committee.

(B) Publish notice of a request for proposals under IC 5-3-1 that includes:

(i) a brief description of the audit requirements;

(ii) a time frame;

(iii) application procedures;

(iv) evaluation criteria; and

(v) any other items considered necessary by the audit committee.

(C) Evaluate the proposals submitted by qualified certified public accountants. If compensation is a factor established under clause (A), it may not be the sole factor used to evaluate proposals.

(D) Rank and recommend in order of preference not fewer than three (3) certified public accountants considered most highly qualified on the factors established under clause (A). If fewer than three (3) certified public accountants respond to the request for proposals, the audit committee shall recommend the remaining qualified certified public accountants in order of preference.

(3) The legislative body of the audited entity shall select a qualified certified public accountant from the list recommended

by the audit committee and shall negotiate a contract with the certified public accountant using one (1) of the following methods:

(A) If compensation is a factor established under subdivision (2)(A), the legislative body shall:

(i) select; or

(ii) document the reason for not selecting;

the highest ranked certified public accountant.

(B) If compensation is not a factor established under subdivision (2)(A), the legislative body shall negotiate a contract with the highest ranked qualified certified public accountant. If unable to negotiate a satisfactory contract with the highest ranked qualified certified public accountant, the legislative body shall:

(i) formally terminate negotiations; and

(ii) negotiate with the second highest ranked certified public accountant.

Negotiations with the other ranked certified public accountants shall be undertaken in the same manner. The legislative body may reopen formal negotiations with any of the top three (3) ranked certified public accountants but may not negotiate with more than one (1) certified public accountant at a time.

(C) The legislative body may select a certified public accountant recommended by the audit committee and negotiate a contract using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor.

(D) In negotiations with a certified public accountant, the legislative body may allow a designee, who is not the fiscal officer of the audited entity, to conduct negotiations on its behalf.

(4) If the legislative body is unable to negotiate a satisfactory contract with any of the recommended certified public accountants, the audit committee shall recommend additional certified public accountants, and negotiations shall continue in accordance with this section until an agreement is reached.

(5) The procurement of audit services shall be evidenced by a written contract embodying all provisions and conditions. For purposes of this section, an engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall include the following provisions:

(A) Specification of services to be provided and fees or other compensation for the services.

(B) Invoices for fees or other compensation shall be submitted in sufficient detail to demonstrate compliance with the terms of the contract.

(C) Specification of the contract period and conditions under

which the contract may be terminated or renewed.

(D) The certified public accountant shall perform the examination in accordance with:

(i) the guidelines and standards adopted by the state board of accounts;

(ii) auditing standards generally accepted in the United States; and

(iii) if applicable, government auditing standards, Office of Management and Budget Circular A-133, and any other guidelines required by the industry.

(E) If the certified public accountant discovers or suspects instances of fraud, abuse of public funds, or the commission of a crime, the certified public accountant shall notify the state board of accounts:

(i) immediately; and

(ii) before disclosing the discovery or suspicion to the audited entity.

(F) The certified public accountant shall deliver the completed examination report to the state board of accounts:

(i) at the same time as the audited entity; and

(ii) not later than thirty (30) days after completion of the examination.

The report shall be in a readable format prescribed by the state board of accounts.

(G) All work papers supporting the examination report shall be available for review by the state board of accounts.

(6) If a legislative body of an audited entity renews a written contract with a certified public accountant that was entered into in accordance with this section, the legislative body may renew the contract without complying with the selection procedures in this subsection.

(f) The certified public accountant must deliver the completed examination report to the state board of accounts not later than thirty (30) days after completion of the examination. The state board of accounts shall review the examination report and may:

(1) ask questions of the certified public accountant;

(2) review the examination work papers; and

(3) take any other actions necessary to verify that the guidelines and standards adopted by the state board of accounts have been satisfied.

(g) If the certified public accountant's examination:

(1) satisfies the guidelines and standards adopted by the state board of accounts, the state examiner shall publicly file the examination report under IC 5-11-5-1; or

(2) fails to satisfy the guidelines and standards adopted by the state board of accounts:

(A) the state board of accounts shall perform the audit; and

(B) the audited entity shall reimburse the state board of

accounts for the actual and direct cost of performing the examination.

(h) An audited entity that engages a certified public accountant under this section shall reimburse the state board of accounts for all direct and indirect costs incurred by the state board of accounts for any technical assistance and support requested by the audited entity.

(i) An audited entity may terminate the use of a certified public accountant engaged under this section if:

(1) the termination is approved by resolution adopted by the legislative body of the audited entity; and

(2) written notice of the termination is provided to the state board of accounts more than one hundred eighty (180) days before the beginning of the audited entity's fiscal year.

(j) Conducting an examination of an audited entity by a certified public accountant does not prohibit the state board of accounts from conducting a compliance review of the audited entity or an examination under section 9.5 of this chapter on the schedule determined by the state board of accounts.

As added by P.L.181-2015, SEC.16.

IC 5-11-1-25

Risk based examination criteria used to determine examination frequency; biennial school corporation examinations

Sec. 25. (a) This section and section 24.4 of this chapter do not limit the application of any law that requires a municipality, a public hospital, another public office or public officer, an entity, or another person or organization to be audited or otherwise examined on an annual or other basis by:

(1) a certified public accountant; or

(2) a person other than the state examiner or the state board of accounts.

(b) Subject to section 9 of this chapter and subsections (c) and (d), the state board of accounts shall conduct examinations of audited entities at the times determined by the state board of accounts, but not less than once every four (4) years, using risk based examination criteria that are established by the state board of accounts and approved by the audit committee. The risk based examination criteria must include the following risk factors:

(1) An audited entity has a newly elected or appointed fiscal officer.

(2) An audited entity:

(A) has not timely filed; or

(B) has filed a materially incorrect or incomplete;

annual financial report required by section 4 of this chapter.

(3) Any other factor determined by the state examiner and approved by the audit committee.

(c) Examinations must be conducted annually for the following:

(1) The state.

(2) An audited entity (other than a school corporation) that requires an annual audit:

(A) because of the receipt of federal financial assistance in an amount that subjects the audited entity to an annual federal audit;

(B) due to continuing disclosure requirements; or

(C) as a condition of a public bond issuance.

An audited entity shall, under the guidelines established by the state board of accounts, provide notice to the state examiner not later than sixty (60) days after the close of the audited entity's fiscal year that the audited entity is required to have an annual audit under subdivision (2).

(d) As permitted under this section since September 1, 1986 (the effective date of P.L.3-1986, SECTION 16), examinations of school corporations shall be conducted biennially.

As added by P.L.3-1986, SEC.16. Amended by P.L.2-1991, SEC.27; P.L.181-2015, SEC.17.

IC 5-11-1-26

Examination reports; requisites; performance of public works; powers of board

Sec. 26. (a) If a state office, municipality, or other entity has authority to contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of a public work, the state board of accounts shall include in each examination report concerning the state office, municipality, or entity:

(1) an opinion concerning whether the state office, municipality, or entity has complied with IC 5-16-8; and

(2) a brief description of each instance in which the state office, municipality, or entity has exercised its authority under IC 5-16-8-2(b) or IC 5-16-8-4.

(b) If a municipality or a county performs a public work by means of its own workforce under IC 36-1-12-3, the state board of accounts shall include the following in each examination report concerning the municipality or county:

(1) An opinion concerning whether the municipality or county has complied with IC 36-1-12-3 for each public work performed by the entity's own workforce.

(2) A brief description of each public work that the municipality or county has performed with its own workforce under IC 36-1-12-3, including a calculation of the actual cost of each public work under IC 36-1-12-3.

(3) An opinion concerning whether the municipality or county has complied with IC 36-1-12-19 in calculating the actual costs of a public work project performed under IC 36-1-12-3.

(c) If a state agency performs a public work by means of its own workforce under IC 4-13.6-5-4, the state board of accounts shall include the following in each examination report concerning the

agency:

(1) An opinion concerning whether the agency has complied with IC 4-13.6-5-4 for each public work performed by the agency's own workforce.

(2) A brief description of each public work that the agency has performed with its own workforce under IC 4-13.6-5-4, including a calculation of the actual cost of each public work under IC 4-13.6-5-4.

(3) An opinion concerning whether the agency has complied with IC 4-13.6-5-4(c) in calculating the actual costs of a public work project performed under IC 4-13.6-5-4.

(d) If a state educational institution performs a public work by means of its own workforce under IC 5-16-1-1.5, the state board of accounts shall include the following in each examination report concerning the state educational institution:

(1) An opinion concerning whether the state educational institution has complied with IC 5-16-1-1.5 for each public work performed by the state educational institution's own workforce.

(2) A brief description of each public work that the state educational institution has performed with its own workforce under IC 5-16-1-1.5, including a calculation of the actual cost of each public work under IC 5-16-1-1.5.

(3) An opinion concerning whether the state educational institution has complied with IC 5-16-1-1.5 in calculating the actual costs of a public work project performed under IC 5-16-1-1.5.

(e) The state board of accounts may exercise any of its powers under this chapter concerning public accounts to carry out this section, including the power to require a uniform system of accounting or the use of forms prescribed by the state board of accounts.

As added by P.L.63-1987, SEC.1. Amended by P.L.172-2011, SEC.13.

IC 5-11-1-27

Local governmental internal controls; personnel training; violations; reporting misappropriations

Sec. 27. (a) As used in this section, "legislative body" has the meaning set forth in IC 36-1-2-9.

(b) As used in this section, "material" means a significant or consequential amount, as determined by the state examiner and approved by the audit committee.

(c) As used in this section, "personnel" means an officer or employee of a political subdivision whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, state government, a political subdivision, or another governmental entity.

(d) As used in this section, "political subdivision" has the meaning set forth in IC 5-11-10.5-1.

(e) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define and the audit committee shall approve not later than November 1, 2015, the acceptable minimum level of internal control standards and internal control procedures for internal control systems of political subdivisions, including the following:

(1) Control environment.

(2) Risk assessment.

(3) Control activities.

(4) Information and communication.

(5) Monitoring.

The internal control standards and procedures shall be developed to promote government accountability and transparency.

(f) Not later than November 1, 2015, the state board of accounts shall develop or designate approved personnel training materials as approved by the audit committee, to implement this section.

(g) After June 30, 2016, the legislative body of a political subdivision shall ensure that:

(1) the internal control standards and procedures developed under subsection (e) are adopted by the political subdivision; and

(2) personnel receive training concerning the internal control standards and procedures adopted by the political subdivision.

(h) After June 30, 2016, the fiscal officer of a political subdivision shall certify in writing that:

(1) the minimum internal control standards and procedures defined under subsection (e) have been adopted by the political subdivision; and

(2) personnel, who are not otherwise on leave status, have received training as required by subsection (g)(2).

The certification shall be filed with the state board of accounts at the same time as the annual financial report required by section 4(a) of this chapter is filed. The certification shall be filed electronically in the manner prescribed under IC 5-14-3.8-7.

(i) After June 30, 2016, if the state board of accounts finds during an audit of a political subdivision that:

(1) the political subdivision has not adopted the internal control standards and procedures required under subsection (g)(1); or

(2) personnel of the political subdivision have not received the training required under subsection (g)(2);

the state board of accounts shall issue a comment in its examination report for the political subdivision. If, during a subsequent audit, the state board of accounts finds a violation described in subdivision (1) or (2) has not been corrected, the political subdivision has sixty (60) days after the date the state board of accounts notifies the political subdivision of its findings to correct the violation. If a violation is

not corrected within the required period, the state board of accounts shall forward the information to the department of local government finance.

(j) All erroneous or irregular material variances, losses, shortages, or thefts of political subdivision funds or property shall be reported immediately to the state board of accounts. For all material variances, losses, shortages, or thefts, the state board of accounts shall:

(1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;

(2) determine the internal control weakness that contributed to or caused the condition; and

(3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:

(A) the method of correcting the condition; and

(B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.

(k) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (j)(3)(B).

(l) A public officer who has actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office, including:

(1) information obtained as a result of a police report;

(2) an internal audit finding; or

(3) another source indicating that a misappropriation has occurred;

shall immediately send written notice of the misappropriation to the state board of accounts and the prosecuting attorney serving in the area governed by the political subdivision.

(m) If the attorney general institutes civil proceedings related to this section or under IC 5-11-5-1, the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

(1) costs incurred by the state board of accounts; and

(2) all costs and reasonable attorney's fees incurred by the attorney general;

in connection with the civil proceedings.

As added by P.L.117-2011, SEC.2. Amended by P.L.184-2015, SEC.6.

IC 5-11-1-28

Annual internal audit and report required for certain agencies

Sec. 28. (a) The bureau of motor vehicles (IC 9-14-7-1), office of

the secretary of family and social services (IC 12-8-1.5-1), and department of state revenue (IC 6-8.1-2-1) shall each annually:

(1) have performed by an internal auditor:

(A) an internal audit; and

(B) a review of internal control systems;

of the agency; and

(2) have the internal auditor report the results of the internal audit and review to an examiner designated by the state examiner to receive the results.

(b) The examiner designated under subsection (a) shall, not later than September 1 of each year:

(1) compile a final report of the results of the internal audits and reviews performed and reported under subsection (a); and

(2) submit a copy of the final report to the following:

(A) The governor.

(B) The auditor of state.

(C) The chairperson of the audit committee, in an electronic format under IC 5-14-6.

(D) The director of the office of management and budget.

(E) The legislative council, in an electronic format under IC 5-14-6.

As added by P.L.184-2015, SEC.7. Amended by P.L.198-2016, SEC.11.

IC 5-11-1-28.2

Access to statement filed by financial institutions

Sec. 28.2. The state board of accounts shall have regular access to any statement of condition filed by a depository (as defined in IC 5-13-4-8) with the treasurer of state under IC 5-13-10-3.

As added by P.L.34-2015, SEC.1.

IC 5-11-1-29

Access to software supplied to a political subdivision

Sec. 29. (a) As used in this section, "vendor" means a person who supplies electronic goods, software, or technological services (including computer services) to a political subdivision. The term does not include an employee of the political subdivision or an employee of the state.

(b) A vendor upon request shall allow the state board of accounts to access all software (including information and data that is stored in the software), and records of computer services that a vendor has supplied to a political subdivision. The access required to be allowed by a vendor under this section shall be:

(1) limited to read only capability;

(2) provided to the state board of accounts without prior:

(A) notice to; or

(B) approval of;

the political subdivision to which the software was provided;

and

(3) provided through remote access, if requested by the state board of accounts.

As added by P.L.34-2015, SEC.2.

IC 5-11-1-30

Request for examination according to generally accepted accounting principles

Sec. 30. (a) An audited entity may request that an examination conducted by the state board of accounts be conducted in accordance with generally accepted accounting principles. A request by a public officer must be approved by resolution adopted by the legislative body for the audited entity.

(b) The state board of accounts shall, not more than sixty (60) days after receiving a request under subsection (a):

(1) acknowledge receipt of the request; and

(2) notify the requesting public officer or legislative body that the request is:

(A) approved; or

(B) disapproved.

(c) The state board of accounts shall approve a request under subsection (a) unless the state examiner determines that:

(1) the audited entity, under the guidelines established by the state board of accounts, did not request the audit within sixty (60) days after the close of the audited entity's fiscal year;

(2) the audited entity does not conduct its accounting according to generally accepted accounting principles;

(3) the audited entity did not maintain the audited entity's financial records during the preceding year on a generally accepted accounting principles basis;

(4) the annual financial statements and notes to the financial statements are not presented or will not be presented to the state board of accounts for audit on the schedule agreed to by the state examiner; or

(5) the audited entity does not follow the other guidelines established by the state board of accounts.

As added by P.L.181-2015, SEC.18.

IC 5-11-2
Repealed

(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-3
Repealed

(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-4

Chapter 4. Payment of State Board of Accounts for Investigation of Public Accounts

IC 5-11-4-1

Repealed

(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-4-2

Field examiners; traveling expenses

Sec. 2. Traveling expenses of field examiners shall be allowed and paid on the same basis as provided by law for other state officers and employees when engaged on assignments outside the county of their actual residence during the full period of such assignment: Provided, That examiners working outside of the county of their actual residence and returning to their homes daily shall be allowed transportation expense at the rate established by the budget committee for other state officers and employees: Provided, further, That the same transportation expense may be allowed examiners when required to travel within the county of their actual residence while engaged in two (2) or more separate assignments. Claims for such compensation and traveling expense, when approved by the state examiner, shall be filed with the auditor of state monthly, who shall draw his warrant in payment of same.

(Formerly: Acts 1945, c.15, s.2; Acts 1955, c.48, s.1.)

IC 5-11-4-3

Expenses of investigation of public accounts; certification; reimbursements

Sec. 3. (a) The expense of examination and investigation of accounts shall be paid by each municipality or entity as provided in this chapter.

(b) The state examiner shall not certify more often than monthly to the auditor of each county the amount chargeable to each taxing unit within the county for the expense of its examinations as provided in this chapter. Immediately upon receipt of the certified statement, the county auditor shall issue a warrant on the county treasurer payable to the treasurer of state out of the general fund of the county for the amount stated in the certificate. The county auditor shall reimburse the county general fund, except for the expense of examination and investigation of county offices, out of the money due the taxing units at the next semiannual settlement of the collection of taxes.

(c) If the county to which a claim is made is not in possession or has not collected the funds due or to be due to any examined municipality, then the certificate must be filed with and the warrant shall be drawn by the officer of the municipality having authority to draw warrants upon its funds. The municipality shall pay the warrant

immediately to the treasurer of state. The money, when received by the treasurer of state, shall be deposited in the trust and agency fund created by subsection (g).

(d) Except as otherwise provided in this chapter, each:

(1) taxing unit; and

(2) soil and water conservation district;

shall be charged at the rate of one hundred seventy-five dollars ($175) per day for each field examiner, private examiner, expert, or employee of the state board of accounts who is engaged in making examinations or investigations. Except as provided in subsection (h), all other entities shall be charged the actual direct and indirect cost of performing the examination or investigation.

(e) The state examiner shall certify, not more often than monthly, to the proper disbursing officer the total amount of expense incurred for the examination of:

(1) any unit of state government or entity that is required by law to bear the costs of its own examination and operating expense; or

(2) any utility owned or operated by any municipality or any department of the municipality, if the utility is operated from revenues or receipts other than taxation.

Upon receipt of the state examiner's certificate the unit of state government, entity, or utility shall immediately pay to the treasurer of state the amount charged. The money, when received by the treasurer of state, shall be deposited in the trust and agency fund created by subsection (g).

(f) In addition to other charges provided in this chapter, the state examiner may charge a reasonable fee for typing and processing reports of examination in the same manner as other charges are made under this chapter.

(g) There is created a dedicated fund known as the trust and agency fund in the hands of the state examiner to be used by the state examiner for the payment of the expense of examinations under this article. All fees charged for examinations under this article shall be deposited into the trust and agency fund.

(h) A municipality that contracts for services with a volunteer fire department may pay the cost of an examination or investigation of the volunteer fire department under this chapter.

(i) An audit of a county shall include, but not be limited to, an audit of that county's soil and water conservation district established under IC 14-32.

(Formerly: Acts 1945, c.15, s.3.) As amended by Acts 1980, P.L.30, SEC.14; P.L.52-1983, SEC.1; P.L.3-1986, SEC.17; P.L.64-1987, SEC.1; P.L.291-2001, SEC.168; P.L.191-2003, SEC.1; P.L.213-2015, SEC.62.

IC 5-11-4-3.5
Repealed

(Repealed by Acts 1981, P.L.41, SEC.72(a).)

IC 5-11-4-3.6
Payment of investigation costs by examined unit from designated funds

Sec. 3.6. As provided in section 3 of this chapter, each of the following units of state government and eligible federal projects shall bear the direct and indirect costs of its own examination from the following designated funds:

(1) Indiana department of transportation (except toll project costs and expenses), bureau of motor vehicles (including branch offices), motor fuel tax division, state police department, and traffic safety functions under IC 9-27-2 from the motor vehicle account fund.

(2) Indiana public retirement system from the public pension and retirement funds administered by the system in accordance with IC 5-10.5-6-5.

(3) Alcohol and tobacco commission from the funds accruing to the alcoholic beverage enforcement and administration fund.

(4) Indiana department of transportation, for the costs and expenses related to a particular toll project, from any special fund established for revenues from that project.

(5) State fair commission from the state fair fund.

(6) State colleges and universities from state appropriations.

(7) Eligible federal grants and projects from funds provided by the federal government or as are properly chargeable to the grant or project or recoverable through an indirect cost allocation recovery approved by the federal government.

As added by Acts 1981, P.L.41, SEC.2. Amended by P.L.52-1983, SEC.2; P.L.18-1990, SEC.9; P.L.20-1990, SEC.5; P.L.2-1991, SEC.28; P.L.204-2001, SEC.11; P.L.36-2012, SEC.1; P.L.213-2015, SEC.63.

IC 5-11-4-4
Payments without appropriation

Sec. 4. All disbursing officers be and they are hereby authorized to make all disbursements or payments required to be made under the provisions of this chapter without any appropriation being made therefor.

(Formerly: Acts 1945, c.15, s.4.) As amended by P.L.25-1986, SEC.38.

IC 5-11-5

Chapter 5. Reports of Examinations by State Board of Accounts; Recovery of Public Funds

IC 5-11-5-1

Examination reports; exit conferences; disclosure of examination results; attorney general actions

Sec. 1. (a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

(1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).

(2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon (if the subject of the report is a municipality), and one (1) copy in an electronic format under IC 5-14-6 with the legislative services agency, as staff to the audit committee and the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the audit committee and the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general and the inspector general. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a). As part of the review of the examination report, the state examiner shall hold a gathering of the officer or chief executive officer of the state office, municipality, or

entity examined, any employees or agents of the state office, municipality, or entity examined who are requested to attend by the officer or chief executive officer of the state office, municipality, or entity examined, and the members of the legislative and fiscal bodies of the municipality or entity examined. Such a gathering is referred to as an "exit conference" for purposes of this subsection. The following apply to an exit conference:

(1) All information discussed and materials presented or delivered by any person during an exit conference are confidential and may not be discussed or shared publicly until the earliest of the occurrences set forth in subsection (g). However, the information discussed and materials presented or delivered during an exit conference may be shared with an officer, employee, consultant, adviser, or attorney of the officer or chief executive officer of the state office, municipality, or entity examined who was not present at the exit conference. An individual with whom information and materials are shared must maintain the confidentiality of the information and materials as provided in this subdivision until the earliest of the occurrences set forth in subsection (g).

(2) An individual attending an exit conference may not electronically record the exit conference.

(3) If a majority of a governing body (as defined in IC 5-14-1.5-2(b)) is present during an exit conference, the governing body shall be considered in an executive session under IC 5-14-1.5. However, the governing body has no obligation to give notice as prescribed by IC 5-14-1.5-5 when it participates in the exit conference.

(4) If the state examiner determines after the exit conference that additional actions must be undertaken by a deputy examiner, field examiner, or private examiner with respect to information discussed or materials presented at the exit conference, the state examiner may call for an additional exit conference to be held.

(5) Not more than thirty (30) days after the initial exit conference is held under this subsection, the legislative body of the municipality or entity examined and reported upon may adopt a resolution, approved by at least a two-thirds (2/3) vote of the legislative body, requesting that an additional exit conference be held. The legislative body shall notify the state board of accounts if the legislative body adopts a resolution under this subdivision. If a legislative body adopts a resolution under this subdivision, the state board of accounts shall conduct an additional exit conference not more than sixty (60) days after the state board of accounts receives notice of the adoption of the resolution. The municipality or entity examined must pay the travel and staff costs incurred by the state board of accounts in conducting an additional exit conference under this

subdivision.

(6) Except as provided in subdivision (7), a final report under subsection (a) may not be issued earlier than forty-five (45) days after the initial exit conference is held under this subsection.

(7) If:

(A) the state examiner does not call for an additional exit conference to be held as described in subdivision (4); and

(B) the:

(i) legislative body of the municipality or entity examined and reported upon provides written notice to the state examiner that the legislative body waives an additional exit conference described in subdivision (5); or

(ii) state examiner determines that a final report under subsection (a) must be issued as soon as possible;

the final report may be issued earlier than forty-five (45) days after the initial exit conference is held under this subsection.

(c) Except as provided by subsections (b), (d), and (e), it is unlawful for any person, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public account, except:

(1) to the state examiner;

(2) if directed to give publicity to the examination report by the state examiner or by any court;

(3) to another deputy examiner, field examiner, or private examiner engaged in conducting the examination; or

(4) if directed by the state examiner, to the chair of the audit committee or the members of the audit committee acting in executive session, or both.

If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the prosecuting attorney of the county in which the crime was committed. The state examiner shall furnish to the prosecuting attorney all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

(d) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of the public funds was committed by the officer or an employee of the office.

(e) After receiving a preliminary report under subsection (d), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(f) In an action under subsection (e), the attorney general may attach the defendant's property under IC 34-25-2.

(g) Except as permitted in this section, the information and materials that are part of an exit conference under subsection (b) and the results of an examination, including a preliminary report under subsection (d), are confidential until the occurrence of the earliest of the following:

(1) The final report is made public under subsection (a).

(2) The results of the examination are publicized under subsection (c)(2).

(3) The attorney general institutes an action under subsection (e) on the basis of the preliminary report.

(h) Except as permitted in this section, an individual, a public agency (as defined in IC 5-14-3-2), a public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency that knowingly or intentionally discloses information in violation of subsection (b) or (g), regardless of whether the information is received orally or by any other means, is subject to the following:

(1) A public agency (as defined in IC 5-14-3-2), a public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency commits a Class A infraction under IC 5-14-3-10.

(2) If the disclosure is by a person who is not described in subdivision (1), the person commits a Class A infraction.

(i) Unless in accordance with a judicial order or as otherwise provided in this section, the state board of accounts or its employees, former employees, counsel, or agents, or any other person may not divulge the examination workpapers and investigation records of a deputy examiner, a field examiner, or a private examiner acting as an agent of the state examiner, except to:

(1) employees and members of the state board of accounts;

(2) the audit committee;

(3) law enforcement officers, the attorney general, a prosecuting attorney, or any other legal representative of the state in any action with respect to the misappropriation or diversion of public funds; or

(4) an authorized representative of the United States.

(j) An individual described in subsection (i)(3) or (i)(4) who receives examination workpapers and investigation records described

in subsection (i) may divulge the workpapers and records in any action with respect to the misappropriation or diversion of public funds.

(Formerly: Acts 1917, c.115, s.1.) As amended by Acts 1980, P.L.30, SEC.16; P.L.3-1986, SEC.18; P.L.39-1996, SEC.5; P.L.28-2004, SEC.57; P.L.176-2009, SEC.4; P.L.126-2012, SEC.17; P.L.136-2012, SEC.3; P.L.104-2014, SEC.4; P.L.181-2015, SEC.19; P.L.188-2016, SEC.5.

IC 5-11-5-2

Action for recovery of money

Sec. 2. Upon the written request of the attorney-general, the prosecuting attorney of the circuit having jurisdiction of such action shall appear with the attorney-general in all causes begun by the attorney-general for the recovery of monies or for whatever purposes growing out of such examination or report, and said prosecuting attorney shall comply with all orders of the attorney-general relating to the prosecution of such suits.

(Formerly: Acts 1917, c.115, s.2.) As amended by Acts 1978, P.L.2, SEC.511.

IC 5-11-5-3

Compromise and adjustment of actions; discretion of attorney general; appeal

Sec. 3. (a) The attorney general, by and with the consent of the state examiner and the deputy examiners, may compromise and adjust any action brought by the attorney general as required in this article. In all cases where any money comes into the attorney general's hands, the attorney general shall immediately pay the money into the treasury of the state or of the municipality to which it belongs, and shall have the money distributed among the proper funds. The attorney general may, in the attorney general's discretion, and shall, upon the order of the governor, appeal any such causes to the court of appeals or the supreme court, or both, as the case may be.

(b) The state examiner, and the field examiners and any private examiner shall use reasonable diligence in the making of investigations and in furnishing and securing evidence in connection with the prosecution of suits concerning examination reports whenever requested by the attorney general. Reasonable per diem and expenses incurred by the examiner shall be paid in the amount and in the manner provided by law in case of examinations.

(Formerly: Acts 1917, c.115, s.3.) As amended by Acts 1980, P.L.30, SEC.17; P.L.3-1986, SEC.19.

IC 5-11-5-4

Party to actions; plaintiff's right of recovery

Sec. 4. Any action brought by the attorney general, as provided in

this article, may be brought in the name, as plaintiff, of the state of Indiana, or such municipality or subdivision of the state of Indiana as it may appear is entitled to recover moneys or to secure other relief under such action. If the action is brought on an official bond or official bonds, the cause may be brought in the name of the state of Indiana on the relation of such plaintiff. In an action against a township trustee, or ex-township trustee, or upon his official bond, both the civil and school corporations may be named as plaintiff or relator in the same action, and recovery may be had for the aggregate amount due both corporations, but the court or jury trying the case shall, in the finding or verdict, state the amount due each corporation. In an action where a board of commissioners is plaintiff or relator, the plaintiff shall be entitled to recover against the delinquent officer or ex-officer, or upon his official bond or bonds, all such amounts as would be recoverable under all the laws of this state, including this chapter, in any or all actions by or upon the relation of the board of commissioners, or by or upon the relation of any county officer or other person authorized to sue for whatever funds, or for any funds of which it is the custodian and with which it is chargeable, and in case any of the funds so recovered are school funds, the court or jury trying the case shall find and state the amount thereof. In any action brought under this article, the plaintiff shall be entitled to recover, in addition to the amount misappropriated, diverted or unaccounted for, all such penalties and interest as might be recoverable under laws other than this chapter.

The term municipality, as used in this article, shall be construed to extend to, include and mean any county, township, city, town, school corporation, special taxing district or other political subdivision of Indiana.

(Formerly: Acts 1917, c.115, s.4.) As amended by Acts 1980, P.L.30, SEC.18.

IC 5-11-5-5
Cumulative remedies

Sec. 5. The remedies provided for in this chapter are cumulative, and this chapter shall not be construed to abridge the rights of other officers to sue on behalf of municipalities, except to the extent that where the attorney general has brought an action under the authority of this chapter no other action shall be brought for the same matter while such action brought by the attorney general is pending, and excepting as other statutes relating thereto are expressly repealed by Acts 1917, c.115, s.7.

(Formerly: Acts 1917, c.115, s.5.) As amended by P.L.25-1986, SEC.39.

IC 5-11-5-6
Repealed

(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-5-7

Collecting fines, costs, and fees for statutory violations, bond forfeitures, and user's fees; compromises; collection costs; disposition of collected money

Sec. 7. (a) The state board of accounts or a person designated in writing by it may collect any of the following:

(1) Unpaid fines, costs, or fees that are imposed for violations of statutes defining a crime or infraction and are owed to the state or its political subdivisions.

(2) Money owed resulting from bond forfeitures under IC 35-33-8-7.

(3) Unpaid user's fees incurred under a pretrial diversion agreement by a person charged with a misdemeanor, infraction, or ordinance violation.

(b) The state board of accounts or its agent may compromise the amount of money owed in collecting money under this section.

(c) The costs of collection, including but not limited to reasonable attorney's fees, may be added to money that is owed and collected under this section. However, the costs of collection may not exceed an amount that is equal to the amount of money that is owed.

(d) When money is collected under this section, the state board of accounts or its agent shall deposit the money, less the costs of collection, in accounts to the credit of the state or a political subdivision as required by law.

(e) The costs of collecting money under this section shall be determined by the state board of accounts and shall be paid from money collected.

As added by P.L.43-1986, SEC.1. Amended by P.L.64-1989, SEC.1.

IC 5-11-5-8

Copies of reports filed with library upon request; public inspection; renewal of request

Sec. 8. (a) Upon request of a public library, the state examiner shall file with the library (without cost to the library) a copy of each report of an examination concerning a municipality, state agency, public hospital, license branch, or other entity that is located in the same county as the library. The request must be in writing.

(b) This section does not require the state examiner to:

(1) file copies of reports completed before the receipt of a request; or

(2) file a copy of any report with more than one (1) public library located in the same county.

(c) Copies of reports filed under this section are open to public inspection during hours that the library is open to the public.

(d) After a library has been granted a request to receive copies of reports under this section, the library may continue as the repository for those reports if it files an annual renewal of its request in writing

with the state board of accounts before January 15 of each year.
As added by P.L.65-1987, SEC.1.

IC 5-11-5.5

Chapter 5.5. False Claims and Whistleblower Protection

IC 5-11-5.5-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Claim" means a request or demand for money or property that is made to a contractor, grantee, or other recipient if the state:

(A) provides any part of the money or property that is requested or demanded; or

(B) will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.

(2) "Documentary material" means:

(A) the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document;

(B) a data compilation stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations; and

(C) a product of discovery.

(3) "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.

(4) "Knowing", "knowingly", or "known" means that a person, regarding information:

(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information.

(5) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.

(6) "Product of discovery" means the original or duplicate of:

(A) a deposition;

(B) an interrogatory;

(C) a document;

(D) a thing;

(E) a result of the inspection of land or other property; or

(F) an examination or admission;

that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision.

(7) "State" means Indiana or any agency of state government. The term does not include a political subdivision.

As added by P.L.222-2005, SEC.23. Amended by P.L.79-2007, SEC.1.

IC 5-11-5.5-2

False claims; civil penalty; reduced penalty for certain disclosures

Sec. 2. (a) This section does not apply to:

(1) a claim, record, or statement concerning income tax (IC 6-3); or

(2) a claim, request, demand, statement, record, act, or omission made or submitted after June 30, 2014, in relation to the Medicaid program described in IC 12-15.

(b) A person who knowingly or intentionally:

(1) presents a false claim to the state for payment or approval;

(2) makes or uses a false record or statement to obtain payment or approval of a false claim from the state;

(3) with intent to defraud the state, delivers less money or property to the state than the amount recorded on the certificate or receipt the person receives from the state;

(4) with intent to defraud the state, authorizes issuance of a receipt without knowing that the information on the receipt is true;

(5) receives public property as a pledge of an obligation on a debt from an employee who is not lawfully authorized to sell or pledge the property;

(6) makes or uses a false record or statement to avoid an obligation to pay or transmit property to the state;

(7) conspires with another person to perform an act described in subdivisions (1) through (6); or

(8) causes or induces another person to perform an act described in subdivisions (1) through (6);

is, except as provided in subsection (c), liable to the state for a civil penalty of at least five thousand dollars ($5,000) and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.

(c) If the factfinder determines that the person who violated this section:

(1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;

(2) fully cooperated with the investigation of the violation; and

(3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;

the person is liable for a penalty of not less than two (2) times the

amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.
As added by P.L.222-2005, SEC.23. Amended by P.L.109-2014, SEC.1.

IC 5-11-5.5-3
Duties of inspector general and attorney general; concurrent jurisdiction to investigate; civil actions; when inspector general may bring a civil action; venue

Sec. 3. (a) The:
(1) attorney general; and
(2) inspector general;
have concurrent jurisdiction to investigate a violation of section 2 of this chapter.

(b) If the attorney general discovers a violation of section 2 of this chapter, the attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(c) If the inspector general discovers a violation of section 2 of this chapter, the inspector general shall certify this finding to the attorney general. The attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(d) If the attorney general or the inspector general is served by a person who has filed a civil action under section 4 of this chapter, the attorney general has the authority to intervene in that action as set forth in section 4 of this chapter.

(e) If the attorney general:
(1) is disqualified from investigating a possible violation of section 2 of this chapter;
(2) is disqualified from bringing a civil action concerning a possible violation of section 2 of this chapter;
(3) is disqualified from intervening in a civil action brought under section 4 of this chapter concerning a possible violation of section 2 of this chapter;
(4) elects not to bring a civil action concerning a possible violation of section 2 of this chapter; or
(5) elects not to intervene under section 4 of this chapter;
the attorney general shall certify the attorney general's disqualification or election to the inspector general.

(f) If the attorney general has certified the attorney general's disqualification or election not to bring a civil action or intervene in a case under subsection (e), the inspector general has authority to:
(1) bring a civil action concerning a possible violation of section 2 of this chapter; or
(2) intervene in a case under section 4 of this chapter.

(g) The attorney general shall certify to the inspector general the attorney general's disqualification or election under subsection (e) in a timely fashion, and in any event not later than:

(1) sixty (60) days after being served, if the attorney general has been served by a person who has filed a civil action under section 4 of this chapter; or

(2) one hundred eighty (180) days before the expiration of the statute of limitations, if the attorney general has not been served by a person who has filed a civil action under section 4 of this chapter.

(h) A civil action brought under section 4 of this chapter may be filed in:

(1) a circuit or superior court in Marion county; or

(2) a circuit or superior court in the county in which a defendant or plaintiff resides.

(i) The state is not required to file a bond under this chapter.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-4

Civil action brought by person on behalf of state; dismissal; service on inspector general and attorney general; intervention by inspector general or attorney general; extension of time

Sec. 4. (a) A person may bring a civil action for a violation of section 2 of this chapter on behalf of the person and on behalf of the state. The action:

(1) must be brought in the name of the state; and

(2) may be filed in a circuit or superior court in:

(A) the county in which the person resides;

(B) the county in which a defendant resides; or

(C) Marion County.

(b) Except as provided in section 5 of this chapter, an action brought under this section may be dismissed only if:

(1) the attorney general or the inspector general, if applicable, files a written motion to dismiss explaining why dismissal is appropriate; and

(2) the court issues an order:

(A) granting the motion; and

(B) explaining the court's reasons for granting the motion.

(c) A person who brings an action under this section shall serve:

(1) a copy of the complaint; and

(2) a written disclosure that describes all relevant material evidence and information the person possesses;

on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least one hundred twenty (120) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than one hundred twenty (120) days after it receives both the complaint and the written disclosure.

(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.

(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:

(1) intervene in the case and proceed with the action, in which case the attorney general or the inspector general shall conduct the action; or

(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.

(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.

(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:

(1) intervene; or

(2) bring another action based on the same facts.

(h) If the person who initially filed the complaint:

(1) planned and initiated the violation of section 2 of this chapter; or

(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;

upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-5

Responsibilities of inspector general or attorney general as intervenors in civil action; venue; complainant as party; dismissal; limitations on complainant's participation; alternative proceedings

Sec. 5. (a) If the attorney general or the inspector general intervenes in an action under section 4 of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.

(b) The attorney general or the inspector general may dismiss the action after:

(1) notifying the person who initially filed the complaint; and

(2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be

heard on the motion.

(c) The attorney general or the inspector general may settle the action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:

(1) conduct the settlement hearing in camera; or

(2) lift all or part of the seal to facilitate the investigative process or settlement.

The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this objection.

(d) Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:

(1) will interfere with the prosecution of the case by the attorney general or the inspector general; or

(2) will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment;

the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the amount and type of evidence that the person may introduce, a limit to the length of testimony that the person's witness may present, and a limit to the person's cross-examination of a witness.

(e) If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.

(f) If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.

(g) If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a

civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.

(h) A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed. *As added by P.L.222-2005, SEC.23.*

IC 5-11-5.5-6

Compensation to complainant; exceptions and modifications

Sec. 6. (a) The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:

(1) Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(2) If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information contained in:

(A) a transcript of a criminal, a civil, or an administrative hearing;

(B) a legislative, an administrative, or another public report, hearing, audit, or investigation; or

(C) a news media report;

the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent

(30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(4) If the person who initially filed the complaint:

(A) planned and initiated the violation of section 2 of this chapter; or

(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;

the person is not entitled to an amount under this section.

After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.

(b) If:

(1) the attorney general or the inspector general did not intervene in the action; and

(2) the defendant prevails;

the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous.

(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-7

Lack of jurisdiction over certain civil actions brought by individual

Sec. 7. (a) This section does not apply to an action brought by:

(1) the attorney general;

(2) the inspector general;

(3) a prosecuting attorney; or

(4) a state employee in the employee's official capacity.

(b) A court does not have jurisdiction over an action brought under section 4 of this chapter that is based on information discovered by a present or former state employee in the course of the employee's employment, unless:

(1) the employee, acting in good faith, has exhausted existing internal procedures for reporting and recovering the amount owed the state; and

(2) the state has failed to act on the information reported by the employee within a reasonable amount of time.

(c) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another jurisdiction.

(d) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in IC 33-23-11-7), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based on information known to the state at the time the action was brought.

(e) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.

(f) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon information contained in:

(1) a transcript of a criminal, a civil, or an administrative hearing;

(2) a legislative, an administrative, or another public report, hearing, audit, or investigation; or

(3) a news media report;

unless the person bringing the action has direct and independent knowledge of the information that is the basis of the action, and the person bringing the action has voluntarily provided this information to the state.

As added by P.L.222-2005, SEC.23. Amended by P.L.1-2006, SEC.98.

IC 5-11-5.5-8

Relief for whistleblowers

Sec. 8. (a) An employee who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by the employee's employer because the employee:

(1) objected to an act or omission described in section 2 of this chapter; or

(2) initiated, testified, assisted, or participated in an investigation, an action, or a hearing under this chapter;

is entitled to all relief necessary to make the employee whole.

(b) Relief under this section may include:

(1) reinstatement with the same seniority status the employee would have had but for the act described in subsection (a);

(2) two (2) times the amount of back pay owed the employee;

(3) interest on the back pay owed the employee; and

(4) compensation for any special damages sustained as a result of the act described in subsection (a), including costs and expenses of litigation and reasonable attorney's fees.

(c) An employee may bring an action for the relief provided in this section in any court with jurisdiction.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-9
Service of subpoena; statute of limitations; burden of proof; estoppel

Sec. 9. (a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this chapter may be served at any place in the state.

(b) A civil action under section 4 of this chapter is barred unless it is commenced:

(1) not later than six (6) years after the date on which the violation is committed; or

(2) not later than three (3) years after the date when facts material to the cause of action are discovered or reasonably should have been discovered by a state officer or employee who is responsible for addressing the false claim. However, an action is barred unless it is commenced not later than ten (10) years after the date on which the violation is committed.

(c) In a civil action brought under this chapter, the state is required to establish:

(1) the essential elements of the offense; and

(2) damages;

by a preponderance of the evidence.

(d) If a defendant has been convicted (including a plea of guilty or nolo contendere) of a crime involving fraud or a false statement, the defendant is estopped from denying the elements of the offense in a civil action brought under section 4 of this chapter that involves the same transaction as the criminal prosecution.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-10
Civil investigative demands; procedure

Sec. 10. (a) If the attorney general or the inspector general has reason to believe that a person may be in possession, custody, or control of documentary material or information relevant to an investigation involving a false claim, the attorney general or the inspector general may, before commencing a civil proceeding under this chapter, issue and serve a civil investigative demand requiring the person to do one (1) or more of the following:

(1) Produce the documentary material for inspection and copying.

(2) Answer an interrogatory in writing concerning the documentary material or information.

(3) Give oral testimony concerning the documentary material or information.

(b) If a civil investigative demand is a specific demand for a product of discovery, the official issuing the civil investigative demand shall:

(1) serve a copy of the civil investigative demand on the person from whom the discovery was obtained; and

(2) notify the person to whom the civil investigative demand is issued of the date of service.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-11

Civil investigative demands; specificity and contents; time periods

Sec. 11. (a) A civil investigative demand issued under this chapter must describe the conduct constituting a violation involving a false claim that is under investigation and the statute or rule that has been violated.

(b) If a civil investigative demand is for the production of documentary material, the civil investigative demand must:

(1) describe each class of documentary material to be produced with sufficient specificity to permit the material to be fairly identified;

(2) prescribe a return date for each class of documentary material that provides a reasonable period of time to assemble and make the material available for inspection and copying; and

(3) identify the official to whom the material must be made available.

(c) If a civil investigative demand is for answers to written interrogatories, the civil investigative demand must:

(1) set forth with specificity the written interrogatories to be answered;

(2) prescribe the date by which answers to the written interrogatories must be submitted; and

(3) identify the official to whom the answers must be submitted.

(d) If a civil investigative demand requires oral testimony, the civil investigative demand must:

(1) prescribe a date, time, and place at which oral testimony will be given;

(2) identify the official who will conduct the examination and the custodian to whom the transcript of the examination will be submitted;

(3) specifically state that attendance and testimony are necessary to the conduct of the investigation;

(4) notify the person receiving the demand that the person has the right to be accompanied by an attorney and any other representative; and

(5) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry.

(e) A civil investigative demand that is a specific demand for a product of discovery may not be returned until at least twenty-one (21) days after a copy of the civil investigative demand has been served on the person from whom the discovery was obtained.

(f) The date prescribed for the giving of oral testimony under a civil investigative demand issued under this chapter must be a date

that is not less than seven (7) days after the date on which the demand is received, unless the official issuing the demand determines that exceptional circumstances are present that require an earlier date.

(g) The official who issues a civil investigative demand may not issue more than one (1) civil investigative demand for oral testimony by the same person, unless:

(1) the person requests otherwise; or

(2) the official who issues a civil investigative demand, after conducting an investigation, notifies the person in writing that an additional civil investigative demand for oral testimony is necessary.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-12

Civil investigative demands; protections from disclosure; objections

Sec. 12. (a) A civil investigative demand issued under this chapter may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under the standards applicable:

(1) to a subpoena or subpoena duces tecum issued by a court to aid in a grand jury investigation; or

(2) to a discovery request under the rules of trial procedure;

to the extent that the application of these standards to a civil investigative demand is consistent with the purposes of this chapter.

(b) A civil investigative demand that is a specific demand for a product of discovery supersedes any contrary order, rule, or statutory provision, other than this section, that prevents or restricts disclosure of the product of discovery. Disclosure of a product of discovery under a specific demand does not constitute a waiver of a right or privilege that the person making the disclosure may be otherwise entitled to invoke to object to discovery of trial preparation materials.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-13

Civil investigative demands; service

Sec. 13. (a) A civil investigative demand issued under this chapter may be served by an investigator or by any other person authorized to serve process.

(b) A civil investigative demand shall be served in accordance with the rules of trial procedure. A court having jurisdiction over a person not located in the state has the same authority to enforce compliance with this chapter as the court has over a person located in the state.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-14
Civil investigative demands; response

Sec. 14. (a) The production of documentary material in response to a civil investigative demand served under this chapter shall be made in accordance with Trial Rule 34.

(b) Each interrogatory in a civil investigative demand served under this chapter shall be answered in accordance with Trial Rule 33.

(c) The examination of a person under a civil investigative demand for oral testimony served under this chapter shall be conducted in accordance with Trial Rule 30.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-15
Civil investigative demands; possession of responses and transcripts; examination of responses

Sec. 15. (a) The official who issued the civil investigative demand is the custodian of the documentary material, answers to interrogatories, and transcripts of oral testimony received under this chapter.

(b) An investigator who receives documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the official who issued the civil investigative demand. The official shall take physical possession of the material, answers, or transcripts and is responsible for the use made of them and for the return of documentary material.

(c) The official who issued the civil investigative demand may make copies of documentary material, answers to interrogatories, or transcripts of oral testimony as required for official use by the attorney general, the inspector general, or the state police. The material, answers, or transcripts may be used in connection with the taking of oral testimony under this chapter.

(d) Except as provided in subsection (e), documentary material, answers to interrogatories, or transcripts of oral testimony, while in the possession of the official who issued the civil investigative demand, may not be made available for examination to any person other than:

(1) the attorney general or designated personnel of the attorney general's office;

(2) the inspector general or designated personnel of the inspector general's office; or

(3) an officer of the state police who has been authorized by the official who issued the civil investigative demand.

(e) The restricted availability of documentary material, answers to interrogatories, or transcripts of oral testimony does not apply:

(1) if the person who provided:

(A) the documentary material, answers to interrogatories, or oral testimony; or

(B) a product of discovery that includes documentary material, answers to interrogatories, or oral testimony;

consents to disclosure;

(2) to the general assembly or a committee or subcommittee of the general assembly; or

(3) to a state agency that requires the information to carry out its statutory responsibility.

Documentary material, answers to interrogatories, or transcripts of oral testimony requested by a state agency may be disclosed only under a court order finding that the state agency has a substantial need for the use of the information in carrying out its statutory responsibility.

(f) While in the possession of the official who issued the civil investigative demand, documentary material, answers to interrogatories, or transcripts of oral testimony shall be made available to the person, or to the representative of the person who produced the material, answered the interrogatories, or gave oral testimony. The official who issued the civil investigative demand may impose reasonable conditions upon the examination or use of the documentary material, answers to interrogatories, or transcripts of oral testimony.

(g) The official who issued the civil investigative demand and any attorney employed in the same office as the official who issued the civil investigative demand may use the documentary material, answers to interrogatories, or transcripts of oral testimony in connection with a proceeding before a grand jury, a court, or an agency. Upon the completion of the proceeding, the attorney shall return to the official who issued the civil investigative demand any documentary material, answers to interrogatories, or transcripts of oral testimony that are not under the control of the grand jury, court, or agency.

(h) Upon written request of a person who produced documentary material in response to a civil investigative demand, the official who issued the civil investigative demand shall return any documentary material in the official's possession to the person who produced documentary material, if:

(1) a proceeding before a grand jury, a court, or an agency involving the documentary material has been completed; or

(2) a proceeding before a grand jury, a court, or an agency involving the documentary material has not been commenced within a reasonable time after the completion of the investigation.

The official who issued the civil investigative demand is not required to return documentary material that is in the custody of a grand jury, a court, or an agency.

As added by P.L.222-2005, SEC.23. Amended by P.L.1-2006, SEC.99.

IC 5-11-5.5-16
Civil investigative demands; sanctions for failure to comply; protective orders

Sec. 16. (a) A person who has failed to comply with a civil investigative demand is subject to sanctions under Trial Rule 37 to the same extent as a person who has failed to cooperate in discovery.

(b) A person who objects to a civil investigative demand issued under this chapter may seek a protective order in accordance with Trial Rule 26(C).

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-17
Civil investigative demands; confidentiality of responses

Sec. 17. Documentary material, answers to written interrogatories, or oral testimony provided in response to a civil investigative demand issued under this chapter are confidential.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.5-18
Application of Indiana Rules of Trial Procedure

Sec. 18. Proceedings under this chapter are governed by the Indiana Rules of Trial Procedure, unless the Indiana Rules of Trial Procedure are inconsistent with this chapter.

As added by P.L.222-2005, SEC.23.

IC 5-11-5.7

Chapter 5.7. Medicaid False Claims and Whistleblower Protection

IC 5-11-5.7-1

Application; definitions

Sec. 1. (a) This chapter applies only to claims, requests, demands, statements, records, acts, and omissions made or submitted in relation to the Medicaid program described in IC 12-15. Sections 3 through 18 of this chapter apply to claims, requests, demands, statements, records, acts, and omissions made or submitted in relation to the Medicaid program described in IC 12-15 in violation of IC 5-11-5.5-2 or IC 5-11-5.7-2.

(b) The following definitions apply throughout this chapter:

(1) "Claim" means a request or demand for money or property, whether under a contract or otherwise, and whether or not the state has title to the money or property, that:

(A) is presented to an officer, employee, or agent of the state; or

(B) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state:

(i) provides or has provided any part of the money or property that is requested or demanded; or

(ii) will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.

(2) "Document", "electronically stored information", or "tangible thing" includes:

(A) a writing, a drawing, a graph, a chart, a photograph, a sound recording, or an image;

(B) other data or a data compilation stored in any medium from which information can be obtained either directly or after translation by the responding party into a reasonably usable form;

(C) any tangible thing; and

(D) a product of discovery.

(3) "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.

(4) "Knowing", "knowingly", or "known" means that a person, regarding information:

(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information;

and requires no proof of specific intent to defraud.

(5) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(6) "Obligation" means an established duty, whether or not the duty is fixed, arising from:

(A) an express or implied contractual relationship;

(B) a grantor-grantee relationship;

(C) a licensor-licensee relationship;

(D) a fee-based or similar relationship;

(E) a statute;

(F) a rule or regulation; or

(G) the retention of an overpayment.

(7) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.

(8) "Product of discovery" means the original or duplicate of:

(A) a deposition;

(B) an interrogatory;

(C) a document;

(D) a thing;

(E) a result of the inspection of land or other property; or

(F) an examination or admission;

that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision. The term also includes electronically stored information.

(9) "State" means Indiana or any agency of state government. The term does not include a political subdivision.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.2.

IC 5-11-5.7-2

Liability for presenting, making, or using false claims, false records or statements, conspiracy

Sec. 2. (a) A person who:

(1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement that is material to a false or fraudulent claim;

(3) has possession, custody, or control of property or money used, or to be used, by the state, and knowingly delivers, or causes to be delivered, less than all of the money or property;

(4) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, with intent to defraud the state, authorizes issuance of a receipt

without knowing that the information on the receipt is true;

(5) knowingly buys or receives, as a pledge of an obligation or debt, public property from an employee who is not lawfully authorized to sell or pledge the property;

(6) knowingly:

(A) makes, uses, or causes to be made or used, a false record or statement concerning an obligation to pay or transmit money or property to the state; or

(B) conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state;

(7) conspires with another person to perform an act described in subdivisions (1) through (6); or

(8) causes or induces another person to perform an act described in subdivisions (1) through (6);

is, except as provided in subsection (b), liable to the state for a civil penalty of at least five thousand five hundred dollars ($5,500) and not more than eleven thousand dollars ($11,000), as adjusted by the federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note, Public Law 101-410), and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.

(b) If the factfinder determines that the person who violated this section:

(1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;

(2) fully cooperated with the investigation of the violation; and

(3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;

the person is liable for a penalty of not less than two (2) times the amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.3.

IC 5-11-5.7-3

Concurrent jurisdiction to investigate; civil action; certification of findings; intervention; disqualification

Sec. 3. (a) The:

(1) attorney general; and

(2) inspector general;

have concurrent jurisdiction to investigate a violation of section 2 of this chapter.

(b) If the attorney general discovers a violation of section 2 of this chapter, the attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(c) If the inspector general discovers a violation of section 2 of this chapter, the inspector general shall certify this finding to the attorney general. The attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(d) If the attorney general or the inspector general is served by a person who has filed a civil action under section 4 of this chapter, the attorney general has the authority to intervene in that action as set forth in section 4 of this chapter.

(e) If the attorney general:

(1) is disqualified from investigating a possible violation of section 2 of this chapter;

(2) is disqualified from bringing a civil action concerning a possible violation of section 2 of this chapter;

(3) is disqualified from intervening in a civil action brought under section 4 of this chapter concerning a possible violation of section 2 of this chapter;

(4) elects not to bring a civil action concerning a possible violation of section 2 of this chapter; or

(5) elects not to intervene under section 4 of this chapter;

the attorney general shall certify the attorney general's disqualification or election to the inspector general.

(f) If the attorney general has certified the attorney general's disqualification or election not to bring a civil action or intervene in a case under subsection (e), the inspector general has authority to:

(1) bring a civil action concerning a possible violation of section 2 of this chapter; or

(2) intervene in a case under section 4 of this chapter.

(g) The attorney general shall certify to the inspector general the attorney general's disqualification or election under subsection (e) in a timely fashion, and in any event not later than:

(1) sixty (60) days after being served, if the attorney general has been served by a person who has filed a civil action under section 4 of this chapter; or

(2) one hundred eighty (180) days before the expiration of the statute of limitations, if the attorney general has not been served by a person who has filed a civil action under section 4 of this chapter.

(h) The state is not required to file a bond under this chapter.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.4.

IC 5-11-5.7-4

Civil action for violations on behalf of a person or the state; requirements; dismissal of claim; serving of complaint; extensions of time; intervention

Sec. 4. (a) A person may bring a civil action for a violation of section 2 of this chapter on behalf of the person and on behalf of the state. The action:

(1) must be brought in the name of the state; and

(2) may be filed in any court with jurisdiction.

(b) An action brought under this section may be dismissed voluntarily by the person bringing the action only if:

(1) the person obtains the prior written consent of the attorney general or the inspector general, if applicable; and

(2) the court issues an order:

(A) granting the motion; and

(B) explaining the court's reasons for granting the motion.

(c) A person who brings an action under this section shall serve:

(1) a copy of the complaint; and

(2) a written disclosure that describes all relevant material evidence and information the person possesses;

on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least sixty (60) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than sixty (60) days after it receives both the complaint and the written disclosure.

(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.

(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:

(1) intervene in the case and proceed with the action, in which case the attorney general or the inspector general shall conduct the action; or

(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.

(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.

(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:

(1) intervene; or

(2) bring another action based on the same facts.

(h) If the person who initially filed the complaint:

(1) planned and initiated the violation of section 2 of this chapter; or

(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;

upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.5.

IC 5-11-5.7-5

Attorney general and inspector general responsibilities in intervention; dismissal of action; settlement of action; limitations

Sec. 5. (a) If the attorney general or the inspector general intervenes in an action under section 4 of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may do the following:

(1) File a complaint.

(2) Amend the complaint of a person who has brought an action under section 4 of this chapter, to:

(A) clarify or add detail to the claims in which the state is intervening; or

(B) add additional claims to which the state contends the state is entitled to relief.

(3) Move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes.

For statute of limitation purposes, a pleading filed by the attorney general or the inspector general relates back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the state arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the original filed complaint. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.

(b) With the approval of the court, the attorney general or the inspector general may dismiss the action after:

(1) notifying the person who initially filed the complaint; and

(2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be heard on the motion.

The court may consider a request by the attorney general or the inspector general to dismiss the action but is not bound by the request. Additionally, the court may permit the attorney general or inspector general to withdraw his or her appearance in the case and may permit the person who initially filed the complaint to continue to prosecute the action in the name of the state.

(c) The attorney general or the inspector general may settle the

action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:

(1) conduct the settlement hearing in camera; or

(2) lift all or part of the seal to facilitate the investigative process or settlement.

The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this objection.

(d) Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:

(1) will interfere with or unduly delay the prosecution of the case by the attorney general or the inspector general;

(2) will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment; or

(3) will cause the defendant to suffer undue burden or unnecessary expense;

the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the length of testimony that the person's witness may present, a limit to the person's cross-examination of a witness, or otherwise limit the participation by the person in the litigation.

(e) If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.

(f) If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.

(g) If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a

civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.

(h) A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed. *As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.6.*

IC 5-11-5.7-6

Entitlement for person who initially filed complaint; attorney's fees and costs; state not liable for expenses and costs

Sec. 6. (a) The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:

(1) Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(2) If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information, other than information provided by the person bringing the action, contained in:

(A) a transcript of a criminal, a civil, or an administrative hearing;

(B) a legislative, an administrative, or another public state report, hearing, audit, or investigation; or

(C) a news media report;

the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation, plus

reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(4) If the person who initially filed the complaint:

(A) planned and initiated the violation of section 2 of this chapter; or

(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;

the person is not entitled to an amount under this section.

After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.

(b) If:

(1) the attorney general or the inspector general did not intervene in the action; and

(2) the defendant prevails;

the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous, vexatious, or brought primarily for purposes of harassment.

(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.7.

IC 5-11-5.7-7

No court jurisdiction for actions brought by incarcerated offenders, actions brought against certain officeholders, actions subject to civil suit or criminal prosecution, or actions based on information contained in specified documents

Sec. 7. (a) This section does not apply to an action brought by:

(1) the attorney general;

(2) the inspector general;

(3) a prosecuting attorney; or

(4) a state employee in the employee's official capacity.

(b) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another

jurisdiction.

(c) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in IC 33-23-11-7), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based on information known to the state at the time the action was brought.

(d) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.

(e) A court does not have jurisdiction over an action or claim brought under section 4 of this chapter if the action or claim is based upon information contained in:

(1) a transcript of a criminal, a civil, or an administrative hearing in which the state or the state's agent is a party;

(2) a legislative, an administrative, or another public state report, hearing, audit, or investigation; or

(3) a news media report;

unless the person bringing the action either, before a public disclosure under this section voluntarily discloses to the state the information on which the allegations or transactions in a claim are based, or has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and the person bringing the action has voluntarily provided this information to the state before an action is filed under section 4 of this chapter.

(f) In determining whether a prior public disclosure bars a court from exercising jurisdiction over an action brought under section 4 of this chapter, the court shall consider, but is not bound by, any objection brought by the attorney general or the inspector general.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.8.

IC 5-11-5.7-8

Entitled relief for employees, contractors, or agents; three year limitation

Sec. 8. (a) An employee, contractor, or agent who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others to:

(1) object to or otherwise stop an act or omission described in section 2 of this chapter;

(2) initiate, testify, assist, or participate in an investigation, an action, or a hearing; or

(3) perform any other lawful act in furtherance of other efforts to stop one (1) or more violations under this chapter;

is entitled to all relief necessary to make the employee, contractor, or

agent whole.

(b) Relief under this section must include:

(1) reinstatement with the same seniority status the employee, contractor, or agent would have had but for the act described in subsection (a);

(2) two (2) times the amount of back pay;

(3) interest on the back pay; and

(4) compensation for any special damages sustained as a result of the act described in subsection (a), including costs and expenses of litigation and reasonable attorney's fees.

(c) An employee, contractor, or agent may bring an action for the relief provided in this section in any court with jurisdiction.

(d) A civil action under this section may not be brought more than three (3) years after the date the retaliation occurred.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.9.

IC 5-11-5.7-9

Subpoena; barring of civil action timing; establishment of elements of offense and damages by preponderance of the evidence; estoppel if conviction of crime involving fraud or false statements

Sec. 9. (a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this chapter may be served at any place in Indiana.

(b) A civil action under section 4 of this chapter is barred unless it is commenced:

(1) not later than six (6) years after the date on which the violation is committed; or

(2) not later than three (3) years after the date when facts material to the cause of action are known or reasonably should have been known by a state officer or employee who is responsible for addressing the false claim, but in no event later than ten (10) years after the date on which the violation is committed, whichever occurs later.

(c) In a civil action brought under this chapter, the state is required to establish:

(1) the essential elements of the offense; and

(2) damages;

by a preponderance of the evidence.

(d) If a defendant has been convicted (including a plea of guilty or nolo contendere) of a crime involving fraud or a false statement, the defendant is estopped from denying the elements of the offense in a civil action brought under section 4 of this chapter that involves the same transaction as the criminal prosecution.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.10.

IC 5-11-5.7-10

Issuance of civil investigative demand concerning documents and information; requirements

Sec. 10. (a) Whenever the attorney general, the inspector general, or the designee of the attorney general or the inspector general has reason to believe that a person may be in possession, custody, or control of documentary material, electronically stored information, a tangible thing, or information relevant to an investigation under this chapter involving a false claim, the attorney general, the inspector general, or the designee of the attorney general or inspector general may, before commencing a civil proceeding under this chapter, issue and serve a civil investigative demand requiring the person to do one (1) or more of the following:

(1) Produce the documentary material, electronically stored information, or tangible thing for inspection and copying.

(2) Answer an interrogatory in writing concerning the documentary material, electronically stored information, tangible thing, or information.

(3) Give oral testimony concerning the documentary material, electronically stored information, tangible thing, or information.

(4) Furnish any combination of material, other evidence, answers, or testimony.

(b) If a civil investigative demand is a specific demand for a product of discovery, the official issuing the civil investigative demand shall:

(1) serve a copy of the civil investigative demand on the person from whom the discovery was obtained; and

(2) notify the person to whom the civil investigative demand is issued of the date of service.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.11.

IC 5-11-5.7-11

Civil investigative demand include description of conduct constituting violation involving a false claim; requirements; return; date for oral testimony requirements

Sec. 11. (a) A civil investigative demand issued under this chapter must describe the conduct constituting a violation involving a false claim that is under investigation and the statute or rule that has been violated.

(b) If a civil investigative demand is for the production of documentary material, the civil investigative demand must:

(1) describe each class of documentary material to be produced with sufficient specificity to permit the material to be fairly identified;

(2) prescribe a return date for each class of documentary material that provides a reasonable period of time to assemble and make the material available for inspection and copying; and

(3) identify the official to whom the material must be made

available.

(c) If a civil investigative demand is for answers to written interrogatories, the civil investigative demand must:

(1) set forth with specificity the written interrogatories to be answered;

(2) prescribe the date by which answers to the written interrogatories must be submitted; and

(3) identify the official to whom the answers must be submitted.

(d) If a civil investigative demand requires oral testimony, the civil investigative demand must:

(1) prescribe a date, time, and place at which oral testimony will be given;

(2) identify the official who will conduct the examination and the custodian to whom the transcript of the examination will be submitted;

(3) specifically state that attendance and testimony are necessary to the conduct of the investigation;

(4) notify the person receiving the demand that the person has the right to be accompanied by an attorney and any other representative; and

(5) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry.

(e) A civil investigative demand that is a specific demand for a product of discovery may not be returned until at least twenty-one (21) days after a copy of the civil investigative demand has been served on the person from whom the discovery was obtained.

(f) The date prescribed for the giving of oral testimony under a civil investigative demand issued under this chapter must be a date that is not less than seven (7) days after the date on which the demand is received, unless the official issuing the demand determines that exceptional circumstances are present that require an earlier date.

(g) The official who issues a civil investigative demand may not issue more than one (1) civil investigative demand for oral testimony by the same person, unless:

(1) the person requests otherwise; or

(2) the official who issues a civil investigative demand, after conducting an investigation, notifies the person in writing that an additional civil investigative demand for oral testimony is necessary.

As added by P.L.197-2013, SEC.1.

IC 5-11-5.7-12

Demand limitations if disclosure is protected; civil investigative demand supersedes contrary orders, rules, provisions that prevent or restrict disclosure; does not constitute waiver of a right or privilege

Sec. 12. (a) A civil investigative demand issued under this chapter may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under the standards applicable:

(1) to a subpoena or subpoena duces tecum issued by a court to aid in a grand jury investigation; or

(2) to a discovery request under the rules of trial procedure;

to the extent that the application of these standards to a civil investigative demand is consistent with the purposes of this chapter.

(b) A civil investigative demand that is a specific demand for a product of discovery supersedes any contrary order, rule, or statutory provision, other than this section, that prevents or restricts disclosure of the product of discovery. Disclosure of a product of discovery under a specific demand does not constitute a waiver of a right or privilege that the person making the disclosure may be otherwise entitled to invoke to object to discovery of trial preparation materials.

As added by P.L.197-2013, SEC.1.

IC 5-11-5.7-13

Service of investigative demand

Sec. 13. (a) A civil investigative demand issued under this chapter may be served by an investigator or by any other person authorized to serve process.

(b) A civil investigative demand shall be served in accordance with the rules of trial procedure. A court having jurisdiction over a person not located in Indiana has the same authority to enforce compliance with this chapter as the court has over a person located in Indiana.

As added by P.L.197-2013, SEC.1.

IC 5-11-5.7-14

Production of documentary material, interrogatories, and examinations in accordance with rules of civil procedure

Sec. 14. (a) The production of documentary material in response to a civil investigative demand served under this chapter shall be made in accordance with the rules of civil procedure concerning the production of documents, electronically stored information, and tangible things.

(b) Each interrogatory in a civil investigative demand served under this chapter shall be answered in accordance with the rules of civil procedure concerning interrogatories.

(c) The examination of a person under a civil investigative demand for oral testimony served under this chapter shall be conducted in accordance with the rules of civil procedure concerning oral depositions.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.12.

IC 5-11-5.7-15

Issuer of civil investigative demand as custodian; transmittal and possession of documents; copies; restricted availability of documents; return of materials

Sec. 15. (a) The official who issued the civil investigative demand is the custodian of the documentary material, answers to interrogatories, and transcripts of oral testimony received under this chapter.

(b) An investigator who receives documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the official who issued the civil investigative demand. The official shall take physical possession of the material, answers, or transcripts and is responsible for the use made of them and for the return of documentary material.

(c) The official who issued the civil investigative demand may make copies of documentary material, answers to interrogatories, or transcripts of oral testimony as required for official use by the attorney general, the inspector general, or the state police. The material, answers, or transcripts may be used in connection with the taking of oral testimony under this chapter.

(d) Except as provided in subsection (e), documentary material, answers to interrogatories, or transcripts of oral testimony, while in the possession of the official who issued the civil investigative demand, may not be made available for examination to any person other than:

(1) the attorney general or designated personnel of the attorney general's office;

(2) the inspector general or designated personnel of the inspector general's office; or

(3) an officer of the state police who has been authorized by the official who issued the civil investigative demand.

(e) The restricted availability of documentary material, answers to interrogatories, or transcripts of oral testimony does not apply:

(1) if the person who provided:

(A) the documentary material, answers to interrogatories, or oral testimony; or

(B) a product of discovery that includes documentary material, answers to interrogatories, or oral testimony;

consents to disclosure;

(2) to the general assembly or a committee or subcommittee of the general assembly; or

(3) to a state agency that requires the information to carry out its statutory responsibility.

Documentary material, answers to interrogatories, or transcripts of oral testimony requested by a state agency may be disclosed only under a court order finding that the state agency has a substantial need for the use of the information in carrying out its statutory responsibility.

(f) While in the possession of the official who issued the civil investigative demand, documentary material, answers to interrogatories, or transcripts of oral testimony shall be made available to the person, or to the representative of the person who produced the material, answered the interrogatories, or gave oral testimony. The official who issued the civil investigative demand may impose reasonable conditions upon the examination or use of the documentary material, answers to interrogatories, or transcripts of oral testimony.

(g) The official who issued the civil investigative demand and any attorney employed in the same office as the official who issued the civil investigative demand may use the documentary material, answers to interrogatories, or transcripts of oral testimony in connection with a proceeding before a grand jury, a court, or an agency. Upon the completion of the proceeding, the attorney shall return to the official who issued the civil investigative demand any documentary material, answers to interrogatories, or transcripts of oral testimony that are not under the control of the grand jury, court, or agency.

(h) Upon written request of a person who produced documentary material in response to a civil investigative demand, the official who issued the civil investigative demand shall return any documentary material in the official's possession to the person who produced documentary material, if:

(1) a proceeding before a grand jury, a court, or an agency involving the documentary material has been completed; or

(2) a proceeding before a grand jury, a court, or an agency involving the documentary material has not been commenced within a reasonable time after the completion of the investigation.

The official who issued the civil investigative demand is not required to return documentary material that is in the custody of a grand jury, a court, or an agency.

As added by P.L.197-2013, SEC.1.

IC 5-11-5.7-16

Sanctions for failure to comply; protective order

Sec. 16. (a) A person who has failed to comply with a civil investigative demand is subject to sanctions under the rules of civil procedure to the same extent as a person who has failed to cooperate in discovery.

(b) A person who objects to a civil investigative demand issued under this chapter may seek a protective order in accordance with the rules of civil procedure.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.13.

IC 5-11-5.7-17

Confidentiality of material and information

Sec. 17. Documentary material, answers to written interrogatories, or oral testimony provided in response to a civil investigative demand issued under this chapter is confidential.

As added by P.L.197-2013, SEC.1.

IC 5-11-5.7-18

Proceedings governed by Indiana Rules of Trial Procedure

Sec. 18. Proceedings under this chapter are governed by the Indiana Rules of Trial Procedure if the proceedings are held in state court, and by the Federal Rules of Civil Procedure if the proceedings are held in federal court.

As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.14.

IC 5-11-6

Chapter 6. Additional Powers of State Examiner and Attorney General

IC 5-11-6-1

Taxpayer petition; examination of public contracts; prosecutions resulting therefrom

Sec. 1. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, upon the petition of twenty-five (25) interested taxpayers showing that effective local relief has not and cannot be obtained after due effort, shall make the inquiries, tests, examinations, and investigations that may be necessary to determine whether:

(1) any public contract has been regularly and lawfully executed and performed; or

(2) any public work, building, or structure has been or is being performed, built, or constructed in accordance with the terms and provisions of the contract, and in compliance with the plans and specifications, if any.

Upon a written petition of twenty-five (25) taxpayers, the state examiner may also require all plans, specifications, and estimates to be submitted to the state examiner for corrections and approval before a contract is awarded.

(b) The state examiner, deputy examiner, and any field examiner, when engaged in making an inquiry, test, examination, or investigation under subsection (a), is entitled to examine and inspect any public records, documents, data, contracts, plans, and specifications contained or found in any public office or other place pertaining or relating to the public contract or public work, building, or structure. In addition, subpoenas may be issued to witnesses to appear before the examiner in person or to produce books and papers for inspection and examination. The state examiner, deputy, field, and private examiner may administer oaths and examine witnesses under oath either orally or by interrogatories on all matters under examination and investigation. Under order of the state examiner, the examination may be transcribed, with the reasonable expense paid by the municipality in the same manner as the compensation of the field examiner is paid.

(c) The state examiner, the deputy examiner, and a field examiner may enforce attendance and answers to questions and interrogatories, as provided by law, with respect to examinations and investigations made by the state examiner, deputy examiner, field examiner, or private examiner of public offices.

(d) The state examiner, deputy examiner, any field examiner, and any private examiner, when making an examination or investigation under subsection (a), shall examine, inspect, and test the public works, buildings, or structures in the manner that the examiner sees fit to determine whether it is being performed, built, or constructed

according to the contract and plans and specifications.

(e) The state examiner shall file a report covering any examination or investigation that discloses:

(1) fraud, collusion, misconduct, or negligence in the letting or the execution of any public contract or in the performance of any of the terms and conditions of any public contract; or

(2) any failure to comply with the terms or conditions of any public contract in the construction of any public work, building, or structure or to perform, build, or construct it according to the plans and specifications, if any, provided in the contract;

that causes loss, injury, waste, or damage to the state, the municipality, taxing or assessment district, other public entity, or to its citizens, if it is enforceable by assessment or taxation.

(f) The report must meet the following requirements:

(1) The report must be made, signed, and verified in quadruplicate by the examiner making the examination.

(2) The report shall be filed promptly with the state examiner. After inspection of the report, the state examiner shall file a copy of the report promptly with the attorney general and the inspector general.

(g) The attorney general shall diligently institute and prosecute civil proceedings against any or all officers, individuals, and persons in the form and manner that the attorney general determines will secure a proper recovery to the state, municipality, taxing or assessment district, or other public entity injured, defrauded, or damaged by the matters in the report. These prosecutions may be made by the attorney general and the recovery may be had, either upon public official bonds, contractors' bonds, surety or other bonds, or upon individual liability, either upon contract or in tort, as the attorney general determines is wise. No action or recovery in any form or manner, or against any party or parties, precludes further or additional action or recovery in any other form or manner or against another party, either concurrently with or later found necessary, to secure complete recovery and restitution with respect to all matters exhibited, set out, or described in the report. The suits may be brought in the name of the state on the relation of the attorney general for the benefit of the state, or the municipality, taxing or assessment district, or other public entity that may be proper. The actions brought against any defendants may be joined, as to parties, form, and causes of action, in the manner that the attorney general decides.

(h) Any report described in this section or a copy duly certified by the state examiner shall be taken and received in any and all courts of this state as prima facie evidence of the facts stated and contained in the reports.

(i) If an examination, investigation, or test is made without a petition being first filed and the examination, investigation, or test shows that the terms of the contract are being complied with, then the

expense of the examination, investigation, or test shall be paid by the state upon vouchers approved by the state examiner from funds available for contractual service of the state board of accounts. If such a report shows misfeasance, malfeasance, or nonfeasance in public office or shows that the terms of the plans and specifications under which a contract has been awarded are not being complied with, it is unlawful to make the report public until the report has been certified to the attorney general.

(j) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that all of the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of public funds was committed by the officer or an employee of the office.

(k) After receiving a preliminary report under subsection (j), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(l) In an action under subsection (k), the attorney general may attach the defendant's property under IC 34-25-2.

(m) A preliminary report under subsection (j) is confidential until the final report under subsection (e) is issued, unless the attorney general institutes an action under subsection (k) on the basis of the preliminary report.

(Formerly: Acts 1923, c.120, s.1.) As amended by P.L.3-1986, SEC.20; P.L.176-2009, SEC.5; P.L.126-2012, SEC.18; P.L.136-2012, SEC.4.

IC 5-11-6-2

Reports of state examiner

Sec. 2. All the provisions of section 1 of this chapter relating to the powers and duties of the attorney general shall apply to all reports of the state examiner, as provided in section 1 of this chapter, whether such inquiries, tests, examination, or investigation and the reports made thereon shall have been made before or after March 7, 1923.

(Formerly: Acts 1923, c.120, s.2.) As amended by P.L.25-1986, SEC.40.

IC 5-11-6-3
Public wrongdoing; institution of civil proceeding

Sec. 3. If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under this chapter or under any other statute discloses:

(1) malfeasance, misfeasance, or nonfeasance in office or of any officer or employee;

(2) that any public money has been:

(A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not lawfully entitled to receive it; or

(B) obtained by fraud or in any unlawful manner; or

(3) that any money has been wrongfully withheld from the public treasury;

a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, and to the inspector general.

(Formerly: Acts 1923, c.120, s.3.) As amended by P.L.3-1986, SEC.21; P.L.126-2012, SEC.19; P.L.136-2012, SEC.5.

IC 5-11-6-4
Grand jury; certified copy of reports disclosing crimes or offenses; expenses of field examination

Sec. 4. (a) If a report is filed with the attorney general that discloses any offense, the state examiner shall present a certified copy of the report and competent testimony supporting the charges made in the report to the grand jury of the county in which the offense is alleged to have been committed at its first convenient session. The attorney general shall direct, supervise, and assist in the prosecution of the offense before the grand jury and in the courts.

(b) The per diem and actual expenses of all field or private examiners required by the state examiner, the attorney general, or any prosecuting attorney to attend sessions of grand juries or trials in connection with the prosecution shall be paid by the state upon vouchers approved by the state examiner from funds available for office and traveling expenses for the state board of accounts.

(Formerly: Acts 1923, c.120, s.4.) As amended by Acts 1978, P.L.2, SEC.512; P.L.3-1986, SEC.22.

IC 5-11-6-5
Effect of chapter; municipality

Sec. 5. (a) The provisions of this chapter shall not be construed as repealing any laws in force on March 7, 1923, but shall be construed only as conferring additional duties and powers upon the state examiner, deputy examiners, field examiners, and the attorney

general of the state and providing additional remedies as to the matters set forth in those laws, and all the remedies provided in this chapter shall be additional and concurrent and not exclusive.

(b) The term "municipality", as used in this chapter, shall be construed to extend to and include any county, township, city, town, school town, school city, or board of park commissioners in this state.

(Formerly: Acts 1923, c.120, s.5.) As amended by P.L.25-1986, SEC.41; P.L.233-2015, SEC.10.

IC 5-11-7

Chapter 7. Plaintiff in Action for Recovery of Public Funds

IC 5-11-7-1

State as nominal party in action

Sec. 1. When, under the provisions of this article, any report or reports are certified to the attorney general by the state examiner of the state board of accounts charging any public official, any former public official, and/or any other person named in such report with having illegally received, and/or having illegally retained, and/or failed to account for and pay over any money so received, and/or having illegally expended public moneys or any moneys placed in custody of such public official or former public official by authority of law, and the attorney general brings an action for the recovery of such moneys, such action shall be brought in the name of the state of Indiana upon the relation of the attorney general as plaintiff.

(Formerly: Acts 1935, c.101, s.1.) As amended by P.L.25-1986, SEC.42.

IC 5-11-8
Repealed

(Repealed by P.L.3-1986, SEC.26.)

IC 5-11-9
Chapter 9. Certification of Accounts and Vouchers; Forms

IC 5-11-9-1
State employees; accounts for personal services

Sec. 1. On and after July 1, 1947, all accounts or vouchers of any office, department, division, board, body, bureau, officer, or employee of the state for personal services shall be made in such form as may be prescribed by the state board of accounts.
(Formerly: Acts 1947, c.14, s.1.)

IC 5-11-9-2
Political subdivision employees; accounts for personal services

Sec. 2. On and after January 1, 1948, all accounts or vouchers of any political subdivision of the state for personal services of officers and employees shall be made in such form as may be prescribed by the state board of accounts.
(Formerly: Acts 1947, c.14, s.2.)

IC 5-11-9-3
Certification of vouchers and accounts

Sec. 3. Certification of said vouchers and accounts shall be made by the elected officer, head of the department, division, board, body, bureau, or political subdivision or by such authority or authorities in the office, department, division, board, body, bureau, or political subdivision as shall be designated by the elected officer, head of the department, division, board, body, bureau or political subdivision by rule or written direction filed with the officer authorized by law to audit such accounts and vouchers.
(Formerly: Acts 1947, c.14, s.3.)

IC 5-11-9-4
Forms; records

Sec. 4. (a) The state board of accounts is hereby authorized to prescribe the forms of accounts and vouchers provided for by sections 1 and 2 of this chapter.

(b) The state board of accounts shall require that records be maintained showing which hours were worked each day by officers and employees:

(1) covered by section 1 or 2 of this chapter; and

(2) employed by more than one (1) public agency or in more than one (1) position by the same public agency described in section 1 or 2 of this chapter.

(Formerly: Acts 1947, c.14, s.4.) As amended by P.L.52-1983, SEC.3; P.L.44-1986, SEC.1.

IC 5-11-10

Chapter 10. Certification of Claims; Forms

IC 5-11-10-1

Application; exempt entities; disbursements for claims; certification; liability

Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:

(1) A state educational institution, including Ivy Tech Community College of Indiana.

(2) A municipality (as defined in IC 36-1-2-11).

(3) A county.

(4) An airport authority operating in a consolidated city.

(5) A capital improvements board of managers operating in a consolidated city.

(6) A board of directors of a public transportation corporation operating in a consolidated city.

(7) A municipal corporation organized under IC 16-22-8-6.

(8) A public library.

(9) A library services authority.

(10) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.

(11) A school corporation (as defined in IC 36-1-2-17).

(12) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(13) A municipally owned utility (as defined in IC 8-1-2-1).

(14) A board of an airport authority under IC 8-22-3.

(15) A conservancy district.

(16) A board of aviation commissioners under IC 8-22-2.

(17) A public transportation corporation under IC 36-9-4.

(18) A commuter transportation district under IC 8-5-15.

(19) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(20) A county building authority under IC 36-9-13.

(21) A soil and water conservation district established under IC 14-32.

(22) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(b) No warrant or check shall be drawn by a disbursing officer in payment of any claim unless the same has been fully itemized and its correctness properly certified to by the claimant or some authorized person in the claimant's behalf, and filed and allowed as provided by law.

(c) The certificate provided for in subsection (b) is not required for:

(1) claims rendered by a public utility for electric, gas, steam, water, or telephone services, the charges for which are regulated by a governmental body;

(2) a warrant issued by the auditor of state under IC 4-13-2-7(b);

(3) a check issued by a special disbursing officer under IC 4-13-2-20(g); or

(4) a payment of fees under IC 36-7-11.2-49(b) or IC 36-7-11.3-43(b).

(d) The disbursing officer shall issue checks or warrants for all claims which meet all of the requirements of this section. The disbursing officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certificate provided for in subsection (b) must be in the following form:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

(Formerly: Acts 1953, c.155, s.1; Acts 1957, c.37, s.1; Acts 1971, P.L.49, SEC.1.) As amended by Acts 1977, P.L.54, SEC.1; Acts 1979, P.L.37, SEC.1; Acts 1981, P.L.52, SEC.1; P.L.53-1983, SEC.1; P.L.54-1983, SEC.1; P.L.48-1988, SEC.1; P.L.25-1988, SEC.3; P.L.29-1990, SEC.2; P.L.2-1993, SEC.45; P.L.5-1995, SEC.5; P.L.1-1995, SEC.42; P.L.71-1995, SEC.1; P.L.69-1995, SEC.2; P.L.40-1996, SEC.1; P.L.39-1996, SEC.6; P.L.45-1997, SEC.1; P.L.99-2003, SEC.1; P.L.127-2005, SEC.5; P.L.169-2006, SEC.3; P.L.2-2007, SEC.98; P.L.182-2009(ss), SEC.76; P.L.121-2016, SEC.9.

IC 5-11-10-1.6

Requirements for issuance of warrant or check by fiscal officer

Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

(1) A municipality (as defined in IC 36-1-2-11).

(2) A school corporation (as defined in IC 36-1-2-17), including a school extracurricular account.

(3) A county.

(4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.

(6) A board of an airport authority under IC 8-22-3.

(7) A board of aviation commissioners under IC 8-22-2.

(8) A conservancy district.

(9) A public transportation corporation under IC 36-9-4.

(10) A commuter transportation district under IC 8-5-15.

(11) The state.

(12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(13) A levee authority established under IC 14-27-6.

(14) A county building authority under IC 36-9-13.

(15) A soil and water conservation district established under IC 14-32.

(16) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-20-13-10. This subsection does not prohibit a municipality from making meal expense advances to a municipal employee who will be traveling on official municipal business if the municipal fiscal body has adopted an ordinance allowing the advance payment, specifying the maximum amount that may be paid in advance, specifying the required invoices and other documentation that must be submitted by the municipal employee, and providing for reimbursement from the wages of the municipal employee if the municipal employee does not submit the required invoices and documentation.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

As added by P.L.71-1995, SEC.2. Amended by P.L.69-1995, SEC.3; P.L.14-1996, SEC.6; P.L.40-1996, SEC.2; P.L.39-1996, SEC.7; P.L.45-1997, SEC.2; P.L.49-1997, SEC.27; P.L.253-1997(ss), SEC.3; P.L.35-1999, SEC.1; P.L.68-2001, SEC.2; P.L.99-2003, SEC.2 and P.L.191-2003, SEC.2; P.L.1-2005, SEC.78; P.L.169-2006, SEC.4; P.L.182-2009(ss), SEC.77; P.L.121-2016, SEC.10.

IC 5-11-10-2

Approval and allowance of claims; claim forms; publication of claims and allowances

Sec. 2. (a) Claims against a political subdivision of the state must be approved by the officer or person receiving the goods or services, be audited for correctness and approved by the disbursing officer of the political subdivision, and, where applicable, be allowed by the governing body having jurisdiction over allowance of such claims before they are paid. If the claim is against a governmental entity (as defined in section 1.6 of this chapter), the claim must be certified by the fiscal officer.

(b) The state board of accounts shall prescribe a form which will permit claims from two (2) or more claimants to be listed on a single document and, when such list is signed by members of the governing body showing the claims and amounts allowed each claimant and the total claimed and allowed as listed on such document, it shall not be necessary for the members to sign each claim.

(c) Notwithstanding subsection (b), only:

(1) the chairperson of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal); or

(2) the chairperson's designee;

is required to sign the claim form described under this section.

(d) The form prescribed under this section shall be prepared by or filed with the disbursing officer of the political subdivision, together with:

(1) the supporting claims if payment is made under section 1 of this chapter; or

(2) the supporting invoices or bills if payment is made under section 1.6 of this chapter.

All such documents shall be carefully preserved by the disbursing officer as a part of the official records of the office.

(e) Where under any law it is provided that each claim be allowed over the signatures of members of a governing body, or a claim docket or accounts payable voucher register be prepared listing claims to be considered for allowance, the form and procedure prescribed in this section shall be in lieu of the provisions of the other law.

(f) Notwithstanding this section, the publication required by IC 36-2-6-3(b) must state each claim for which a separate warrant or check is to be issued by the disbursing officer except for claims for the following:

(1) Salaries fixed in a definite amount by ordinance or statute.

(2) Per diem of jurors.

(3) Salaries of officers of a court.

(Formerly: Acts 1953, c.155, s.2.) As amended by Acts 1978, P.L.25, SEC.1; Acts 1979, P.L.37, SEC.2; Acts 1982, P.L.33, SEC.4; P.L.33-1992, SEC.3; P.L.71-1995, SEC.3; P.L.64-1995, SEC.8;

P.L.1-1996, SEC.37; P.L.14-1996, SEC.7; P.L.40-1996, SEC.3; P.L.39-1996, SEC.8.

IC 5-11-10-3
Violations; offense

Sec. 3. A person who violates section 1 of this chapter is subject to criminal prosecution under IC 35-44.2-2-3.

(Formerly: Acts 1953, c.155, s.3.) As amended by Acts 1978, P.L.2, SEC.513; P.L.126-2012, SEC.20.

IC 5-11-10.5

Chapter 10.5. Disposition of Warrants and Checks

IC 5-11-10.5-1

"Political subdivision" defined

Sec. 1. As used in this chapter:

"Political subdivision" means county, township, city, town, school corporation, library district, fire protection district, public transportation corporation, local hospital authority or corporation, local airport authority district, special service district, special taxing district, or other separate local governmental entity that may sue and be sued.

As added by Acts 1980, P.L.8, SEC.47.

IC 5-11-10.5-2

Outstanding unpaid warrants or checks void

Sec. 2. All warrants or checks drawn upon public funds of a political subdivision that are outstanding and unpaid for a period of two (2) or more years as of the last day of December of each year are void. No individual, bank, trust company, building and loan association, or any other financial institution may honor, cash, or accept for payment or deposit any such warrant or check which may be presented for payment and which has been issued and outstanding for a period of two (2) or more years as of the last day of December of any year.

As added by Acts 1980, P.L.8, SEC.47. Amended by P.L.64-1999, SEC.1.

IC 5-11-10.5-3

List of outstanding warrants or checks

Sec. 3. Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in triplicate of all warrants or checks that have been outstanding for a period of two (2) or more years as of December 31 of the preceding year. The original copy of each list shall be filed with the:

(1) board of finance of a political subdivision; or

(2) fiscal body of a city or town.

The duplicate copy shall be transmitted to the disbursing officer of the political subdivision. The triplicate copy of each list shall be filed in the office of the treasurer of the political subdivision. If the treasurer serves also as the disbursing officer of the political subdivision, only two (2) copies of each list need be prepared or caused to be prepared by the treasurer.

As added by Acts 1980, P.L.8, SEC.47. Amended by P.L.35-1999, SEC.2.

IC 5-11-10.5-4

Content of list

Sec. 4. Each list prepared under section 3 of this chapter must show:

(1) the date of issue of each warrant or check;

(2) the fund upon which the warrant or check was originally drawn;

(3) the name of the payee;

(4) the amount of each warrant or check issued; and

(5) the total amount represented by the warrants or checks listed for each fund.

As added by Acts 1980, P.L.8, SEC.47.

IC 5-11-10.5-5

Procedure upon receipt of list

Sec. 5. (a) Upon the preparation and transmission of the copies of the list of the outstanding warrants or checks, the treasurer of the political subdivision shall enter the amounts so listed as a receipt into the fund or funds from which they were originally drawn and shall also remove the warrants or checks from the record of outstanding warrants or checks.

(b) If the disbursing officer does not serve also as treasurer of the political subdivision, the disbursing officer shall also enter the amounts so listed as a receipt into the fund or funds from which the warrants or checks were originally drawn. If the fund from which the warrant or check was originally drawn is not in existence, or cannot be ascertained, the amount of the outstanding warrant or check shall be receipted into the general fund of the political subdivision.

As added by Acts 1980, P.L.8, SEC.47.

IC 5-11-10.5-6

Repealed

(As added by Acts 1980, P.L.8, SEC.47. Repealed by P.L.64-1999, SEC.2.)

IC 5-11-10.5-7

Agreements to pay for assistance in recovering outstanding and unpaid check or warrant

Sec. 7. (a) This section applies to a warrant or a check drawn from the public funds of a political subdivision, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-34-1.

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

(1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars ($50) or less;

(2) the agreement is in writing;

(3) the agreement is signed by the apparent owner; and

(4) the agreement clearly sets forth:

(A) the nature and value of the property; and

(B) the value of the apparent owner's share after the fee or compensation has been deducted.

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

As added by P.L.127-2000, SEC.2. Amended by P.L.2-2002, SEC.33.

IC 5-11-11

Chapter 11. Investigation of County Records

IC 5-11-11-1

Request; investigations

Sec. 1. Whenever the proper fiduciary officer of the government of any county requests the state board of accounts to correct the financial records of the county government by a showing that funds of the county have been taken or withdrawn by unlawful means and that remedies are exhausted, the state board of accounts shall investigate and determine the veracity of the showing and proceed with the correction of the records in the manner required by IC 5-13-13-8, IC 5-13-14-1, and IC 5-13-14-2 for lost funds of municipalities.

(Formerly: Acts 1961, c.104, s.1.) As amended by P.L.25-1986, SEC.43; P.L.3-1990, SEC.21.

IC 5-11-12
Chapter 12. Modernization of County Records Systems

IC 5-11-12-1
Installation of modern tax accounting systems

Sec. 1. Anything in existing law pertaining to the mode and form of records and accounting system in the offices of the county treasurer and county auditor to the contrary notwithstanding, hereafter the several boards of county commissioners may provide for the installation of modern tax accounting systems in the offices of the treasurer and auditor of such counties by certifying a detailed description of the proposed installation and system and the records, books, ledgers and forms proposed to exemplify such systems and methods to the state board of accounts of the state of Indiana after approval by such board of county commissioners. The said state board of accounts shall examine the forms, systems, and methods so proposed and if approved, shall certify that fact to such board of county commissioners and thereupon such board of county commissioners shall be at liberty, if it find that the installation and adoption of such new system and the use of such new forms will be of benefit to the county and that such benefit will exceed or at least equal the cost thereof, to install, adopt and order the use of such new system, forms, ledgers, and methods; but no expenditure for forms or equipment shall be made nor any obligation incurred for that purpose until funds therefor have been appropriated by the county council as now provided by law. No such records, books, ledgers, forms, system or equipment shall be installed or purchased or leased until and unless the board of commissioners shall have invited and received bids thereon in the manner and subject to the provisions of law concerning the purchase of other county materials, supplies and equipment.

(Formerly: Acts 1937, c.203, s.1.)

IC 5-11-12-2
Change of county systems of accounting; necessity of approval

Sec. 2. A board of county commissioners may not change its tax accounting system, system of accounting and reporting, or use of forms, ledgers, or other records under this chapter without the approval of the state board of accounts.

(Formerly: Acts 1937, c.203, s.2.) As amended by P.L.3-1986, SEC.23.

IC 5-11-12-3
Approval and certification of systems; purpose of act

Sec. 3. The state board of accounts shall approve and certify only such systems and methods of accounts and records which are uniform as to the several counties having substantially similar accounting problems in reference to such offices and which will

permit of the use of modern office equipment, provide for a progressive audit, insure a complete and accurate report of government receipts and disbursements, detect error, make fraud difficult, save labor (clerical and other), trace wastes and compare efficiencies, and summarize results in such a manner that the most efficient management of government affairs will be clearly indicated, it being the declared purpose of this chapter to permit the modernization of such accounting system in keeping with the improvement of standards of business efficiency and competency and which will preserve and make as readily available to the public and officials the information required by law to be kept and preserved and made available in the offices affected.
(Formerly: Acts 1937, c.203, s.3.) As amended by P.L.25-1986, SEC.44.

IC 5-11-12-4
Preparation and maintenance of manually prepared ledgers and registers following implementation of automated accounting systems

Sec. 4. If a county implements, consistent with the provisions of this chapter, an automated accounting system that:

(1) is in place during at least one (1) state board of accounts audit; and

(2) is approved by the state board of accounts as a result of that audit;

the county treasurer is not required to prepare and maintain a manually prepared fund ledger and ledger of receipts or a manually prepared register of investments after the date of the approval of the automated accounting system by the state board of accounts.
As added by P.L.57-1993, SEC.1.

IC 5-11-13

Chapter 13. Executive Officers' Annual Report to State Board of Accounts

IC 5-11-13-0.5

Application of chapter

Sec. 0.5. This chapter does not apply to a hospital organized under IC 16-22-2, IC 16-22-8, or IC 16-23-1.

As added by P.L.208-2016, SEC.1.

IC 5-11-13-1

Personnel report; approval of budget or supplemental appropriation

Sec. 1. (a) Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. The report must also indicate whether the political subdivision offers a health plan, a pension, and other benefits to full-time and part-time employees. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one year. The certification must be filed electronically in the manner prescribed under IC 5-14-3.8-7.

(b) The department of local government finance may not approve the budget of a county, city, town, or township or a supplemental appropriation for a county, city, town, or township until the county, city, town, or township files an annual report under subsection (a) for the preceding calendar year.

(Formerly: Acts 1943, c.100, s.1.) As amended by P.L.11-1987, SEC.10; P.L.169-2006, SEC.5; P.L.172-2011, SEC.14; P.L.137-2012, SEC.9.

IC 5-11-13-1.1

Report; statement concerning nepotism and contracting policy

Sec. 1.1. (a) This section applies to a unit (as defined in

IC 36-1-2-23).

(b) A report under section 1 of this chapter that is submitted after December 31, 2012, must include a statement by the executive (as defined in IC 36-1-2-5) of the unit regarding whether the unit has implemented a policy under IC 36-1-20.2 and IC 36-1-21. If a unit does not implement a policy under IC 36-1-20.2 and IC 36-1-21, the department of local government finance may not approve the unit's budget or any additional appropriations for the unit for the ensuing calendar year.

As added by P.L.135-2012, SEC.2.

IC 5-11-13-2

Filing reports; public record

Sec. 2. The state examiner shall accept all such reports for filing and keep the same as public records which shall be open to public inspection and examination at reasonable times.

(Formerly: Acts 1943, c.100, s.2.)

IC 5-11-13-3

Violations; offense; penalty

Sec. 3. A person who violates section 1 of this chapter commits a Class C infraction. If violated by an elected state officer, the officer is liable to impeachment, and if violated by any other person, the person is subject to removal for neglect of duty under the procedures described in IC 34-17.

(Formerly: Acts 1943, c.100, s.3.) As amended by Acts 1978, P.L.2, SEC.514; P.L.3-1993, SEC.247; P.L.1-1998, SEC.70.

IC 5-11-14

Chapter 14. Annual Conference of Local Fiscal Officers

IC 5-11-14-1

Conferences; expense allowance

Sec. 1. (a) As used in this section, "official" includes the following:

(1) An elected official who is entitled to attend a conference under this section.

(2) An individual elected to an office who is entitled to attend a conference under this section.

(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

(1) County auditors and auditors elect.

(2) County treasurers and treasurers elect.

(3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

(1) must be held at a time and place fixed by the state examiner;

(2) may be held statewide or by district; and

(3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

(1) The proper use of forms prescribed by the state board of accounts.

(2) The keeping of the records of the respective offices.

(3) At the conference for county treasurers and treasurers elect, investment training by the following:

(A) The treasurer of state.

(B) The board for depositories.

(C) Any other person the state examiner considers to be competent in providing investment training.

(4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.

(e) The state examiner may hold other conferences for:

(1) the officials described in subsection (b); or

(2) other county, city, or township officers;

whenever in the judgment of the state examiner conferences are necessary.

(f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state examiner, may require the attendance of:

(1) each of the elected official's appointed and acting chief deputies or chief assistants; and

(2) if the number of deputies or assistants employed:

(A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or

(B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.

(g) Each official representing a unit and attending any conference under this section shall be allowed the following:

(1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the conference by the most expeditious route. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance even if the official transports more than one (1) person.

(2) An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location.

(3) Reimbursement of an official, in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

(j) A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.

(Formerly: Acts 1943, c.116, s.1; Acts 1949, c.89, s.1; Acts 1967, c.67, s.1; Acts 1972, P.L.39, SEC.1; Acts 1975, P.L.15, SEC.5.) As amended by Acts 1977, P.L.55, SEC.1; Acts 1981, P.L.53, SEC.1; P.L.72-1995, SEC.1; P.L.10-1997, SEC.5; P.L.35-1999, SEC.3; P.L.98-2000, SEC.3; P.L.169-2006, SEC.6.

IC 5-11-14-2

Training institute for clerk-treasurers or city clerks

Sec. 2. The state board of accounts shall annually conduct a training institute for clerk-treasurers and may conduct a training institute for city clerks, either of the entire state or by districts. The provisions of IC 5-11-14, are applicable to any such training institute. *(Formerly: Acts 1971, P.L.50, SEC.1.) As amended by Acts 1977,*

P.L.55, SEC.2.

IC 5-11-15
Repealed
(Repealed by P.L.35-1985, SEC.34.)

IC 5-11-16
Repealed
(Repealed by P.L.35-1985, SEC.34.)

IC 5-11-17
Repealed
(Repealed by P.L.35-1985, SEC.34.)

IC 5-11-18
Repealed
(Repealed by P.L.35-1985, SEC.34.)

IC 5-11-19
Chapter 19. Transitional Provisions

IC 5-11-19-1
Transfers of powers, duties, liabilities, records, property, and employees; rules

Sec. 1. (a) All powers, duties, liabilities, records, property, and employees of the field examiners retirement board (referred to as FERF in this chapter) are transferred to the board of trustees of the public employees' retirement fund (referred to as PERF in this chapter) (as the board existed before its abolishment on July 1, 2011) as the successor agency. The assets of FERF are transferred to PERF.

(b) Rules of the FERF board of trustees filed with the secretary of state before July 1, 1986, shall be treated after June 30, 1986, as though they had been adopted by the PERF board of trustees (as the board existed before its abolishment on July 1, 2011).

As added by P.L.35-1985, SEC.25. Amended by P.L.35-2012, SEC.89.

IC 5-11-19-2
Date of transfer of employees and recognition of prior creditable service; benefits under repealed section

Sec. 2. (a) After June 30, 1986, field examiners and other employees of the state board of accounts shall be included as members of PERF and shall be treated as though they were members of PERF during their employment with the state board of accounts. Creditable service that was properly allowed by the FERF board of trustees as of June 30, 1986, shall be recognized by the board of trustees of the Indiana public retirement system as creditable service.

(b) Notwithstanding subsection (a), the members of FERF who were members on April 1, 1967, are entitled to receive retirement, survivor, disability, and all other benefits as provided by IC 5-11-15-13 (repealed) before July 1, 1986.

As added by P.L.35-1985, SEC.25. Amended by P.L.1-2009, SEC.22; P.L.35-2012, SEC.90.

IC 5-11-19-3
Referendum as to repealed section; effect

Sec. 3. The repeal of IC 5-11-15-10, concerning the referendum for inclusion of field examiners and other employees of the state board of accounts in the federal Social Security Act, does not affect the result of the referendum. After June 30, 1986, IC 5-10.1 applies to these field examiners and other employees.

As added by P.L.35-1985, SEC.25.

IC 5-11-20
Chapter 20. Retirement Plan Reporting

IC 5-11-20-1
Applicable fiscal years

Sec. 1. This chapter applies only to a political subdivision's fiscal year beginning after December 31, 2012.

As added by P.L.47-2013, SEC.3.

IC 5-11-20-2
"Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" means a municipality or a local government unit, entity, or instrumentality to which IC 5-11-1-4 applies. The term does not include the state or an instrumentality of the state.

As added by P.L.47-2013, SEC.3.

IC 5-11-20-3
Reporting requirement

Sec. 3. (a) After December 31, 2013, a political subdivision having an employee retirement plan described in subsection (b) shall, not later than the date each year on which the political subdivision's financial reports are due under IC 5-11-1-4, make an annual report for each of the political subdivision's employee retirement plans described in subsection (b) to the state board of accounts of the information specified in section 4 of this chapter for the political subdivision's immediately preceding fiscal year, in the manner prescribed by the state examiner.

(b) The retirement plans to which this chapter applies are the following:

(1) Each of the retirement funds for utility employees authorized under IC 36-9.

(2) Each county police force pension trust and trust fund authorized under IC 36-8.

(3) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.

(4) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).

(5) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.

(6) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.

(7) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.

(8) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.
(9) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.
(10) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.
(11) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.
(12) Each system of pensions and retirement provided by a unit under IC 36-1-3.

(c) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files each annual report required by subsection (a).

As added by P.L.47-2013, SEC.3.

IC 5-11-20-4
Report elements

Sec. 4. A report required under section 3 of this chapter concerning a retirement plan must include the following information:

(1) The basic plan parameters, including the following:
(A) The type of plan.
(B) The plan administrator.
(C) The employer sponsoring the plan.
(2) If the plan is a defined benefit plan, the following:
(A) The plan's funding percentage ratio.
(B) The actuarial assumptions for the plan.
(C) The plan's investment returns for the preceding fiscal year.
(3) The total amount of contributions made by the plan sponsor during the preceding fiscal year.
(4) The number of plan participants, including the following:
(A) The number of active participants.
(B) The number of participants who are retired or separated from service.
(5) Any other information concerning the plan required by the state examiner.

As added by P.L.47-2013, SEC.3.

IC 5-11-20-5
Annual summary by the state examiner

Sec. 5. The state examiner shall, not later than July 1 of each year, submit a report to the general assembly in an electronic format under IC 5-14-6 that summarizes the retirement plan information received for the immediately preceding fiscal year under section 3 of this chapter.

As added by P.L.47-2013, SEC.3.

ARTICLE 12. REPEALED

(Repealed by P.L.19-1987, SEC.60.)

IC 5-13

ARTICLE 13. INVESTMENT OF PUBLIC FUNDS

IC 5-13-1

Repealed

(Repealed by P.L.19-1987, SEC.60.)

IC 5-13-2
Repealed

(Repealed by P.L.19-1987, SEC.60.)

IC 5-13-3
Repealed

(Repealed by P.L.19-1987, SEC.60.)

IC 5-13-4
Chapter 4. Definitions

IC 5-13-4-1
Application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-2
"Board for depositories"
Sec. 2. "Board for depositories" refers to the board established under IC 5-13-12.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-3
Repealed
(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-4-4
"Closed depository"
Sec. 4. "Closed depository" includes:
(1) a financial institution the business and property of which the department of financial institutions has taken possession of under IC 28-1-3.1 for the purpose of liquidation;
(2) a financial institution the business and property of which the department of financial institutions has authorized the institution to liquidate under IC 28-1-9 and IC 28-7-1-27.1; and
(3) any national banking association, federal savings association, or federally chartered savings bank for the business and property of which a receiver has been appointed.
As added by P.L.19-1987, SEC.6. Amended by P.L.79-1998, SEC.7.

IC 5-13-4-5
"Credit enhancement"
Sec. 5. "Credit enhancement" means any letter of credit, insurance, guarantee, or other credit enhancement issued by an issuer approved by the board for depositories, which is used to secure debt or leasehold financing for an industrial development obligation.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-6
"Credit enhancement obligation"
Sec. 6. "Credit enhancement obligation" means the obligation of the developers of an industrial development project under the documents related to the credit enhancement.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-7
"Deposit accounts"

Sec. 7. Except as provided in IC 5-13-9-5.3, "deposit accounts" means any of the following:

(1) Any account subject to withdrawal by negotiable orders of withdrawal, unlimited as to amount or number, and without penalty, including NOW accounts.
(2) Passbook savings accounts.
(3) Certificates of deposit.
(4) Money market deposit accounts.
(5) Any interest bearing account that is authorized to be set up and offered by a financial institution in the course of its respective business.

As added by P.L.19-1987, SEC.6. Amended by P.L.44-1990, SEC.1; P.L.31-2012, SEC.1.

IC 5-13-4-8
"Depository"

Sec. 8. "Depository" refers to a financial institution designated as a depository of public funds under this article.

As added by P.L.19-1987, SEC.6.

IC 5-13-4-9
"Electronic funds transfer"

Sec. 9. "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

As added by P.L.19-1987, SEC.6.

IC 5-13-4-10
"Financial institution"

Sec. 10. "Financial institution" means any of the following:

(1) A bank, trust company, or mutual savings bank that:
  (A) was incorporated under the law of Indiana or any other state; and
  (B) has its principal office or a branch in Indiana.
(2) A national banking association with its principal office or a branch in Indiana.
(3) A savings association operating as a deposit association incorporated under Indiana law.
(4) A federally chartered savings association with its principal office or a branch in Indiana.
(5) A federally chartered savings bank with its principal office or a branch in Indiana.
(6) A state chartered credit union in Indiana that is federally insured or privately insured and that has assets of three million

dollars ($3,000,000) or more.
As added by P.L.19-1987, SEC.6. Amended by P.L.28-1994, SEC.1; P.L.18-1996, SEC.2; P.L.79-1998, SEC.8.

IC 5-13-4-11
"Fiscal body"
Sec. 11. "Fiscal body" has the meaning set forth in IC 36-1-2-6.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-12
"Fiscal officer"
Sec. 12. "Fiscal officer" has the meaning set forth in IC 36-1-2-7.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-13
"Industrial development obligation"
Sec. 13. "Industrial development obligation" means any loan or lease by a lender or lessor approved by the board for depositories as responsible and able to service the loan or lease properly, which is used to finance all or any portion of the cost of an industrial development project.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-14
"Industrial development project"
Sec. 14. "Industrial development project" has the meaning set forth in IC 4-4-10.9-11 and includes mining operations, agricultural operations that involve the processing of agricultural products, and any other type of business project for which the Indiana finance authority may make a loan or lease guarantee.
As added by P.L.19-1987, SEC.6. Amended by P.L.11-1990, SEC.105; P.L.235-2005, SEC.79.

IC 5-13-4-15
"Insurance fund"
Sec. 15. "Insurance fund" refers to the public deposits insurance fund created by IC 5-13-12.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-16
"Investing officer"
Sec. 16. "Investing officer" means the person having authority by law to invest for the political subdivision, or, if there is no law, the person designated by resolution of the fiscal body.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-17
"Investment cash management system"

Sec. 17. "Investment cash management system" means a system in which a depository manages the investment practices of a political subdivision.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-18
"Local board of finance"
Sec. 18. "Local board of finance" refers to a board of finance established under IC 5-13-7.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-19
"Political subdivision"
Sec. 19. (a) Except as provided in subsections (b) and (c), "political subdivision" has the meaning set forth in IC 36-1-2-13.
(b) A hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 is considered a political subdivision only for purposes of IC 5-13-12 and IC 5-13-13.
(c) For purposes of IC 5-13-7 and IC 5-13-8, the term does not include a city or a town.
As added by P.L.19-1987, SEC.6. Amended by P.L.5-1988, SEC.36; P.L.2-1993, SEC.46; P.L.10-1997, SEC.6.

IC 5-13-4-20
"Public funds"
Sec. 20. "Public funds" means all fees and funds of whatever kind or character coming into the possession of any public officer by virtue of that office. The term does not include:
(1) support payments made to the clerk of a circuit court under IC 31-16-9 (or IC 31-1-11.5-13 before its repeal); or
(2) proceeds of bonds payable exclusively by a private entity.
As added by P.L.19-1987, SEC.6. Amended by P.L.73-1995, SEC.1; P.L.1-1997, SEC.34.

IC 5-13-4-21
"Public officer"
Sec. 21. "Public officer" means any person elected or appointed to any office of the state or any political subdivision. "Public officer" includes an officer of all boards, commissions, departments, institutions, and other bodies established by law to function as a part of the government of the state or political subdivision that are supported wholly or partly by appropriations of money made from the treasury of the state or political subdivision or that are supported wholly or partly by taxes or fees. "Public officer" does not include an officer of an independent body politic and corporate set up as an instrumentality of the state but not constituting a political subdivision.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-21.3
"Public servant"
Sec. 21.3. "Public servant" has the meaning set forth in IC 35-31.5-2-261.
As added by P.L.107-2011, SEC.1. Amended by P.L.114-2012, SEC.14.

IC 5-13-4-21.5
"Repurchase agreement"
Sec. 21.5. "Repurchase agreement" has the meaning set forth in IC 5-13-9-3.
As added by P.L.18-1996, SEC.3.

IC 5-13-4-22
"State board of finance"
Sec. 22. "State board of finance" refers to the board established by IC 4-9.1.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-23
"Statement of condition"
Sec. 23. "Statement of condition" means the statement filed by each financial institution with its governmental supervisory body.
As added by P.L.19-1987, SEC.6.

IC 5-13-4-24
"Transaction account"
Sec. 24. "Transaction account" means any deposit account other than a certificate of deposit.
As added by P.L.18-1996, SEC.4.

IC 5-13-5
Chapter 5. General Provisions

IC 5-13-5-0.3
P.L.19-1987 restatement of law affecting public deposit insurance fund and the board for depositories

Sec. 0.3. (a) P.L.19-1987 is intended to restate the law affecting the public deposit insurance fund and the board for depositories. The substantive operation of the public deposit insurance fund and the board for depositories, established under IC 5-12-1-19.1 (before its repeal) continues uninterrupted under IC 5-13-12, as added by P.L.19-1987.

(b) P.L.19-1987 does not affect rights or liabilities of the public deposit insurance fund and board for depositories accrued before May 6, 1987.

As added by P.L.220-2011, SEC.92.

IC 5-13-5-1
Cashbook; duties of public officers; public inspection

Sec. 1. (a) Every public officer who receives or distributes public funds shall:

(1) keep a cashbook into which the public officer shall enter daily, by item, all receipts of public funds; and

(2) balance the cashbook daily to show funds on hand at the close of each day.

(b) The cashbook is a public record and is open to public inspection in accordance with IC 5-14-3.

(c) A person who violates this section is subject to criminal prosecution under IC 35-44.2-2-2.

As added by P.L.19-1987, SEC.7. Amended by P.L.126-2012, SEC.21.

IC 5-13-5-2
Application of section to public funds other than state funds; warrants for payment of public funds; copy of warrant; disposition of warrant

Sec. 2. (a) This section applies to public funds other than state funds. In all political subdivisions where the fiscal officer and investing officer are two (2) separate individuals by law, all warrants for the payment of public funds shall be drawn by the proper public officer upon the proper treasurer. In all political subdivisions where the fiscal officer and investing officer are the same individual by law, all warrants shall be drawn by the fiscal officer directly against a depository. A copy of the warrant shall be attached to each warrant when drawn. The copy of the warrant shall be readily detachable and shall show the following information:

(1) The number of the warrant.

(2) The date and amount of the warrant.

(3) The name of the payee.
(4) The purpose of the warrant.
(5) The name and office of the drawer.
(6) The fund and the appropriation upon which the warrant is drawn.

(b) In all political subdivisions where the fiscal officer and investing officer are two (2) separate individuals by law, warrants shall be presented by the proper public officer to the proper treasurer, who shall detach and retain the copy of the warrant, countersign the original, and stamp upon the original the name of the depository by which it is payable. A warrant is effective only if it is stamped and countersigned as provided in this subsection. After countersignature and stamping, all warrants shall be returned to the proper public officer for distribution. The proper treasurer, when any warrant is presented for payment by any person other than a depository, may, for convenience of the persons presenting the warrant, pay the amount of the warrant to the holder, take an assignment by endorsement of the warrant, and deposit the warrant in the proper depository in lieu of the cash paid out to the holder of the warrant.
As added by P.L.19-1987, SEC.7.

IC 5-13-5-3
Drawing warrant

Sec. 3. All warrants for the payment of public funds of the state shall be drawn by the auditor of state on the treasurer of state.
As added by P.L.19-1987, SEC.7.

IC 5-13-5-4
Signature of authorized public officers on check or negotiable order of withdrawal; purposes

Sec. 4. (a) All checks or negotiable orders of withdrawal drawn upon depositories shall be signed by public officers authorized to sign the check or negotiable order of withdrawal in the officer's official capacity. All funds paid out of the state treasury must be by check or negotiable order of withdrawal of the state treasurer upon the warrant of the auditor of state.

(b) A public officer may draw a check or negotiable order of withdrawal upon a depository only for the following purposes:
(1) The payment of a warrant drawn by the auditor of state.
(2) The payment of a warrant drawn by the fiscal officer of a political subdivision, where the fiscal officer and investing officer are two (2) separate individuals by law.
(3) The payment of a legal claim against a political subdivision where the fiscal officer and investing officer are the same individual by law.
(4) An investment authorized under this article.
(5) The transfer of funds between depositories.
As added by P.L.19-1987, SEC.7. Amended by P.L.18-1996, SEC.5.

IC 5-13-5-5

Transacting business with financial institution or public retirement fund through use of electronic funds transfer; ordinance or resolution

Sec. 5. (a) The fiscal body of any political subdivision may by ordinance or resolution authorize the proper legal officers of the political subdivision to transact the political subdivision's business with a financial institution or a public pension or retirement fund administered by the Indiana public retirement system through the use of electronic funds transfer.

(b) The ordinance or resolution must:

(1) specify the types of transactions that may be conducted by electronic funds transfer; and

(2) require the proper officers to maintain adequate documentation of the transactions so that they may be audited as provided by law.

As added by P.L.19-1987, SEC.7. Amended by P.L.61-2002, SEC.9; P.L.35-2012, SEC.91.

IC 5-13-5-6

Financial institution continuation qualification as depository

Sec. 6. (a) A financial institution that is a depository for the state on March 21, 1996, and any successor financial institution, continues to be a depository for the state after March 21, 1996, without reapplying under IC 5-13-10.5, until the earliest of the following occurs:

(1) The board of depositories revokes the status of the financial institution as a depository.

(2) The financial institution notifies the state board of finance that the financial institution is resigning as a depository for the state.

(3) Another law terminates the depository status of the financial institution.

A financial institution that qualifies under this subsection as a depository for the state after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-10.5.

(b) A financial institution that is a depository for a political subdivision on March 21, 1996, and any successor financial institution continues to be a depository for the political subdivision after March 21, 1996, without reapplying under IC 5-13-10.5 or IC 5-13-8-1, until the earliest of the following occurs:

(1) The state board of finance revokes the status of the financial institution as a depository.

(2) The financial institution notifies the state board of finance or the local board of finance for the political subdivision that the financial institution is resigning as a depository for the political subdivision.

(3) Another law terminates the depository status of the financial institution.

A financial institution that qualifies under this subsection as a depository for a political subdivision after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-8.

(c) Subject to IC 5-13-8-9, a financial institution that is a depository for the state on March 21, 1996, and any successor financial institution is eligible after March 21, 1996, to become a depository for any political subdivision for which the financial institution is not already a depository without reapplying under IC 5-13-10.5 or IC 5-13-8-1. A financial institution that qualifies under this subsection as a depository for a political subdivision after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-8.

(d) The treasurer of state shall add any financial institution that qualifies as a depository for political subdivisions under subsection (b) or (c) to the list of depositories eligible to receive the public funds of political subdivisions under IC 5-13-8-1.

As added by P.L.16-2009, SEC.12.

IC 5-13-6

Chapter 6. Deposit of Public Funds

IC 5-13-6-1

Procedure for deposit of public funds

Sec. 1. (a) All public funds paid into the treasury of the state or the treasuries of the respective political subdivisions shall be deposited not later than the business day following the receipt of funds on business days of the depository in one (1) or more depositories in the name of the state or political subdivision by the officer having control of the funds.

(b) Except as provided in subsections (d), (f), and (g), all public funds collected by state officers, other than the treasurer of state, shall be deposited with the treasurer of state, or an approved depository selected by the treasurer of state not later than the business day following the receipt of the funds. The treasurer of state shall deposit daily on business days of the depository all public funds deposited with the treasurer of state. Deposits do not relieve any state officer from the duty of maintaining a cashbook under IC 5-13-5-1.

(c) Except as provided in subsections (d) and (g), all local officers, except township trustees, who collect public funds of their respective political subdivisions, shall deposit funds not later than the business day following the receipt of funds on business days of the depository in the depository or depositories selected by the several local boards of finance that have jurisdiction of the funds. The public funds collected by township trustees shall be deposited in the designated depository on or before the first and fifteenth day of each month. Public funds deposited under this subsection shall be deposited in the same form in which they were received.

(d) Except as provided in subsection (g), a city (other than a consolidated city) or a town shall deposit funds not later than the next business day following the receipt of the funds in depositories:

(1) selected by the city or town as provided in an ordinance adopted by the city or the town; and

(2) approved as depositories of state funds.

(e) All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories.

(f) An office of:

(1) the department of natural resources; or

(2) the department of state revenue;

that is detached from the main office of the department is not required to deposit funds on the business day following receipt if the funds on hand do not exceed five hundred dollars ($500). However, the office must deposit the funds on hand not later than the business day following the day that the funds exceed five hundred dollars ($500).

(g) The following are not required to deposit funds on the business day following receipt if the funds on hand do not exceed five hundred dollars ($500):

(1) An office of the legislative branch of state government.

(2) A local officer of a political subdivision required to deposit funds under subsection (c) other than a township trustee.

(3) A city or a town required to deposit funds under subsection (d).

However, the funds on hand must be deposited not later than the business day following the day that the funds exceed five hundred dollars ($500).

As added by P.L.19-1987, SEC.8. Amended by P.L.45-1990, SEC.1; P.L.45-1991, SEC.1; P.L.18-1994, SEC.3; P.L.18-1996, SEC.6; P.L.10-1997, SEC.7; P.L.35-1999, SEC.4; P.L.234-2007, SEC.295; P.L.151-2012, SEC.4; P.L.139-2015, SEC.1.

IC 5-13-6-2

Fees collected for services rendered

Sec. 2. In all cases where law provides that any state officer collects any fee for any service rendered or examination made, and the fee collected is appropriated to pay the salary, per diem, or the expenses of any state officer for rendering the service or making the examination, the state officer shall deposit the fees, under section 1 of this chapter, and the salary, per diem, and expenses on account of the services shall be paid out of the state treasury upon an account filed and approved as provided by law. The salary, per diem, and expenses must not exceed the fees collected and paid into the state treasury unless otherwise provided by law.

As added by P.L.19-1987, SEC.8.

IC 5-13-6-3

Taxes collected by county treasurer; deposit; advance by county auditor to political subdivisions; semiannual distribution

Sec. 3. (a) All taxes collected by the county treasurer shall be deposited as one (1) fund in the several depositories selected for the deposit of county funds and, except as provided in subsection (b), remain in the depositories until distributed at the following semiannual distribution made by the county auditor.

(b) Every county treasurer who, by virtue of the treasurer's office, is the collector of any taxes for any political subdivision wholly or partly within the county shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, provide to the county auditor the amount available for distribution, as certified for each semiannual distribution under IC 6-1.1-27-2. The county auditor shall advance to that political subdivision a portion of the taxes collected before the semiannual distribution. The amount advanced may not exceed the lesser of:

(1) ninety-five percent (95%) of the total amount collected at the time of the advance; or

(2) ninety-five percent (95%) of the amount to be distributed at the semiannual distribution.

(c) Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

(d) At the semiannual distribution all the advances made to any political subdivision under subsection (b) shall be deducted from the total amount due any political subdivision as shown by the distribution.

(e) If a county auditor fails to make a distribution of tax collections by the deadline for distribution under subsection (b), a political subdivision that was to receive a distribution may recover interest on the undistributed tax collections under IC 6-1.1-27-1.

As added by P.L.19-1987, SEC.8. Amended by P.L.245-2003, SEC.1; P.L.146-2008, SEC.38; P.L.89-2010, SEC.1; P.L.166-2014, SEC.1.

IC 5-13-6-4

Support payments; clerk of circuit court may elect not to follow accounting and depository procedure prescribed; prenumbered receipts and support cashbook

Sec. 4. (a) Notwithstanding section 1 of this chapter, the clerk of a circuit court, in accounting for and disbursing support payments made through the clerk in accordance with IC 31-16-9 (or IC 31-1-11.5-13, IC 31-6-6.1-16, or IC 31-14-11-11, before their repeal) may elect not to follow the accounting and depository procedures required by this chapter.

(b) If the clerk of a circuit court elects under subsection (a) not to follow the accounting and depository procedures required by this chapter, the clerk shall issue prenumbered receipts and keep a support cashbook for daily entry, by item, of all receipts and disbursements of support payments made through the clerk. The support receipts and cashbook are public records to be kept on forms prescribed by the state board of accounts, and shall be balanced daily.

As added by P.L.19-1987, SEC.8. Amended by P.L.65-1989, SEC.1; P.L.1-1997, SEC.35; P.L.207-2013, SEC.5.

IC 5-13-7

Chapter 7. Local Boards of Finance

IC 5-13-7-1

County board of finance; membership; duties

Sec. 1. Except as provided in section 2 of this chapter, the board of commissioners and the county treasurer in each county together constitute the county board of finance. The board has supervision of the revocation of public depositories for all public funds of the county.

As added by P.L.19-1987, SEC.9. Amended by P.L.46-1991, SEC.1; P.L.46-1997, SEC.1.

IC 5-13-7-2

County having consolidated city; composition; duties; secretary

Sec. 2. (a) In a county having a consolidated city, the county board of finance is composed of:

(1) the county treasurer;
(2) the county auditor;
(3) the county assessor;
(4) the mayor of the consolidated city;
(5) the controller of the consolidated city; and
(6) the president of the board of school commissioners of the school city described by IC 20-25-3-1.

(b) The board has supervision of the revocation of public depositories for all public funds of the following:

(1) The county.
(2) The consolidated city.
(3) The school city.
(4) Any other political subdivision in the county whose local board of finance designates the county board of finance for those purposes.

As added by P.L.19-1987, SEC.9. Amended by P.L.37-1992, SEC.1; P.L.29-1994, SEC.1; P.L.46-1997, SEC.2; P.L.1-2005, SEC.79.

IC 5-13-7-3

County board of finance; compensation

Sec. 3. The members of a county board of finance serve without compensation other than the members' salaries as officers of the members' respective political subdivisions.

As added by P.L.19-1987, SEC.9.

IC 5-13-7-4

Repealed

(Repealed by P.L.10-1997, SEC.37.)

IC 5-13-7-5

Boards of finance of other political subdivisions; duties;

compensation

Sec. 5. (a) The fiscal body of each political subdivision not governed by sections 1 through 3 of this chapter constitutes a board of finance for that political subdivision.

(b) Each board of finance has supervision of the revocation of public depositories for the respective political subdivisions for which they act.

(c) The members of the boards serve without compensation other than the members' salaries allowed by law for the members' services as officers of the members' respective political subdivisions.

As added by P.L.19-1987, SEC.9. Amended by P.L.46-1997, SEC.4; P.L.10-1997, SEC.8; P.L.68-2001, SEC.3; P.L.115-2010, SEC.5.

IC 5-13-7-6

Meetings; election of officers; term; quorum; open meetings; nature of board

Sec. 6. (a) Each local board of finance shall meet annually after the first Monday and on or before the last day of January. At the annual meeting the board of finance shall do the following:

(1) Elect from the board's membership:

(A) a president; and

(B) a secretary.

The officers elected hold office until the officers' successors are elected and qualified.

(2) Receive and review the report required by section 7 of this chapter.

(b) A majority of the members of each board of finance constitutes a quorum for the transaction of business. Each board of finance shall hold additional sessions whenever necessary to discharge its duties and to accomplish the purposes of this chapter. The president of each board shall convene the board whenever requested to do so by one (1) of the members, or whenever necessary to the performance of the duties imposed by this chapter.

(c) All meetings of the boards of finance must be open to the public, and the records of the boards shall be subject to public inspection in accordance with IC 5-14-3 and IC 5-15-2, respectively. The secretary of each board shall keep a record of the proceedings, which shall be approved and signed by the president of the board and attested by the secretary.

(d) A local board of finance shall be known by the name "The Board of Finance of _____", inserting the name of the proper political subdivision, and may sue and be sued in the board's name in any action and in any court of competent jurisdiction.

As added by P.L.19-1987, SEC.9. Amended by P.L.37-1992, SEC.2; P.L.57-1993, SEC.2; P.L.74-1995, SEC.1; P.L.72-1995, SEC.2; P.L.10-1997, SEC.9.

IC 5-13-7-7

Investment report

Sec. 7. (a) During the annual meeting required by section 6 of this chapter, the investment officer shall make a written report to the investing officer's local board of finance summarizing the political subdivision's investments during the previous calendar year. The report must contain the name of each financial institution, government agency or instrumentality, or other person with whom the political subdivision invested money during the previous calendar year.

(b) The local board of finance shall do the following at the meeting:

(1) Review the report.

(2) Review the overall investment policy of the political subdivision.

As added by P.L.72-1995, SEC.3.

IC 5-13-8

Chapter 8. Designation of Depositories

IC 5-13-8-1

Deposit of public funds; prerequisites

Sec. 1. (a) A political subdivision may deposit public funds in a financial institution only if the financial institution:

(1) is a depository eligible to receive state funds; and

(2) has a principal office or branch that qualifies under section 9 of this chapter to receive public funds of the political subdivision.

(b) The state board of finance shall make available information concerning financial institutions eligible to receive state funds as may be requested by a local board of finance. A local board of finance may rely on certificates described in IC 5-13-9.5-1(d) in determining to deposit public funds or reinvest public funds in the financial institution.

As added by P.L.19-1987, SEC.10. Amended by P.L.5-1988, SEC.37; P.L.66-1989, SEC.1; P.L.44-1990, SEC.2; P.L.2-1993, SEC.47; P.L.74-1995, SEC.2; P.L.18-1996, SEC.7; P.L.46-1997, SEC.5.

IC 5-13-8-2

Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-8-3

Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-8-4

Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-8-5

Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-8-6

Forms; filing copy of institution's statement of condition

Sec. 6. (a) The state board of accounts shall prepare and consolidate the forms that are required under this chapter or IC 5-13-9.5, or both, to eliminate unnecessary paperwork.

(b) These forms must be used by the state board of finance and the several local boards of finance and depositories in the performance of the duties imposed under this chapter. The rights of political subdivisions and designated depositories must be subject to modification by any statute and by all rules adopted by the department of financial institutions respecting withdrawal of funds

in times of emergency.

(c) A financial institution designated as a depository under this chapter shall, upon request of the appropriate investing officer, file with the investing officer a copy of the institution's most recent statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as prescribed by the supervisory body.

As added by P.L.19-1987, SEC.10. Amended by P.L.18-1996, SEC.8; P.L.46-1997, SEC.6.

IC 5-13-8-7

Revocation of commission of depository to do business with Indiana resident

Sec. 7. (a) As used in this section, "Indiana resident" means any of the following:

(1) An individual who is a resident of Indiana.

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

(3) A corporation, a limited liability company, a partnership, a limited partnership, a trust, an estate, or other legal entity that:

(A) is established under Indiana law; or

(B) maintains its principal office in Indiana.

(4) A corporation, a limited liability company, a partnership, a limited partnership, a trust, an estate, or other legal entity that:

(A) is established under the law of a state other than Indiana; and

(B) carries out substantial business activities in Indiana, including the employment of individuals who reside in Indiana.

(b) As used in this section, "investment in an Indiana resident" means an investment in an interest-bearing obligation of a political subdivision (as defined in IC 36-1-2-13) in Indiana.

(c) The local board of finance under which any depository operates may at any time revoke the commission of any depository at a meeting called for the purpose of revoking a commission, of which the depository shall have been notified by advance written notice sent by first class or registered mail not less than twenty (20) days before the meeting and at which the depository has the right to be heard. Not later than thirty (30) days after a local board of finance revokes the commission of a depository, the local board of finance shall give written notice of the action to the board of depositories.

(d) The local board of finance may revoke the commission of any depository to do business with the political subdivision:

(1) if the depository is unwilling or unable to perform banking services reasonably required by the local board of finance, considering the volume of transactions, that are:

(A) related to the public funds deposited in a deposit account described in IC 5-13-9-4(a); and

(B) required by the political subdivision served by the local board of finance to carry out the responsibilities of the political subdivision, as determined by the local board of finance;

(2) if the depository is unwilling or unable to comply with a state or federal statute, rule, or other regulation that governs the records or handling of public funds of the political subdivision served by the local board of finance, as determined by the local board of finance;

(3) if the depository ceases to qualify as a depository under this chapter, as determined by the local board of finance;

(4) if the depository fails to conduct lending activities in Indiana to such an extent that, at the end of each quarter, pursuant to the depository's certification, the sum of:

(A) the total principal amount of outstanding loans to Indiana residents; plus

(B) the total value of investments in Indiana residents;

will at least equal the total amount of the public funds of the state and political subdivisions of the state that are on deposit in the financial institution; or

(5) for any cause that is adopted in the written rules of the local board of finance and that is directly related to the safe handling of public funds.

(e) Upon revocation, the depository shall immediately render an accounting and make settlement for all public funds deposited with the depository.

As added by P.L.19-1987, SEC.10. Amended by P.L.74-1995, SEC.3; P.L.18-1996, SEC.9; P.L.46-1997, SEC.7.

IC 5-13-8-8
Repealed

(Repealed by P.L.46-1997, SEC.18.)

IC 5-13-8-9
Deposit of funds in depositories within respective territorial limits of political subdivisions; exceptions

Sec. 9. (a) All public funds of all political subdivisions shall be deposited in the designated depositories located in the respective territorial limits of the political subdivisions, except as provided in this section.

(b) Each board of finance of a political subdivision:

(1) that is not a city, town, or school corporation; and

(2) whose jurisdiction crosses one (1) or more county lines;

may limit its boundaries for the purpose of this section to that portion of the political subdivision within the county where its principal office is located.

(c) If there is no principal office or branch of a financial institution located in the county or political subdivision, or if no

financial institution with a principal office or branch in the county or political subdivision will accept public funds under this chapter, the board of finance of the county and the boards of finance of the political subdivisions in the county shall designate one (1) or more financial institutions with a principal office or branch outside of the county or political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

(1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and

(2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars ($100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

As added by P.L.19-1987, SEC.10. Amended by P.L.44-1990, SEC.4; P.L.2-1993, SEC.48; P.L.75-1995, SEC.1; P.L.74-1995, SEC.4; P.L.18-1996, SEC.10; P.L.46-1997, SEC.8; P.L.173-2003, SEC.1.

IC 5-13-8-10
Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-8-11
Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-8-12
Repealed

(Repealed by P.L.44-1990, SEC.8.)

IC 5-13-8-13
Resignation as depository

Sec. 13. Any depository designated under this chapter may resign as a depository and relinquish all public funds on deposit with the depository. The resignation is effective after thirty (30) days notice in writing to the state board of finance and after settlement with the proper board of finance for all public funds on deposit with the depository.

As added by P.L.19-1987, SEC.10. Amended by P.L.46-1997, SEC.9.

IC 5-13-8-14
Prohibition of designation of depository for disqualification under IC 5-22-16.5

Sec. 14. A financial institution may not be designated as a depository under this chapter if the financial institution would be disqualified from being awarded a contract under IC 5-22-16.5.

As added by P.L.21-2012, SEC.2.

IC 5-13-9

Chapter 9. Deposit and Investment Powers

IC 5-13-9-0.3

Legalization of investment in certain public funds

Sec. 0.3. An investment in public funds (as defined in IC 5-13-4-20):

(1) made or entered into before March 21, 1996; and

(2) that:

(A) would have been in compliance with this chapter, as amended by P.L.18-1996, if this chapter, as amended by P.L.18-1996, had been in effect at the time the investment was made or agreement entered into;

(B) is no longer in effect on March 21, 1996; or

(C) is brought into compliance with this chapter, as amended by P.L.18-1996, not later than June 19, 1996;

is legalized and validated.

As added by P.L.220-2011, SEC.93.

IC 5-13-9-0.4

Legalization of certain investment of public funds

Sec. 0.4. An investment of public funds (as defined in IC 5-13-4-20, as in effect before February 27, 1996):

(1) made under a repurchase or resale agreement, including a standing repurchase or resale agreement, that was entered into before February 27, 1996; and

(2) that:

(A) would have been in compliance with section 3 of this chapter, as amended by P.L.41-1996, if section 3 of this chapter, as amended by P.L.41-1996, had been in effect at the time the repurchase or resale agreement, including a standing repurchase or resale agreement, was entered into;

(B) is no longer in effect on February 27, 1996; or

(C) is brought into compliance with section 3 of this chapter, as amended by P.L.41-1996, not later than May 27, 1996;

is legalized and validated.

As added by P.L.220-2011, SEC.94.

IC 5-13-9-1

Investment powers; funds that may be invested

Sec. 1. (a) Except as provided in subsection (b), in addition to any other statutory power to make investments, each county treasurer and each fiscal officer of any political subdivision other than a county, under the guidelines established, respectively, by the board of county commissioners of each county and the fiscal body of any other subdivision, and any other officer of a local government entity authorized by statute or court order to make investments, may invest any funds held by each in accordance with this chapter.

(b) The treasurer of state may invest funds under sections 2(a)(3) and 2.5 of this chapter.

(c) The funds that may be invested under this chapter include money raised by bonds issued for a future specific purpose, sinking funds, depreciation reserve funds, gift, bequest or endowment, and any other funds available for investment.

As added by P.L.19-1987, SEC.11. Amended by P.L.18-1996, SEC.11; P.L.134-1999, SEC.1; P.L.220-2003, SEC.1; P.L.102-2014, SEC.1.

IC 5-13-9-2

Investment of funds held in securities; cost in excess of par; protecting interest in funds invested; legal custodians; safekeeping receipts

Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:

(A) The United States Treasury.

(B) A federal agency.

(C) A federal instrumentality.

(D) A federal government sponsored enterprise.

(2) Securities fully guaranteed and issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the twenty (20) years preceding the date of the purchase. A security purchased by the treasurer of state under this subdivision must have a stated final maturity of not more than ten (10) years after the date of purchase.

(b) If an investment under subsection (a) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements

for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

(1) a duly designated depository as prescribed in this article; or

(2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than five thousand (5,000) but less than five thousand one hundred (5,100) may also invest in:

(1) municipal securities; and

(2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than five thousand (5,000) but less than ten thousand (10,000) located in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000) may also invest money in a host community agreement future fund established by ordinance of the town in:

(1) municipal securities; and

(2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

As added by P.L.19-1987, SEC.11. Amended by P.L.67-1989, SEC.1; P.L.72-1995, SEC.4; P.L.18-1996, SEC.12; P.L.54-1999, SEC.1; P.L.212-1999, SEC.1; P.L.170-2002, SEC.14; P.L.220-2003, SEC.2;

P.L.115-2010, SEC.6; P.L.119-2012, SEC.15; P.L.102-2014, SEC.2; P.L.47-2016, SEC.2.

IC 5-13-9-2.4
Repealed

(As added by P.L.134-1999, SEC.2. Repealed by P.L.220-2003, SEC.6.)

IC 5-13-9-2.5
Permitted investments; limitations

Sec. 2.5. (a) An officer designated in section 1 of this chapter may invest or reinvest funds that are held by the officer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(b) The investments described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5.

(c) The portfolio of an investment company or investment trust described in subsection (a) must be limited to the following:

(1) Direct obligations of the United States.

(2) Obligations issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) Repurchase agreements fully collateralized by obligations described in subdivision (1) or (2).

(d) The form of securities of or interests in an investment company or investment trust described in subsection (a) must be rated as one (1) of the following:

(1) AAAm, or its equivalent, by Standard and Poor's Corporation or its successor.

(2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its successor.

(e) The form of securities in an investment company or investment trust described in subsection (a) is considered to have a stated final maturity of one (1) day.

(f) The state board of accounts may rely on transaction confirmations evidencing ownership of the form of securities of or interests in an investment company or investment trust described in subsection (a).

As added by P.L.134-1999, SEC.3. Amended by P.L.115-2010, SEC.7.

IC 5-13-9-3

Repurchase agreements; funds held by officer and available for investment; obligations held as collateral

Sec. 3. (a) As used in this section, "repurchase agreement" means an agreement:

(1) involving the purchase and guaranteed resale of securities between two (2) parties; and

(2) that may be entered into for a fixed term or arranged on an open or a continuing basis as a continuing contract that:

(A) operates like a series of overnight repurchase agreements;

(B) is renewed each day with the repurchase rate and the amount of funds invested determined daily; and

(C) for purposes of this article, is considered to have a stated final maturity of one (1) day.

(b) Each officer designated in section 1 of this chapter may enter into, with any funds that are held by the officer and available for investment, repurchase agreements:

(1) with depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5; and

(2) involving the political subdivision's purchase and guaranteed resale of any interest-bearing obligations:

(A) issued; or

(B) fully insured or guaranteed;

by the United States, a United States government agency, an instrumentality of the United States, or a federal government sponsored enterprise.

The depository shall determine daily that the amount of money in this type of agreement must be fully collateralized by interest-bearing obligations as determined by their current market value. The collateral for this type of agreement is not subject to the provisions of section 2(c) of this chapter.

(c) If the market value of the obligations being held as collateral falls below the level required under subsection (b) or a higher level established by agreement, the depository shall deliver additional securities to the political subdivision to make the agreement collateralized to the applicable level. The collateral involved in a repurchase agreement entered into under this section is not subject to the maturity limitation provided in section 5.6 of this chapter.

(d) A political subdivision may invest in repurchase agreements without entering into a contract under IC 5-13-11 for an investment cash management system.

As added by P.L.19-1987, SEC.11. Amended by P.L.49-1988, SEC.1; P.L.41-1996, SEC.1; P.L.18-1996, SEC.13; P.L.46-1997, SEC.10; P.L.134-2000, SEC.1.

IC 5-13-9-3.3

Investment of funds in obligations issued, assumed, or guaranteed by International Bank for Reconstruction and Redevelopment or

African Development Bank

Sec. 3.3. Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Redevelopment or the African Development Bank.

As added by P.L.18-1996, SEC.14.

IC 5-13-9-3.5

Investment and reinvestment of funds; participation in loans; lending securities

Sec. 3.5. (a) The fiscal officer of a political subdivision or county treasurer that is located in a county containing a consolidated city may invest or reinvest any funds that are held by the fiscal officer or the county treasurer and that are available for investment in participations in loans. However, funds may be invested or reinvested in a participation in loans under this subsection only under the following conditions:

(1) The principal of the participation in loans must be guaranteed by an agency or instrumentality of the United States government.

(2) The participation in loans must be represented by a certificate issued by a bank that is:

(A) incorporated under the laws of Indiana, another state, or the United States; and

(B) insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(b) Funds may be invested or reinvested in a participation in loans under subsection (a) even though the certificate representing the participation in loans is not insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(c) A fiscal officer or county treasurer described in subsection (a) may lend any securities acquired under this section or section 2 of this chapter. However, securities may be lent under this subsection only if the agreement under which the securities are lent is collateralized by:

(1) cash; or

(2) interest bearing obligations that are issued by, fully insured by, or guaranteed by the United States, an agency of the United States government, a federal instrumentality, or a federal government sponsored enterprise in excess of the total market value of the loaned securities.

As added by P.L.44-1990, SEC.6. Amended by P.L.8-1991, SEC.3; P.L.29-1992, SEC.4; P.L.57-1993, SEC.5; P.L.18-1996, SEC.15; P.L.46-1997, SEC.11.

IC 5-13-9-4

Deposit, investment, or reinvestment of funds in transaction

accounts; certificates of deposit; deposit accounts

Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository.

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. If the deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall:

(1) place the deposit in the depository quoting the second or third highest rate of interest; and

(2) note the reason for placing the deposit on the memorandum of quotes.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

As added by P.L.19-1987, SEC.11. Amended by P.L.50-1988, SEC.1; P.L.44-1990, SEC.7; P.L.57-1993, SEC.6; P.L.18-1996, SEC.16; P.L.46-1997, SEC.12; P.L.173-2003, SEC.2; P.L.115-2010, SEC.8.

IC 5-13-9-5

Authorization to invest in certificates of deposit; quotes from depositories

Sec. 5. (a) The board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. An ordinance or a resolution adopted under this subsection must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its

local board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

(c) If a deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall follow the procedures and priority for placing deposits that are set forth in section 4 of this chapter and note the reason for placing the deposit on the memorandum of quotes.

As added by P.L.19-1987, SEC.11. Amended by P.L.47-1991, SEC.1; P.L.18-1996, SEC.17; P.L.46-1997, SEC.13; P.L.115-2010, SEC.9.

IC 5-13-9-5.3

Authorization to invest in interest bearing deposit accounts; conditions; exemption from security or pledging requirements

Sec. 5.3. (a) For purposes of this section, "deposit account" does not include a deposit account described in IC 5-13-4-7(5).

(b) In addition to the authority to invest in certificates of deposit under section 5 of this chapter and in transaction accounts under section 4 of this chapter, and notwithstanding any other law, the board of county commissioners of each county, and the fiscal body of each political subdivision other than a county, may by ordinance or resolution authorize the investing officer of each, respectively, to invest public funds in interest bearing deposit accounts in accordance with the following conditions:

(1) The funds are initially invested through a depository that is selected by the investing officer.

(2) The selected depository arranges for the deposit of the funds in interest bearing deposit accounts in one (1) or more federally insured banks or savings and loan associations, wherever located, for the account of the county or political subdivision.

(3) The full amount of the principal and any accrued interest of each deposit are covered by insurance of any federal deposit insurance agency.

(4) The selected depository acts as a custodian for the county or political subdivision with respect to the deposits.

(5) On the same date that the county's or political subdivision's funds are deposited, the selected depository receives an amount of deposits covered by insurance of any federal deposit insurance agency from customers of other institutions, wherever located, at least equal to the amount of the funds invested by the county or political subdivision through the selected depository.

(c) Public funds invested in accordance with subsection (b) are not subject to any security or pledging requirements that may

otherwise be applicable to the deposit or investment of public funds. *As added by P.L.115-2010, SEC.10. Amended by P.L.31-2012, SEC.2.*

IC 5-13-9-5.6
Final maturity; investment policy

Revisor's Note: See IC 1-1-3.5-8 concerning the effective date of this section as amended by P.L.119-2012, SEC.1.

Sec. 5.6. Except for investments allowed under section 2(f) or 2(g) of this chapter, investments made under this chapter must have a stated final maturity of not more than:

(1) five (5) years after the date of purchase or entry into a repurchase agreement for a conservancy district located in a city having a population of more than five thousand (5,000) but less than five thousand one hundred (5,100);

(2) five (5) years after the date of purchase or entry into a repurchase agreement for investments made from a host community agreement future fund established by ordinance of a town with a population of more than five thousand (5,000) but less than ten thousand (10,000) located in a county having a population of more than one hundred forty thousand (140,000) but less than one hundred fifty thousand (150,000); or

(3) two (2) years after the date of purchase or entry into a repurchase agreement for:

(A) a fund not described in subdivision (1) or (2); or

(B) a political subdivision that:

(i) is not described in subdivision (1) or (2); and

(ii) does not have in effect an investment policy and ordinance under section 5.7 of this chapter.

As added by P.L.18-1996, SEC.18. Amended by P.L.54-1999, SEC.2; P.L.212-1999, SEC.2; P.L.170-2002, SEC.15; P.L.43-2012, SEC.1.

IC 5-13-9-5.7
Political subdivision investment policy

Sec. 5.7. (a) The fiscal body of a political subdivision may adopt an investment policy authorizing the investment of public funds of the political subdivision for more than two (2) years and not more than five (5) years. The policy must:

(1) be in writing;

(2) be adopted at a public meeting;

(3) provide for the investment of public funds with the approval of the investing officer;

(4) provide that the investments must be made in accordance with this article;

(5) limit the total investments outstanding under this section to not more than twenty-five percent (25%) of the total portfolio of public funds invested by the political subdivision, including balances in transaction accounts; and

(6) state a date on which the policy expires, which may not be more than four (4) years after the date on which the policy takes effect.

(b) A policy adopted by a fiscal body under subsection (a) remains in effect only through the date of expiration established in the policy, which may not be more than four (4) years after the date on which the policy takes effect.

(c) A fiscal body that has adopted a written investment policy under subsection (a) may adopt an ordinance authorizing its investing officer to make investments having a stated final maturity that is:

(1) more than two (2) years; but

(2) not more than five (5) years;

after the date of purchase or entry into a repurchase agreement.

(d) An ordinance adopted by a fiscal body under subsection (c) and the power to make an investment described in subsection (c) expire on the date on which the policy expires, which may not be more than four (4) years after the date on which the policy takes effect.

(e) After an investment of public funds of a political subdivision is made by the investing officer under this section, the total investments of the political subdivision outstanding under this section may not exceed twenty-five percent (25%) of the total portfolio of public funds invested by the political subdivision, including balances in transaction accounts. However, an investment that complies with this section when the investment is made remains legal even if:

(1) the investment policy has expired; or

(2) a subsequent decrease in the total portfolio of public funds invested by the political subdivision, including balances in transaction accounts, causes the percentage of investments outstanding under this section to exceed twenty-five percent (25%) of the total portfolio of public funds invested by the political subdivision.

(f) An investing officer may contract with a federally regulated investment advisor or other institutional money manager to make investments under this section.

As added by P.L.43-2012, SEC.2. Amended by P.L.13-2013, SEC.9.

IC 5-13-9-6

Interest received from investment; deposit; receipt; reinvestment; disposition

Sec. 6. (a) All interest derived from an investment by a political subdivision or by any other local public officer under the authority granted by section 3 of this chapter shall be deposited, except as otherwise provided by law, in the general fund of the investment authority or in any other fund its governing body designates specifically or by rule, subject to the modifications and limitations in this section.

(b) Interest from the following investments shall be receipted as follows:

(1) Interest from investments of funds of a political subdivision that are traceable to United States government funds must be receipted to the fund of which they are a part, if required by federal law or regulation.

(2) Interest from investments of funds controlled by court orders must be receipted to that fund unless otherwise designated by the court order.

(c) Each county treasurer, if authorized by the board of county commissioners, may invest tax collections under this chapter pending distribution of the collections to political subdivisions. These investments may not:

(1) exceed the amount available after giving consideration to taxes which may need to be advanced to any political subdivision; or

(2) be made in deposit accounts or repurchase agreements, the maturity dates of which are later than the time when the tax collections are required by law to be distributed to political subdivisions.

(d) The interest received on the investments made under subsection (c) shall be receipted to the county general fund or any other fund from which expenses incurred in the maintenance of county highways may be paid. The county fiscal body (as defined in IC 36-1-2-6) shall determine the allocation of this interest among the general fund and the various highway funds into which the interest may be deposited.

(e) Any political subdivision may apply the interest derived from the investment of the proceeds from bonded indebtedness or local tax levies to the appropriate redemption bond interest or sinking fund for the bonded indebtedness.

(f) If meter deposits of a municipally owned utility are invested, the interest earned on the investment may be applied to and used in the operation or depreciation fund of the municipally owned utility as determined by its governing body.

(g) Interest from the investment of the public funds of a political subdivision may not be paid personally or for the benefit of any public officer.

As added by P.L.19-1987, SEC.11. Amended by P.L.68-1989, SEC.1; P.L.18-1996, SEC.19.

IC 5-13-9-7
Repealed

(Repealed by P.L.18-1996, SEC.33.)

IC 5-13-9-8
Service charges; consideration in computing interest rate; payment by direct charge or from interest earned; reporting by political

subdivision

Sec. 8. Any investing officer of a political subdivision that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. However, the service charge imposed must be considered in the computation of the interest rate for determining which depositories are entitled to investments as prescribed by sections 4 and 5 of this chapter. If the total service charge cannot be computed before the investment, the investing officer shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid:

(1) by direct charge to the deposit or other account; or

(2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other account.

If the manner described in subdivision (2) is used to pay the service charge, the political subdivision must report the net interest deposited in the political subdivision's financial records, and the political subdivision is not required to report the amount of the service charge subtracted in the political subdivision's financial records.

As added by P.L.19-1987, SEC.11. Amended by P.L.18-1996, SEC.20; P.L.147-2011, SEC.1; P.L.202-2011, SEC.1; P.L.233-2015, SEC.11.

IC 5-13-9-8.5

Designation as public funds

Sec. 8.5. Funds deposited in deposit accounts in accordance with this chapter and interest earned or accrued on the funds are public funds and are covered by the insurance fund.

As added by P.L.18-1996, SEC.21.

IC 5-13-9-9

Prohibited acts

Sec. 9. An officer designated in section 1 of this chapter may not do the following:

(1) Purchase securities on margin.

(2) Open a securities margin account for the investment of public funds.

As added by P.L.72-1995, SEC.5.

IC 5-13-9-10

County joint investment fund; participating political subdivisions; written master agreement; administration of board; interest payments

Sec. 10. (a) The investing officers of two (2) or more political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the

rights and obligations of the participating political subdivisions.

(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

(d) A joint investment fund must be invested and reinvested as a separate and individual fund. A joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions by this chapter.

(e) A written master agreement under subsection (a) must provide the following:

(1) A political subdivision may participate in a joint investment fund only with the written authorization of its local board of finance.

(2) A political subdivision may participate in a joint investment fund only if its legislative body approves the written master agreement.

(3) Subject to subsection (d), the board of a joint investment fund shall establish written policies for the investment and reinvestment of joint investment funds in the manner provided by IC 30-4-3-3.

(4) A fund shall be invested and reinvested as prescribed in subdivision (3).

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

(C) provide any other services appropriate and customary for a custodian;

subject to the direction of the board of a joint investment fund.

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments

as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars ($100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.

As added by P.L.224-2003, SEC.276. Amended by P.L.3-2008, SEC.27; P.L.115-2010, SEC.11.

IC 5-13-9-11

Local government investment pool

Sec. 11. (a) As used in this section, "investment pool" means the local government investment pool established by subsection (b).

(b) The local government investment pool is established within the office and custody of the treasurer of state.

(c) An officer designated in section 1 of this chapter may pay any funds held by the officer into the investment pool for the purpose of deposit, investment, and reinvestment of the funds by the treasurer of state on behalf of the unit of government paying the funds into the investment pool.

(d) The treasurer of state may pay state funds into the investment pool for the purpose of deposit, investment, and reinvestment of the state funds.

(e) The treasurer of state shall invest the funds in the investment pool in the same manner, in the same type of instruments, and subject to the same limitations provided for the deposit and investment of state funds by the treasurer of state under IC 5-13-10.5.

(f) The treasurer of state:

(1) shall administer the investment pool; and

(2) may contract with accountants, attorneys, regulated investment advisors, money managers, and other finance and investment professionals to make investments and provide for the public accounting and legal compliance necessary to ensure and maintain the safety, liquidity, and yield of the investment pool.

(g) The treasurer of state shall establish and make public the policies that the treasurer of state will follow to ensure the efficient administration of and accounting for the investment pool. The policies must provide the following:

(1) There is not a minimum time for which funds paid into the investment pool must be retained by the investment pool.

(2) The administrative expenses of the investment pool shall be accounted for by the treasurer of state and shall be paid from the earnings of the investment pool.

(3) The earnings of the investment pool in excess of the administrative expenses of the investment pool shall be credited to the state and each unit of government participating in the investment pool in a manner that equitably reflects the different amounts and terms of the state's investment and each unit's investment in the investment pool.

(4) There is not a limit on the number of accounts that the state or a unit of government participating in the investment pool may establish within the investment pool.

(5) The state and each unit of government participating in the investment pool shall receive electronic or paper reports, including:

(A) a daily transaction confirmation, reflecting any activity in the state's or unit's account; and

(B) a monthly report showing:

(i) the state's or unit's investment activity in the investment pool; and

(ii) the performance and composition of the investment pool.

(6) The investment pool shall be audited at least annually by an independent auditing firm, with an electronic or a paper copy of the audit provided to the state and each unit of government participating in the pool.

(7) No less than fifty percent (50%) of funds available for investment shall be deposited in banks qualified to hold deposits of participating local government entities.

(h) A unit of government participating in the investment pool may elect to have any funds due from the state wired directly to the custodian bank of the investment pool for credit to the unit's investment pool account by submitting in writing a request to the auditor of state to wire the funds as directed. An election made by a unit of government under this subsection may be revoked at any time by the unit by submitting in writing a request to the auditor of state to cease wiring the funds as previously directed by the unit.

As added by P.L.117-2007, SEC.1.

IC 5-13-9.1
Repealed

(Repealed by P.L.1-2002, SEC.172.)

IC 5-13-9.3

Chapter 9.3. Investment of Proceeds Received From the Sale of Certain Capital Assets

IC 5-13-9.3-1

"Capital asset"

Sec. 1. As used in this chapter, "capital asset" means a building, a fixture, a structure, an improvement, or land.

As added by P.L.139-2015, SEC.2.

IC 5-13-9.3-2

"Fund"

Sec. 2. As used in this chapter, "fund" means a fund established under section 4 of this chapter.

As added by P.L.139-2015, SEC.2.

IC 5-13-9.3-3

Investment of proceeds from certain capital assets; ordinance or resolution

Sec. 3. (a) Subject to the requirements of this chapter, the fiscal body of a political subdivision may adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of any other political subdivision) to authorize the investment of proceeds from the sale of a capital asset owned by the political subdivision. A fiscal body may adopt an ordinance under this subsection before, after, or at the time of the sale of the capital asset.

(b) Proceeds from the sale of a capital asset owned by a political subdivision may be invested as provided in this chapter only if:

(1) the total amount received (either before July 1, 2015, or after June 30, 2015) or that will be received from the sale of the capital asset exceeds fifty million dollars ($50,000,000); and

(2) the fiscal body of the political subdivision has adopted an ordinance or a resolution, as described in subsection (a), that applies to the investment of proceeds from the sale of that particular capital asset.

As added by P.L.139-2015, SEC.2.

IC 5-13-9.3-4

Establishment of separate fund; investment powers; agreement with investment advisor; expenditure or transfer of money in the fund

Sec. 4. (a) If the fiscal body of a political subdivision adopts an ordinance or a resolution under section 3 of this chapter for a particular capital asset, the fiscal officer of the political subdivision shall establish a separate fund into which some or all of the proceeds from the sale of the capital asset shall be deposited. All interest and other income earned on investments of money in the fund shall be deposited in the fund. The ordinance or resolution under section 3 of

this chapter must require that the investing officer of the political subdivision shall contract with a registered investment advisor concerning the investment of the proceeds in the fund with the expanded investment authority granted to the political subdivision under this section.

(b) Notwithstanding IC 5-13 or any other law, the investing officer of the political subdivision may invest money in the fund in the same manner as money in the next generation trust fund may be invested under IC 8-14-15-8(b). A political subdivision shall enter into an agreement with a registered investment advisor to provide advice regarding investment of money in the fund. The political subdivision shall, with the advice of the registered investment advisor, enter into agreements with investment managers for the investment of the funds. These agreements:

(1) must be a fee-for-service agreement; and

(2) may not provide that the compensation of the investment management professionals or investment advisors is determined in whole or in part by the amount or percentage of the investment income earned on money in the fund.

(c) Money in the fund may not be expended or transferred from the fund, except as provided in this chapter.

As added by P.L.139-2015, SEC.2.

IC 5-13-9.3-5

Principal and interest of money in the fund; appropriation required; limits

Sec. 5. The following apply to money deposited in the fund:

(1) The principal of the fund consists of:

(A) the amount deposited in the fund as the proceeds from the sale of the capital asset; plus

(B) any investment income that is:

(i) earned on money in the fund; and

(ii) added to the principal of the fund as provided in subdivision (2).

(2) To the extent that investment income earned on money in the fund during a calendar year exceeds five percent (5%) of the amount of the principal at the beginning of the calendar year, that excess investment income shall, for purposes of this chapter, be added to and be considered a part of the principal of the fund.

(3) Money may be expended from the fund only upon appropriation by the fiscal body of the political subdivision. Money may be transferred from the fund to another fund of the political subdivision only if the fiscal body of the political subdivision authorizes the transfer by ordinance (in the case of a county or municipality) or by resolution (in the case of any other political subdivision). However, an expenditure or transfer of any money that is part of the principal of the fund

may be made only if the expenditure or transfer is approved:

(A) by each member of the fiscal body of the political subdivision; and

(B) by each member of the executive of the political subdivision.

(4) All money in the fund that is in a deposit account and not in some other form of investment shall be deposited in one (1) or more designated depositories of the political subdivision in the same manner as other public funds of the political subdivision are deposited under IC 5-13-9.

As added by P.L.139-2015, SEC.2.

IC 5-13-9.3-6

Department of local government finance may not reduce levy

Sec. 6. The department of local government finance may not reduce a political subdivision's property tax levy under IC 6-1.1-18.5 or any other law on account of money deposited in a fund established under this chapter.

As added by P.L.139-2015, SEC.2.

IC 5-13-9.5

Chapter 9.5. Designation of State Depositories

IC 5-13-9.5-1

Application by financial institution to be state depository; ineligibility; certificate

Sec. 1. (a) A financial institution may at any time file an application to become a depository and receive public funds of the state on deposit. Except as provided in IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive public funds of the state qualifies a depository to receive public funds of a political subdivision. Applications for the state board of finance must be filed with the treasurer of state. The treasurer shall submit each application to the board.

(b) An application must:

(1) be made in writing on forms prescribed under section 8 of this chapter;

(2) contain terms and conditions as required and authorized by this chapter; and

(3) offer to:

(A) receive public funds of the state on deposit; and

(B) provide the security required by IC 5-13-13-7 for the safekeeping and prompt payment of the deposited funds.

(c) A financial institution is ineligible to become a depository and receive public funds of the state if either of the following applies:

(1) The institution fails to maintain a capital ratio in excess of the minimum required by the governmental supervisory body of the institution. However, the requirement set forth in this subdivision does not apply if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the board for depositories, or to the board's agent, in accordance with IC 5-13-13 and with any applicable rules of the board.

(2) The institution has been found by the department of financial institutions under IC 28-1-2-40, or the financial institution's primary federal regulator, to not be in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009 as it applies to Indiana borrowers.

If the financial institution is already a depository, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor, although the financial institution may not accept the public funds for reinvestment and may not accept additional public funds. If necessary, a determination of the ratio described in subdivision (1) must be based on the institution's most recent periodic statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as prescribed by the supervisory body.

(d) A financial institution shall furnish to the board a certificate executed by an officer of the institution signifying that the institution satisfies:

(1) the requirements of subsection (c); and

(2) the requirement in section 6(b) of this chapter that the sum of:

(A) the total principal amount of the depository's outstanding loans to Indiana residents; plus

(B) the total value of the depository's investments in Indiana residents;

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

The board may rely on a certificate furnished under this subsection in determining whether to deposit public funds or reinvest public funds in the institution.

As added by P.L.18-1996, SEC.22. Amended by P.L.46-1997, SEC.14; P.L.115-2010, SEC.12; P.L.147-2011, SEC.2; P.L.202-2011, SEC.2.

IC 5-13-9.5-2

Consideration of applications

Sec. 2. The state board of finance shall consider all applications of financial institutions filed with the state board of finance.

As added by P.L.18-1996, SEC.22.

IC 5-13-9.5-3

Designation of qualified financial institutions as depositories

Sec. 3. (a) The state board of finance shall designate as a depository for public funds of the state any financial institution qualified under section 1 of this chapter that:

(1) properly files an application to receive a deposit of public funds of the state and to provide the security required by IC 5-13-13-7; and

(2) is suitably located with reference to the convenience of the officers and state institutions using that financial institution.

(b) The state board of finance may invite and act upon applications and designate depositories at any time when additional depositories may be available or are required for the state or a political subdivision.

As added by P.L.18-1996, SEC.22.

IC 5-13-9.5-4

Expiration of designation as depository

Sec. 4. When the state board of finance has designated a depository for public funds, the treasurer of state shall accept the application of the financial institution to act as a depository for public funds. A designation under this section expires only under the

following conditions:

(1) The board of depositories revokes the status of the financial institution as a depository under section 6 of this chapter.

(2) The financial institution resigns as a depository under section 7 of this chapter.

(3) Another law terminates the depository status of the financial institution.

As added by P.L.18-1996, SEC.22.

IC 5-13-9.5-5

Filing copy of institution's statement of condition

Sec. 5. A financial institution designated as a depository under this chapter shall, upon request of the treasurer of state, file a copy of the institution's most recent statement of condition.

As added by P.L.18-1996, SEC.22.

IC 5-13-9.5-6

Revocation of commission of depository; causes

Sec. 6. (a) The board for depositories regarding depositories of public funds of the state may revoke the commission of any depository at any time for any cause considered sufficient by the board for depositories.

(b) The causes for which the board for depositories may revoke the commission of a depository under subsection (a) include the failure of the depository to conduct lending activities in Indiana to such an extent that, at the end of each quarter, pursuant to the depository's certification, the sum of:

(1) the total principal amount of the depository's outstanding loans to Indiana residents (as defined in IC 5-13-8-7); plus

(2) the total value of the depository's investments in Indiana residents (as defined in IC 5-13-8-7);

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

(c) Upon revocation, the depository shall immediately render an accounting and make settlement for all public funds deposited with the depository.

As added by P.L.18-1996, SEC.22.

IC 5-13-9.5-7

Resignation of depository

Sec. 7. Any depository designated under this chapter may resign as a depository and relinquish all public funds on deposit with the depository. The resignation is effective:

(1) thirty (30) days after written notice is given to the state board of finance; and

(2) after settlement with the state board of finance for all public funds on deposit with the depository.

As added by P.L.18-1996, SEC.22.

IC 5-13-9.5-8
Forms

Sec. 8. (a) The state board of accounts, with the approval of the attorney general, shall prepare and prescribe:

(1) a form of agreement to receive public funds on deposit that may be accepted and executed, as provided in this chapter; and
(2) any other forms necessary to carry out this chapter.

(b) These forms must be used by the state board of finance and depositories in the performance of the duties imposed upon the state board of finance by this chapter. All agreements and the rights of the parties must be subject to modification by any statute and by all rules adopted by the department of financial institutions concerning withdrawal of funds in times of emergency.

As added by P.L.18-1996, SEC.22.

IC 5-13-10
Chapter 10. Funds Invested by the Treasurer of State

IC 5-13-10-1
Excess funds; deposit in deposit accounts

Sec. 1. Upon determination by the treasurer of state that cash of the state on deposit is in excess of its anticipated daily cash requirements, the treasurer of state may deposit the excess funds in deposit accounts of designated depositories.
As added by P.L.19-1987, SEC.12.

IC 5-13-10-2
Deposit accounts; interest rate requirement

Sec. 2. Deposit accounts must bear interest at rates of interest not less than the rates of interest paid from time to time by each financial institution to all its depositors making comparable investments.
As added by P.L.19-1987, SEC.12.

IC 5-13-10-3
Deposit accounts; limitations on deposit; depository to file periodic statement of condition; increase of maximum percentage in depository on finding of excess cash

Sec. 3. The treasurer of state may not deposit aggregate funds in deposit accounts in any one (1) designated depository in an amount aggregating at any one (1) time more than fifty percent (50%) of the combined capital, surplus, and undivided profits of that depository as determined by its last published statement of condition filed with the treasurer of state. Each depository shall file with the treasurer of state each periodic statement of condition required to be filed by it with its governmental supervisory body. If the state board for depositories finds that excess cash of the state is substantially more than that which had been anticipated, it may increase that maximum percentage in any depository, and the treasurer of the state may invest the additional funds in deposit accounts distributed among the depositories substantially in proportion to their respective capital, surplus, and undivided profits.
As added by P.L.19-1987, SEC.12.

IC 5-13-10-4
Publication of average daily balance of funds; audit of records

Sec. 4. Within thirty (30) days following the end of each semiannual fiscal period of the state, the treasurer of state shall publish, in two (2) newspapers of general circulation in Indiana, the average daily balance of the funds maintained by the treasurer in each of the depositories in the fiscal period listing separately funds in accounts subject to withdrawal on demand or by negotiable orders of withdrawal and funds evidenced by all other depository accounts. The accuracy of the computation of the balances shall be verified by

the state board of accounts in the audit of the records of the treasurer of state.
As added by P.L.19-1987, SEC.12.

IC 5-13-10-5
Interest to be receipted to general fund

Sec. 5. All interest derived from investments under this chapter shall be receipted to the general fund, except as otherwise provided by law.
As added by P.L.19-1987, SEC.12.

IC 5-13-10-6
Payment of interest accruing on state held school funds to school corporations

Sec. 6. All interest accrued or accruing on the sinking fund or any other fund held by the state for the benefit of common schools is set apart for distribution as other revenues are distributed for the support of the common schools.
As added by P.L.2-2006, SEC.29.

IC 5-13-10.5

Chapter 10.5. State Investments

IC 5-13-10.5-0.3

Legalization of certain actions

Sec. 0.3. Actions taken after June 30, 2007, and before March 24, 2008, that would have been valid under section 3 of this chapter, as amended by P.L.115-2008, are legalized and validated.

As added by P.L.220-2011, SEC.95.

IC 5-13-10.5-1

Applicability of chapter

Sec. 1. This chapter applies to the following funds:

(1) Funds raised by bonds issued for a future specific purpose.

(2) Sinking funds.

(3) Depreciation reserve funds.

(4) Gifts.

(5) Bequests or endowments.

(6) Any other funds available for investment.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-2

Authorization for investment and reinvestment of funds

Sec. 2. In addition to any other statutory power to make investments under any other law:

(1) the treasurer of state, under the guidelines established by the state board of finance; and

(2) any other public officer of the state authorized by statute or court order to make investments;

may invest or reinvest funds held by the treasurer of state or other public officer in any combination of the investments authorized under this chapter. In making the investment, the public official shall comply with the requirements in this chapter that apply to the investment.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-3

Final maturity; percentage of investments outstanding; investment advisers and money managers; investment of money from transportation corridor fund

Sec. 3. (a) Except as provided in subsection (b), investments under this chapter may be made only in securities having a stated final maturity of two (2) years or less from the date of purchase.

(b) The treasurer of state may make investments in securities having a final maturity or redemption date that is more than two (2) years and not more than five (5) years after the date of purchase or subscription. After an investment is made under this subsection, the total investments outstanding under this subsection may not exceed

twenty-five percent (25%) of the total portfolio of funds invested by the treasurer of state. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the treasurer of state causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%). The treasurer of state may contract with federally regulated investment advisers and other institutional money managers to make investments under this section.

(c) Unless prohibited under federal law, the treasurer of state shall invest under subsection (b) the funds of the transportation corridor fund established by IC 8-4.5-3-7. The treasurer of state may invest other funds held by the state in compliance with subsection (b).

As added by P.L.18-1996, SEC.23. Amended by P.L.46-1997, SEC.15; P.L.220-2003, SEC.3; P.L.115-2008, SEC.14.

IC 5-13-10.5-4

Protection of interests of funds

Sec. 4. A public officer making an investment under this chapter may sell any securities acquired and may take any action necessary to protect the interests of the funds invested, including the exercise of exchange privileges that may be granted with respect to maturing securities if the new securities offered in exchange meet the requirements for initial investment.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-5

Legal custodian; safekeeping receipts

Sec. 5. (a) The treasurer of state is the legal custodian of securities under this chapter. The treasurer of state shall accept safekeeping receipts or other reporting for securities from:

(1) a duly designated depository as prescribed in this article; or

(2) a financial institution located either in or out of Indiana having physical custody of securities with a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(b) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-6

Restrictions on public officers

Sec. 6. A public officer of the state may not do the following:

(1) Purchase securities on margin.

(2) Open a securities margin account for the investment of public funds.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-7
Investment in securities; cost in excess of par

Sec. 7. (a) A public officer of the state may invest or reinvest funds held by the officer and available for investment in securities that are:

(1) backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States; and

(2) issued by any of the following:

(A) The United States Treasury.

(B) A federal agency.

(C) A federal instrumentality.

(D) A federal government sponsored enterprise.

(b) If an investment under subsection (a) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-8
Investment in deposit accounts

Sec. 8. (a) A public officer of the state may invest or reinvest funds held by the officer and available for investment in deposit accounts issued or offered by a designated depository. Investments under this subdivision by the treasurer of state are governed by IC 5-13-10.

(b) Investments in deposit accounts under subsection (a) must be in the amounts, and for the rates and terms, as are agreed upon from time to time by the officer making the investment and the designated depository.

(c) Investments made in accordance with subsection (a) and the interest earned or accrued on them are public funds and are covered by the insurance fund.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-9
Investment in repurchase or resale agreements; collateral

Sec. 9. (a) A public officer of the state may invest any funds held by the officer and available for investment into agreements, commonly known as repurchase or resale agreements with depositories designated by the state board of finance as depositories for state deposits, involving the purchase and guaranteed resale of any interest-bearing obligations that are:

(1) issued; or

(2) fully insured or guaranteed;

by the United States, any United States government agency, any instrumentality of the United States government, or any federal government sponsored enterprise. The amount of money in this type

of agreement must be fully collateralized by interest-bearing obligations as determined by the current market value computed on the day on which a transaction is effective.

(b) The collateral for the type of agreement described in subsection (a) is not subject to the maturity limitation in section 3 of this chapter.

As added by P.L.18-1996, SEC.23. Amended by P.L.46-1997, SEC.16; P.L.134-2000, SEC.2.

IC 5-13-10.5-10

Investment in obligations issued; assumed or guaranteed by supranational issuers

Sec. 10. A public officer of the state may invest or reinvest funds that are held by the public officer and available for investment in United States dollar denominated obligations issued, assumed, or guaranteed as to the payment of principal and interest by:

(1) supranational issuers having the highest investment credit rating by at least two (2) nationally recognized credit rating agencies; or

(2) the State of Israel.

As added by P.L.18-1996, SEC.23. Amended by P.L.220-2003, SEC.4; P.L.102-2014, SEC.3.

IC 5-13-10.5-11

Investment in other obligations

Sec. 11. The treasurer of state may invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by any of the following:

(1) Agencies or instrumentalities of the United States government.

(2) Federal government sponsored enterprises.

(3) The Indiana bond bank, if the obligations are secured by tax anticipation time warrants or notes that:

(A) are issued by a political subdivision (as defined in IC 36-1-2-13); and

(B) have a maturity date not later than the end of the calendar year following the year of issuance.

As added by P.L.18-1996, SEC.23. Amended by P.L.1-2004, SEC.2 and P.L.23-2004, SEC.2.

IC 5-13-10.5-11.5

Treasurer of state may invest

Sec. 11.5. The treasurer of state may invest or reinvest funds that are held by the treasurer and that are available for investment in commercial paper rated in the highest rating category by one (1) nationally recognized rating service and with a stated final maturity of two hundred seventy (270) days or less from the date of purchase.

As added by P.L.220-2003, SEC.5.

IC 5-13-10.5-12
Investment in participations in loans

Sec. 12. (a) The treasurer of state may invest or reinvest any funds that are held by the treasurer and available for investment, in participations in loans. However, funds may be invested or reinvested in a participation in loans under this subsection only under the following conditions:

(1) The principal of the participation in loans must be guaranteed by an agency or instrumentality of the United States government.

(2) The participation in loans must be represented by a certificate issued by a bank that is:

(A) incorporated under the laws of Indiana, another state, or the United States; and

(B) insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(b) Funds may be invested or reinvested in a participation in loans under subsection (a) even if the certificate representing the participation in loans is not insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-13
Lending securities

Sec. 13. The treasurer of state may lend any securities acquired under section 7 or 11 of this chapter. However, securities may be lent under this section only if the agreement under which the securities are lent is collateralized by:

(1) cash; or

(2) non-cash collateral if the state is indemnified by the custodian holding the non-cash collateral;

in excess of the total market value of the loaned securities.

As added by P.L.18-1996, SEC.23. Amended by P.L.102-2014, SEC.4.

IC 5-13-10.5-14
Designation of fund

Sec. 14. The board of trustees of a state university may designate the fund to which the interest of its investments shall be receipted.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-15
Public depository insurance assessment

Sec. 15. Any public depository insurance assessment paid by a depository on any deposit account of the state under IC 5-13-12-5 shall be deducted from the interest otherwise payable on that account.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-16
Interest from investments

Sec. 16. Interest from the investment of the public funds of the state may not be paid personally or for the benefit of any public officer.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-17
Service charge

Sec. 17. Any public officer of the state that makes a deposit in any deposit or other account may be required to pay a service charge to the depository in which the funds are deposited, if the depository requires all customers to pay the charge for providing that service. If the total service charge cannot be computed before the investment, the investing officer of the state shall estimate the service charge and adjust the interest rate based on this estimate. The service charge may be paid by direct charge to the deposit or other account or in any other manner mutually agreed upon by the investing officer and the depository.

As added by P.L.18-1996, SEC.23.

IC 5-13-10.5-18 Version a
Investment in capital improvement board obligations; application; terms of investment; payments to bid fund; discharge of unpaid interest under certain conditions

Note: This version of section amended by P.L.204-2016, SEC.8, effective 3-24-2016. See also following version of this section amended by P.L.188-2016, SEC.6, effective 7-1-2016.

Sec. 18. (a) As used in this section, "capital improvement board" refers to a capital improvement board established under IC 36-10-9.

(b) To qualify for an investment under this section, the capital improvement board must apply to the treasurer of state in the form and manner required by the treasurer. As part of the application, the capital improvement board shall submit a plan for its use of the investment proceeds and for the repayment of the capital improvement board's obligation to the treasurer. Within sixty (60) days after receipt of each application, the treasurer shall consider the application and review its accuracy and completeness.

(c) If the capital improvement board makes an application under subsection (b) and the treasurer approves the accuracy and completeness of the application and determines that there is an adequate method of payment for the capital improvement board's obligations, the treasurer of state shall invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by the capital improvement board for the purposes of the capital improvement board in calendar years 2009, 2010, and 2011. The investment may not exceed nine million dollars ($9,000,000) per calendar year for 2009, 2010, and 2011.

(d) The treasurer of state shall determine the terms of each investment and the capital improvement board's obligation, which must include the following:

(1) Subject to subsections (f) and (g), the duration of the capital improvement board's obligation, which must be for a term of ten (10) years with an option for the capital improvement board to pay its obligation to the treasurer early without penalty.

(2) Subject to subsections (f) and (g), the repayment schedule of the capital improvement board's obligation, which must provide that no payments are due before January 1, 2013.

(3) A rate of interest to be determined by the treasurer.

(4) The amount of each investment, which may not exceed the maximum amounts established for the capital improvement board by this section.

(5) Any other conditions specified by the treasurer.

(e) The capital improvement board may issue obligations under this section by adoption of a resolution and, as set forth in IC 5-1-14, may use any source of revenue to satisfy the obligation to the treasurer of state under this section. This section constitutes complete authority for the capital improvement board to issue obligations to the treasurer. If the capital improvement board fails to make any payments on the capital improvement board's obligation to the treasurer, the amount payable shall be withheld by the auditor of state from any other money payable to the capital improvement board. The amount withheld shall be transferred to the treasurer to the credit of the capital improvement board.

(f) Subject to subsection (g), if all principal and interest on the obligations issued by the capital improvement board under this section in calendar year 2009, are paid before July 1, 2015, the term of the obligations issued by the capital improvement board to the treasurer of state in calendar year 2010 is extended until 2025. The treasurer of state shall discharge any remaining unpaid interest on the obligation issued by the capital improvement board to the treasurer of state in 2009, if the capital improvement board submits payment of the principal amount to the treasurer of state before the stated final maturity of that obligation.

(g) This subsection applies if the capital improvement board before July 1, 2015, adopts a resolution:

(1) to establish a bid fund to be used to assist the capital improvement board, the Indianapolis Convention and Visitors Association (VisitIndy), or the Indiana Sports Corporation in securing conventions, sporting events, and other special events; and

(2) to designate that principal and interest payments that would otherwise be made on the obligation issued by the capital improvement board under this section in calendar year 2010 shall instead be deposited in the bid fund.

If the requirements of subdivisions (1) and (2) are satisfied and the

capital improvement board deposits in the bid fund amounts equal to the principal and interests payments that would otherwise be made under the repayment schedule on the obligations issued by the capital improvement board under this section in calendar year 2010, the capital improvement board is not required to make those principal and interests payments to the treasurer of state at the time required under the repayment schedule. The amounts must be deposited in the bid fund not later than the time the principal and interest payments would otherwise be due to the treasurer of state under the repayment schedule. The state board of accounts shall annually examine the bid fund to determine the amount of deposits made to the bid fund under this subsection and to ensure that the money deposited in the bid fund is used only for purposes authorized by this subsection. To the extent that the capital improvement board does not deposit in the bid fund an amount equal to a payment of principal and interest that would otherwise be due under the repayment schedule on the obligations issued by the capital improvement board under this section in calendar year 2010, the capital improvement board must make that payment of principal and interest to the treasurer of state as provided in this section. If the capital improvement board deposits in the bid fund amounts equal to the payments of principal and interest that would otherwise be due under the repayment schedule on the obligations issued by the capital improvement board under this section in calendar year 2010, the capital improvement board is only required to repay to the treasurer of state the principal amount of the obligation.

As added by P.L.182-2009(ss), SEC.78. Amended by P.L.213-2015, SEC.64; P.L.204-2016, SEC.8.

IC 5-13-10.5-18 Version b

Investment in capital improvement board obligations; application; terms of investment; payments to bid fund

Note: This version of section amended by P.L.188-2016, SEC.6, effective 7-1-2016. See also preceding version of this section amended by P.L.204-2016, SEC.8, effective 3-24-2016.

Sec. 18. (a) As used in this section, "capital improvement board" refers to a capital improvement board established under IC 36-10-9.

(b) To qualify for an investment under this section, the capital improvement board must apply to the treasurer of state in the form and manner required by the treasurer. As part of the application, the capital improvement board shall submit a plan for its use of the investment proceeds and for the repayment of the capital improvement board's obligation to the treasurer. Within sixty (60) days after receipt of each application, the treasurer shall consider the application and review its accuracy and completeness.

(c) If the capital improvement board makes an application under subsection (b) and the treasurer approves the accuracy and completeness of the application and determines that there is an

adequate method of payment for the capital improvement board's obligations, the treasurer of state shall invest or reinvest funds that are held by the treasurer and that are available for investment in obligations issued by the capital improvement board for the purposes of the capital improvement board in calendar years 2009, 2010, and 2011. The investment may not exceed nine million dollars ($9,000,000) per calendar year for 2009, 2010, and 2011.

(d) The treasurer of state shall determine the terms of each investment and the capital improvement board's obligation, which must include the following:

(1) Subject to subsections (f) and (g), the duration of the capital improvement board's obligation, which must be for a term of ten (10) years with an option for the capital improvement board to pay its obligation to the treasurer early without penalty.

(2) Subject to subsections (f) and (g), the repayment schedule of the capital improvement board's obligation, which must provide that no payments are due before January 1, 2013.

(3) A rate of interest to be determined by the treasurer.

(4) The amount of each investment, which may not exceed the maximum amounts established for the capital improvement board by this section.

(5) Any other conditions specified by the treasurer.

(e) The capital improvement board may issue obligations under this section by adoption of a resolution and, as set forth in IC 5-1-14, may use any source of revenue to satisfy the obligation to the treasurer of state under this section. This section constitutes complete authority for the capital improvement board to issue obligations to the treasurer. If the capital improvement board fails to make any payments on the capital improvement board's obligation to the treasurer, the amount payable shall be withheld by the auditor of state from any other money payable to the capital improvement board. The amount withheld shall be transferred to the treasurer to the credit of the capital improvement board.

(f) Subject to subsection (g), if all principal and interest on the obligations issued by the capital improvement board under this section in calendar year 2009, are paid before July 1, 2015, the term of the obligations issued by the capital improvement board to the treasurer of state in calendar year 2010 is extended until 2025.

(g) This subsection applies if the capital improvement board before July 1, 2015, adopts a resolution:

(1) to establish a bid fund to be used to assist the capital improvement board, the Indianapolis Convention and Visitors Association (VisitIndy), or the Indiana Sports Corporation in securing conventions, sporting events, and other special events; and

(2) to designate that principal and interest payments that would otherwise be made on the obligation issued by the capital improvement board under this section in calendar year 2010

shall instead be deposited in the bid fund.

If the requirements of subdivisions (1) and (2) are satisfied and the capital improvement board deposits in the bid fund amounts equal to the principal and interests payments that would otherwise be made under the repayment schedule on the obligations issued by the capital improvement board under this section in calendar year 2010, the capital improvement board is not required to make those principal and interests payments to the treasurer of state at the time required under the repayment schedule. The amounts must be deposited in the bid fund not later than the time the principal and interest payments would otherwise be due to the treasurer of state under the repayment schedule. The state board of accounts shall examine the bid fund under IC 5-11-1 to determine the amount of deposits made to the bid fund under this subsection and to ensure that the money deposited in the bid fund is used only for purposes authorized by this subsection. To the extent that the capital improvement board does not deposit in the bid fund an amount equal to a payment of principal and interest that would otherwise be due under the repayment schedule on the obligations issued by the capital improvement board under this section in calendar year 2010, the capital improvement board must make that payment of principal and interest to the treasurer of state as provided in this section. If the capital improvement board deposits in the bid fund amounts equal to the payments of principal and interest that would otherwise be due under the repayment schedule on the obligations issued by the capital improvement board under this section in calendar year 2010, the capital improvement board is only required to repay to the treasurer of state the principal amount of the obligation.

As added by P.L.182-2009(ss), SEC.78. Amended by P.L.213-2015, SEC.64; P.L.188-2016, SEC.6.

IC 5-13-11
Chapter 11. Investment Cash Management System

IC 5-13-11-1
Contract with depository

Sec. 1. The county board of finance for a county described in IC 5-13-7-1 or the fiscal body for any other political subdivision and the investing officer of a political subdivision may contract with a depository for the operation of an investment cash management system.

As added by P.L.19-1987, SEC.13. Amended by P.L.46-1991, SEC.2.

IC 5-13-11-2
Requirements of investment contracts; awarding of contracts

Sec. 2. (a) The contract must:

(1) be in writing;

(2) provide for the investment of funds by the depository with the approval of the investing officer;

(3) provide that the depository keep those records concerning the investment cash management system that the political subdivision would maintain for audits by the state board of accounts;

(4) provide that investments will be made in accordance with this article;

(5) provide that the depository may invest funds in the same investments and for the same terms as the treasurer of state may invest funds of the state under this article;

(6) not have a term of more than two (2) years; and

(7) be awarded under the bidding provisions of IC 5-22.

(b) If no designated depository whose principal office or branch is located within the political subdivision will provide an investment cash management service permitted in this chapter, then the contract for an investment cash management service must be awarded as provided in IC 5-13-8-9(c). If the investment cash management service contract is awarded to a financial institution whose principal office or branch is located outside the political subdivision, then the recipient of the contract does not constitute a designated depository of the political subdivision for purposes of investment under IC 5-13-9-3 unless it meets the limitations of IC 5-13-9-4 or IC 5-13-9-5, but does constitute a depository under this article for all other purposes.

As added by P.L.19-1987, SEC.13. Amended by P.L.49-1997, SEC.28; P.L.102-2014, SEC.5.

IC 5-13-11-2.5
Contract renewal

Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the

fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.

(b) The term of a renewed contract may not be longer than the term of the original contract.

(c) A contract may be renewed any number of times.

As added by P.L.173-2003, SEC.3.

IC 5-13-11-3

Service charge for management of system; payment by direct charge or from interest earned

Sec. 3. The contract may provide for the depository to assess a service charge for its management of the investment cash management system. The service charge may be paid:

(1) by direct charge to the deposit or other account; or

(2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other account.

As added by P.L.19-1987, SEC.13. Amended by P.L.66-1989, SEC.2; P.L.147-2011, SEC.3; P.L.202-2011, SEC.3.

IC 5-13-11-4

Monthly report of transactions

Sec. 4. The depository shall furnish the political subdivision with at least one (1) report each month of transactions concerning the investment cash management system.

As added by P.L.19-1987, SEC.13.

IC 5-13-11-5

Interest or accretion

Sec. 5. The depository shall credit any interest or other accretion from an investment to the investment account of the political subdivision. The interest or accretion becomes a part of the principal in that account.

As added by P.L.19-1987, SEC.13.

IC 5-13-12

Chapter 12. Board for Depositories

IC 5-13-12-1

Creation; purpose; public deposit insurance fund; tax exemption

Sec. 1. (a) There is created an independent body politic and corporate, constituting an instrumentality of the state for the public purposes set out in this chapter, to be known as the board for depositories. The board is separate from the state in its corporate and sovereign capacity. The purpose of the board is to insure the safekeeping and prompt payment of all public funds deposited in any depository, to the extent they are not covered by insurance of any federal deposit insurance agency, by maintaining and operating in its own name the public deposit insurance fund under this chapter.

(b) Every depository that has public funds shall pay into the public deposit insurance fund the assessments provided in this chapter and comply with all lawful requirements of the board for depositories. The public deposit insurance fund shall be maintained by the assessments payable by the depositories and by the collection of all claims created under IC 5-13-13 and by the receipt of all interest and other earnings of the insurance fund from any source.

(c) All property in the public deposit insurance fund, the interest or income derived from it or through its use, and all property otherwise held by the board for depositories under this chapter is exempt from all taxes imposed by the state or any political subdivision.

As added by P.L.19-1987, SEC.14.

IC 5-13-12-2

Membership; term; officers; quorum; conduct of meetings; notice; proceedings; executive sessions; records

Sec. 2. (a) The board for depositories consists of the governor, the treasurer of state, the auditor of state, the chairperson of the department of financial institutions, the chief examiner of the state board of accounts, and four (4) appointed members. For appointments after June 30, 2010, one (1) member shall be appointed by the speaker of the house of representatives, one (1) member shall be appointed by the president pro tempore of the senate, and two (2) members shall be appointed by the governor. All appointed members must be residents of Indiana. The speaker of the house of representatives shall make the appointment to fill the first vacancy on the board, and the president pro tempore of the senate shall make the appointment to fill the second vacancy on the board that occurs after June 30, 2010. In making the governor's two (2) appointments, the governor shall assure that no more than two (2) of the four (4) appointees identify with the same political party. For appointments after June 30, 2010, all four (4) appointed members must be a chief executive officer or a chief financial officer of a depository at the

time of the appointment if the depository is domiciled in Indiana. If the depository is not domiciled in Indiana, the appointee must be the most senior corporate officer of the depository with management or operational responsibility, or both, or the person designated to manage public funds for the depository that is located in Indiana. In making the governor's appointments, the governor shall provide for geographic representation of all regions of Indiana, including both urban and rural communities. In addition, the appointees must, at the time of the appointment, be employed by the following depositories:

(1) One (1) member appointed by the governor who must be the chief executive officer or the chief financial officer of a depository that is a state chartered credit union.

(2) One (1) member appointed by the governor who must be employed by a depository that:

(A) is not a state chartered credit union; and

(B) has total deposits of less than two hundred fifty million dollars ($250,000,000).

(3) The member appointed by the president pro tempore of the senate must be employed by a depository that:

(A) is not a state chartered credit union; and

(B) has total deposits of at least two hundred fifty million dollars ($250,000,000) but less than one billion dollars ($1,000,000,000).

(4) The member appointed by the speaker of the house of representatives must be employed by a depository that:

(A) is not a state chartered credit union; and

(B) has total deposits of at least one billion dollars ($1,000,000,000).

Total deposits shall be determined using the depository's reported deposits based on the information contained in the most recent June 30th FDIC Summary of Deposits, Market Share Selection for Indiana. The term of an appointed member is four (4) years from the effective date of the member's appointment. Each appointed member holds office for the term of this appointment and serves after the expiration of that appointment until the member's successor is appointed and qualified. An appointed member may be reappointed if the individual satisfies the requirements of this subsection at the time of the reappointment. Any appointed member may be removed from office by, and at the pleasure of, the appointing authority.

(b) The officers of the board consist of a chairman, a secretary-investment manager, a vice chairman, and other officers the board determines to be necessary. The governor shall name a member of the board to serve as its chairman. The treasurer of state shall serve as the secretary-investment manager of the board. The board, by majority vote, shall elect the other officers. Officers, except the secretary-investment manager, shall be named or elected for one (1) year terms in January of each year. The members and officers of the board are not entitled to any compensation for their

services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

(c) Five (5) members of the board constitute a quorum for the transaction of business, and all actions of the board must be approved by at least a simple majority of those members voting on each individual business issue. The board may adopt, amend, or repeal bylaws and rules for the conduct of its meetings and the number and times of its meetings. The board shall hold a regular meeting at least once semiannually and may hold other regular and special meetings as prescribed in its rules. All meetings of the board are open to the public under IC 5-14-1.5. However, the board shall discuss the following in executive session:

(1) The financial strength of a particular financial institution.

(2) The collateral requirements of a particular financial institution.

(3) Any other matters concerning a particular financial institution.

All records of the board are subject to public inspection under IC 5-14-3. However, records regarding matters that are discussed in executive session are confidential.

(d) Two (2) days notice of the time and place of all meetings to determine and fix the assessment rate to be paid by depositories on account of insurance on public funds or the establishment or redetermination of the reserve for losses of the insurance fund shall be given by one (1) publication in a newspaper of general circulation printed and published in the city of Indianapolis. The time, place, notice, and waiver requirements for the members of the board for all meetings shall be determined by its rules. The secretary-investment manager of the board shall enter the board's proceedings at length in a record provided for that purpose, and the records of the proceedings shall be approved and signed respectively by the chairman or vice chairman and attested by the secretary-investment manager.

As added by P.L.19-1987, SEC.14. Amended by P.L.115-2010, SEC.13; P.L.134-2012, SEC.8.

IC 5-13-12-2.5
Repealed

(As added by P.L.141-2000, SEC.1. Repealed by P.L.134-2012, SEC.9.)

IC 5-13-12-3
Function, powers, and purpose

Sec. 3. (a) The board for depositories exercises essential public functions, and has a perpetual existence. The board has all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including but not limited to the powers to do the following:

(1) Adopt, amend, and repeal bylaws and rules consistent with this chapter to regulate its affairs and to effect the powers and purposes of the board, all without the necessity of adopting a rule under IC 4-22-2.
(2) Adopt its budget on a calendar year or fiscal year as it shall determine.
(3) Sue and be sued in its own name.
(4) Have an official seal and alter it at will.
(5) Maintain an office or offices at a place or places within Indiana as it may designate.
(6) Make and execute contracts and all other instruments with either public or private entities.
(7) Communicate with the employees of the Indiana finance authority to the extent reasonably desirable in working on a guarantee of an industrial development obligation or credit enhancement obligation.
(8) Deposit all uninvested funds of the public deposit insurance fund in a separate account or accounts in financial institutions that are designated as depositories to receive state funds under IC 5-13-9.5. The money in these accounts shall be paid out on checks signed by the chairman or other officers or employees of the board as it shall authorize.
(9) Take any other act necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

(b) In enforcing any obligation of the borrower or any other person under the documents evidencing a guarantee, the board may renegotiate the guarantee, modify the rate of interest, term of the industrial development obligation or credit enhancement obligation, payment of any installment of principal or interest, or any other term of any documents, settle any obligation on the security or receipt of property or the other terms as in its discretion it deems advantageous to the public deposit insurance fund, and take any other action necessary or convenient to such enforcement.

(c) The records of the board for depositories relating to negotiations between it and prospects for industrial development obligation or credit enhancement obligation guarantees are excepted from the provisions of IC 5-14-3-3.

As added by P.L.19-1987, SEC.14. Amended by P.L.11-1990, SEC.106; P.L.18-1996, SEC.24; P.L.235-2005, SEC.80.

IC 5-13-12-3.1
Repealed

(As added by P.L.5-1996, SEC.6. Repealed by P.L.177-2011, SEC.5.)

IC 5-13-12-4
Secretary-investment manager; powers and duties

Sec. 4. (a) The secretary-investment manager shall administer, manage, and direct the affairs and activities of the board under the policies and under the control and direction of the board. In carrying out these duties, the secretary-investment manager has the power to do the following:

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications for a guarantee of an industrial development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under clause (A).

(2) Approve all expenses incidental to the operation of the public deposit insurance fund.

(3) Perform other duties and functions that may be delegated to the secretary-investment manager by the board or that are necessary to carry out the duties of the secretary-investment manager under this chapter.

(b) The secretary-investment manager shall keep a record of the proceedings of the board, and shall maintain and be custodian of all books, documents, and papers filed with the board, and its official seal. The secretary-investment manager may make copies of all minutes and other records and documents of the board, and may give certificates under seal of the board to the effect that the copies are true copies. All persons dealing with the board may rely upon the certificates.

(c) Before July 30, 2013, the auditor of state shall:

(1) make the second 2013 distribution from the pension distribution fund to the Indiana public retirement system for deposit in the pension relief fund as required by this section as it existed on June 30, 2013; and

(2) transfer all of the balance in the pension distribution fund remaining after the distribution under subdivision (1) to the public deposit insurance fund.

As added by P.L.19-1987, SEC.14. Amended by P.L.281-2001, SEC.1; P.L.146-2008, SEC.39; P.L.115-2010, SEC.14; P.L.35-2012, SEC.92; P.L.93-2013, SEC.2.

IC 5-13-12-5

Assessment rate; determination and fixing; assessment base; waiver or elimination of assessment rate

Sec. 5. (a) Subject to the limitations prescribed in this chapter, the board for depositories may fix the assessment rate to provide assets in the fund sufficient to equal the reserve for losses of the fund for

the insurance of public funds on deposit in depositories. Effective on July 1, and January 1, of each year, and from time to time as the board determines necessary, the board shall determine and fix the fair and reasonable assessment rate for each classification of deposit, if any, to be used by depositories in determining the assessments. This determination shall be made by the board before or as soon as practicable after the applicable July 1, January 1, or other date established by the board. In fixing the rate, if any, the board shall consider the amount of public funds currently on deposit, the liabilities of the insurance fund, contingent and accrued, and the determination of the board on the amount of the reserve for losses of the insurance fund as set out in section 7(b) of this chapter. For any period, the maximum assessment rate that may be fixed by the board is two percent (2%). The board may lower or waive the assessment on any or all classifications of deposit if in its discretion it determines that a lower rate or waiver will not prevent the fund from attaining sufficient assets to equal the reserve for losses. Subject to the board's power to implement an assessment at any time by action by the board, if no action has been taken by the board for depositories fixing the assessment rate, if any, on public funds, the assessment rate is the same rate, if any. Whenever as of July 1, or January 1, or another date established by the board, the value of the assets in the fund equals or exceeds the reserve for losses, the board shall eliminate the assessment requirement for each classification of deposit.

(b) During any period when an assessment rate is in effect, the assessment base for each depository of public funds shall be determined monthly. The assessment base must be equal to the sum total of all the minimum balances of each classification of public funds on deposit in each and all accounts during the month, the minimum balance of each account being taken respectively as of the date on which it occurs. For purposes of this section, deposits that are federally insured are not considered public funds deposits in a depository. On or before the second day of each month in which an assessment rate is in effect, each depository shall compute the amount of the assessment due from it to the insurance fund on account of public funds on deposit with it during the preceding month. The amount of the monthly assessment, if any, is the product obtained by multiplying one-twelfth (1/12) times the assessment base for the month for which the assessment is being computed.

(c) During the time the assessment rate on public funds has been waived or eliminated by the board for depositories, the respective depositories are not obligated to pay any assessment but shall continue to prepare and file the reports that would otherwise be required to be prepared and filed under this chapter.

As added by P.L.19-1987, SEC.14. Amended by P.L.115-2010, SEC.15.

IC 5-13-12-6

Depositories; duty to file monthly report and pay assessment to insurance fund; failure to pay; forms

Sec. 6. (a) On or before the fifth day of each month, every depository that had public funds on deposit with it during the preceding month shall:

(1) file with the board for depositories a certified report under oath showing for the preceding month the amount of the assessment base and the amount of the monthly assessment due the insurance fund, as determined under section 5 of this chapter; and

(2) pay the insurance fund the amount of the monthly assessment it is required to certify. The board for depositories may waive all or part of the reporting requirement under this section during any period when the board does not levy an assessment.

(b) If any depository fails to pay the insurance fund on or before the fifth day of each one (1) month period the full assessment due from it for the preceding one (1) month period on account of public funds deposited with it, the depository is liable for double the assessment. This amount may be recovered in any court of competent jurisdiction in a civil action by the state on the relation of the board for depositories.

(c) The state board of accounts, with the approval of the attorney general, shall prepare and prescribe the forms of reports required by this section.

As added by P.L.19-1987, SEC.14.

IC 5-13-12-7

Insurance fund; management and operation; transfer restrictions; establishment of reserve; determination of profit distribution; investment; limitations; immunity of members

Sec. 7. (a) The board for depositories shall manage and operate the insurance fund. All expenses incident to the administration of the fund shall be paid out of the money accumulated in it subject to the direction of the board for depositories. Money in the fund may not be expended, removed, or transferred from the fund for any purpose other than the following unless the expenditure, the removal, or transfer is first reviewed by the budget committee:

(1) Paying expenses of administering the fund.

(2) Investing, reinvesting, and exchanging investments as described in subsection (d).

(3) Paying claims on insured public deposits under IC 5-13-13.

(4) Making payments required by contracts executed under section 3(a)(6) of this chapter.

(5) Making deposits of uninvested funds under section 3(a)(8) of this chapter.

(6) Paying allowable expenses as provided in section 4 of this

chapter.

(b) Effective January 1 and July 1 in each year, the board shall before those dates redetermine the amount of the reserve to be maintained by the insurance fund. The establishment or any change in the reserve for losses shall be determined by the board based on information the board considers, including but not limited to capital adequacy, liquidity, and asset quality, and a study to be made or updated by actuaries, economists, or other consultants based on the history of losses, earnings on the funds, conditions of the depositories, economic conditions affecting particular depositories or depositories in general, and any other factors that the board considers relevant in making its determination. The reserve determined by the board must be sufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be entitled shall be set off against any claim that the insurance fund may have against the closed depository.

(d) The board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in any of the following:

(1) In bonds, notes, certificates, and other valid obligations of the United States, either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(2) In bonds, notes, debentures, and other securities issued by a federal agency or a federal instrumentality and fully guaranteed by the United States either directly or, subject to the limitations in subsection (e), in the form of securities of or other interests in an open-end no-load management-type investment

company or investment trust registered under the provisions of the Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

(3) In bonds, notes, certificates, and other valid obligations of a state or of an Indiana political subdivision that are issued under law, the issuers of which, for five (5) years before the date of the investment, have promptly paid the principal and interest on their bonds and other legal obligations.

(4) In bonds or other obligations of the Indiana finance authority issued under IC 4-13.5.

(5) In investments permitted the state under IC 5-13-10.5.

(6) In guarantees of industrial development obligations or credit enhancement obligations, or both, for the purposes of retaining and increasing employment in enterprises in Indiana, subject to the limitations and conditions set out in this subdivision, subsection (e), and section 8 of this chapter. An individual guarantee of the board under this subdivision must not exceed eight million dollars ($8,000,000).

(7) In guarantees of bonds or notes issued under IC 5-1.5-4-1, subject to the limitations and conditions set out in subsection (e) and section 8 of this chapter.

(8) In bonds, notes, or other valid obligations of the Indiana finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an industrial development project (as defined in IC 4-4-10.9-11) that the authority has undertaken for the purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(9) In notes or other debt obligations of counties, cities, and towns that have been issued under IC 6-1.1-39 for borrowings from the industrial development fund under IC 5-28-9 for purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

(10) In bonds or other obligations of the Indiana housing and community development authority.

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of industrial development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars ($14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars ($24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

(B) twenty million dollars ($20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11, and the board may invest an amount equal to the remainder, if any, of:

(i) fifteen percent (15%) of the available balance of the insurance fund; minus

(ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11;

in guarantees of industrial development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars ($34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) twelve million dollars ($12,000,000).

(f) For purposes of subsection (e), the available balance of the insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

(g) All interest and other income earned on investments of the insurance fund and all amounts collected by the board accrue to the fund.

(h) Members of the board and any officers or employees of the

board are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in subsection (d).
As added by P.L.19-1987, SEC.14. Amended by P.L.67-1989, SEC.2; P.L.69-1989, SEC.1; P.L.11-1990, SEC.107; P.L.1-1992, SEC.10; P.L.28-1993, SEC.6; P.L.18-1996, SEC.25; P.L.281-2001, SEC.2; P.L.4-2005, SEC.26; P.L.235-2005, SEC.81; P.L.1-2006, SEC.100; P.L.115-2010, SEC.16; P.L.93-2013, SEC.3.

IC 5-13-12-8
Industrial development obligation or credit enhancement obligation guarantees; limitations; conditions; claims, losses, or debts

Sec. 8. (a) The board for depositories, in making the industrial development obligation or credit enhancement obligation guarantees authorized under section 7(d)(6) of this chapter, shall comply with the following limitations:

(1) A guarantee shall be made only of industrial development obligations or credit enhancement obligations for the purpose of retaining, retaining and expanding, or bringing significant employment into Indiana, as determined by the board under subdivision (3)(A).

(2) Each industrial development obligation or credit enhancement obligation must be guaranteed not only by the board but also by the Indiana economic development corporation created by IC 5-28-3-1. Each guarantee must provide that in the event of a valid claim of loss by the lender, the lessor, or the issuer of the credit enhancement arising under the industrial development obligation or credit enhancement documents, the amount of the loss, up to two million dollars ($2,000,000), shall first be paid by the industrial development project guaranty fund created by IC 5-28-30-9, and only the remainder of the loss, if any, shall to the extent guaranteed be paid by the public deposit insurance fund. Neither fund is responsible for the amount due from the other under its guarantee.

(3) The guarantee of the industrial development obligation or credit enhancement obligation by the board for depositories must be recommended by the Indiana economic development corporation. Subject to that recommendation, the board for depositories may make the guarantee if it determines:

(A) that the guarantee creates a reasonable probability that loss in Indiana employment that would occur will be significantly reduced or that Indiana's employment will be significantly expanded;

(B) that the consequent reduction in employment loss or the expansion in employment will enhance the economic stability of the community or communities in the state where the borrower or lessee conducts its business;

(C) that there is reasonable probability that the industrial development obligation will be repaid or satisfied or that the credit enhancement will be satisfied; and

(D) that the industrial development obligation or credit enhancement obligation and guarantee are protected against loss and the borrower or lessee has agreed to pay the insurance fund a guarantee premium annually as provided in subdivision (6).

(4) Protection against loss on the industrial development obligation or credit enhancement obligation guaranteed will be provided:

(A) in loan transactions by:

(i) a valid security agreement;

(ii) mortgage;

(iii) combination of (i) and (ii); or

(iv) other document; and

(B) in lease transactions by the guaranteed party's rights as owner of the leased property.

(5) The term of the guarantee must not exceed twenty (20) years. The amount of the guarantee provided by the board, together with the corresponding guarantee to be provided by the industrial development project guaranty fund under subdivision (2), must not exceed:

(A) the lesser of:

(i) ninety percent (90%) of the unpaid balance of the obligation; or

(ii) ninety percent (90%) of the appraised fair market value of the real estate;

if the obligation is backed by real estate;

(B) the lesser of:

(i) seventy-five percent (75%) of the unpaid balance of the obligation; or

(ii) seventy-five percent (75%) of the appraised fair market value of the equipment;

if the obligation is backed by equipment; or

(C) a weighted average of the figures derived under clauses (A)(ii) and (B)(ii) if the obligation is backed by real estate and equipment.

(6) The guarantee premium to be received by the public deposit insurance fund for the guarantee must be at an annual percentage rate on the outstanding principal amount of the industrial development obligation or the credit enhancement obligation of not less, in the discretion of the board, than the market rate for guarantees, mortgage insurance rates, or letters of credit used for similar purposes at the time the guarantee is made. However, the annual percentage rate must not exceed two percent (2%) of the outstanding principal obligation.

(b) The following conditions apply to the making of bond bank

obligation guarantees under section 7(d)(7) of this chapter:

(1) Each bond bank obligation guaranteed must be secured by a pledge of securities of a qualified entity (as defined in IC 5-1.5-1-8) under an indenture of trust requiring an adequate debt reserve fund.

(2) The board for depositories shall fix the one (1) time or annual charge to be paid by the bond bank for each guarantee in an amount considered by the board to be appropriate and consistent with the market rate for that guarantee, taking into consideration the terms of the indenture applicable to the bond bank obligation.

(3) The board for depositories may agree to other terms for each guarantee that the secretary-investment manager certifies as being commercially reasonable and that the board, in its judgment, determines to be proper.

(c) Any claim, loss, or debt arising out of any guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the board for depositories payable out of the public deposit insurance fund only and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state but are obligations of the board for public depositories and are payable solely out of the public deposit insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder.".

(d) Any claim of loss by a lender or lessor under a guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is made in writing to the board, has priority against the fund on all claims made after that time.

As added by P.L.19-1987, SEC.14. Amended by P.L.11-1990, SEC.108; P.L.235-2005, SEC.82; P.L.162-2007, SEC.20.

IC 5-13-12-8.5
Repealed

(As added by P.L.291-2001, SEC.147. Repealed by P.L.2-2005, SEC.131.)

IC 5-13-12-8.6
Validity of certain loan guaranties

Sec. 8.6. Notwithstanding the expiration of section 8.5 of this chapter on December 31, 2002, a loan guarantee made by the board for depositories under that section before December 31, 2002, remains a valid and binding obligation of the board for depositories after December 31, 2002, as if section 8.5 of this chapter had not expired.

As added by P.L.220-2011, SEC.96.

IC 5-13-12-9
Investment in instruments of indebtedness of credit corporation issued certificate of election by secretary of state

Sec. 9. In addition to the investments authorized in section 7(d) of this chapter, the board may invest, reinvest, and exchange investments of the insurance fund in excess of the cash working balance in instruments of indebtedness of a credit corporation to which the secretary of state has issued a certificate of election under IC 23-6-4-8.

As added by P.L.19-1987, SEC.14.

IC 5-13-12-10
Subordination of valid security agreement, mortgage, combinations thereof, or other appropriate document securing direct obligations

Sec. 10. With regard to direct obligations of the Indiana finance authority that have been issued in conjunction with an industrial development project undertaken by the authority, including those obligations that are guaranteed by the board under this chapter or purchased by the board under section 7(d)(8) of this chapter, the board may upon the request of the authority permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate document securing the direct obligations, if the board in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project.

As added by P.L.19-1987, SEC.14. Amended by P.L.11-1990, SEC.109; P.L.235-2005, SEC.83.

IC 5-13-12-11
Loans to commuter transportation district

Sec. 11. (a) In addition to the authority given the board for depositories in section 7 of this chapter, the board may lend, from that part of the insurance fund reserved for economic development, to any commuter transportation district that is established under IC 8-5-15 an amount not to exceed two million six hundred thousand dollars ($2,600,000).

(b) The board of trustees of a district that receives a loan under this section shall do the following:

(1) Use the loan proceeds only for paying or reimbursing the following costs and expenses of the district:

(A) Property and casualty insurance premiums.

(B) Trackage lease payments.

(C) Traction power expenses.

(D) Conducting a study of commuter transportation within the district under P.L.48-1986.

(E) Any expenses incurred by the district in the ordinary course of providing commuter rail service.

(2) Develop a financial plan for commuter rail service within the district for each year during the loan period. The financial plan must contain the elements prescribed in, and be subject to review and approval under, subsection (c).

(3) Repay the loan in eight (8) annual installments on dates determined by the board for depositories, subject to the following conditions:

(A) The first payment must be made on July 1, 1988.

(B) Each annual payment must equal one-eighth (1/8) of the principal of the loan plus interest at a rate determined by the board for depositories. The rate of interest must not be:

(i) lower than the lowest interest rate set by the state board of finance for a loan under IC 4-4-8-8 (transferred to IC 5-28-9-15) before April 1, 1986; or

(ii) greater than the average yield on investments made by the board in January, February, and March of 1986.

(4) As required by subsection (d), report annually to the board for depositories on compliance with the financial plan developed under subsection (c).

(5) Notwithstanding subdivision (3), pledge to repay the balance of the loan plus interest at a time and in a manner specified by the board for depositories whenever the board for depositories determines that one (1) of the following has occurred:

(A) The board of trustees of the district has failed to develop a financial plan that substantially complies with subsection (c).

(B) There has not been substantial compliance with a financial plan.

(C) The board of trustees of the district has failed to make a payment on the date established under subdivision (3).

If repayment is required under this subdivision, the treasurer of state shall transfer the amount necessary to the insurance fund from the allocation to the district from the public mass transportation fund for the remainder of the state fiscal year in which the repayment is required. If the amount transferred from the allocation is insufficient, the balance shall be transferred from the commuter rail service fund until the repayment is complete.

(c) Before December 1 of each year, the board of trustees of a district receiving a loan under this section shall submit to the board for depositories, the Indiana department of transportation, and the budget committee a financial plan for the following calendar year. The plan must provide for an annual operating budget under which expenses do not exceed revenues from all sources. The financial plan may identify supplemental revenue sources from within the district

that will be dedicated during the year to commuter rail service in the district. Within sixty (60) days after the plan is submitted, the board for depositories shall determine if the financial plan complies with this subsection. In making its determination, the board for depositories shall consider the recommendations of the budget committee, which shall base its recommendations on the department of transportation's evaluation of the financial plan.

(d) Before April 1 of the second calendar year after a loan under this section is made and before April 1 of each year thereafter, the board of trustees of a district receiving a loan shall submit to the board for depositories, the Indiana department of transportation, and the budget committee a report covering the preceding calendar year. The report must summarize the district's compliance with the financial plan submitted under subsection (c) and must contain other information as the board for depositories may require. Before July 1 of that year, the board for depositories shall determine if the district has substantially complied with the financial plan. In making its determination, the board for depositories shall consider the recommendations of the budget committee, which shall base its recommendations on the Indiana department of transportation's evaluation of the report.

(e) After January 1, 1988, the board for depositories and the board of trustees of a district receiving a loan under this section may agree to an early repayment of the loan. If an early repayment is agreed to, the board for depositories may guarantee a loan obtained by the board of trustees under conditions established by the board for depositories. These conditions may include the requirement that the district pledge to repay from its allocations from the public mass transportation fund and the commuter rail fund service any loss sustained by the insurance fund as a result of the guarantee.

As added by P.L.19-1987, SEC.14. Amended by P.L.18-1990, SEC.10; P.L.18-1996, SEC.26; P.L.4-2005, SEC.27.

IC 5-13-12-12

Board reports; presentment to budget committee

Sec. 12. (a) In June and December each year, the board shall prepare a written report generally summarizing the board's activities and the status of the public deposit insurance fund for the previous six (6) months. However, the report may not identify a particular financial institution notwithstanding the requirements of IC 5-14-3. The report shall be made available on the board's Internet web site.

(b) The chairperson of the board or the chairperson's designee shall present the semiannual report to the budget committee at a public hearing.

As added by P.L.115-2010, SEC.17.

IC 5-13-12-13

Loan to state general fund; repayment

Sec. 13. (a) The board for depositories shall hold until paid in accordance with its terms the instrument of indebtedness evidencing the obligation of the budget agency to repay the loan made from the public deposit insurance fund to the state general fund under P.L.224-2003, SECTION 116, as amended by P.L.229-2011, SECTION 277. The budget agency shall pay the loan in ten (10) equal annual installment payments made each July, beginning July 2013 and ending July 2022.

(b) There is annually appropriated to the budget agency from the state general fund five million dollars ($5,000,000) each July, beginning July 2013, and ending July 2022, to make the payments required by subsection (a).

(c) This section expires July 1, 2023.

As added by P.L.93-2013, SEC.4.

IC 5-13-13

Chapter 13. Payments From the Public Deposit Insurance Fund

IC 5-13-13-1

Closed depository; payments to public officers of public funds deposited; determination of sums; certification

Sec. 1. (a) Whenever any depository becomes a closed depository, the board shall, as soon as possible and upon the conditions prescribed in this section, make payment from the insurance fund to the proper public officers of all public funds that were deposited in the closed depository in the manner required by this article. These payments shall be made only to the extent the public funds are not covered by insurance of any federal deposit insurance agency.

(b) For the purpose of determining the sums to be paid on account of public funds in any closed depository, the department of financial institutions shall ascertain the amount of public funds on deposit in any closed depository as disclosed by the records, and certify the amounts to the attorney general, auditor of state, the several public officers who have public funds on deposit, and the board for depositories, which then constitutes a claim on the fund. The certification shall be made within twenty (20) days after its special representative has taken charge of the business and property of any closed depository, or the receiver of any national banking association or state chartered state banks within twenty (20) days after appointment.

(c) Within ten (10) days after the receipt of a certification under subsection (b), the several public officers who have public funds on deposit in the closed depository shall furnish to the attorney general and the auditor of state:

(1) verified statements of the amount of the public funds on deposit in the closed depository, as disclosed by their records;

(2) certified copies of the resolution or resolutions under which the deposits were made; and

(3) any other information requested by the attorney general and the auditor of state.

As added by P.L.19-1987, SEC.15. Amended by P.L.5-1988, SEC.38.

IC 5-13-13-2

Amount of public funds in closed depository; determination procedure

Sec. 2. (a) After the receipt of the certificate and statements required by section 1 of this chapter, the attorney general and the auditor of state shall ascertain and fix the amount of public funds in the closed depository deposited in the manner required by this article. The amount of public funds deposited contrary to the requirements of this article are not insured by this article.

(b) The attorney general and the auditor of state shall, within sixty

(60) days after the receipt of the certificate and statements, send a copy of their decision by registered mail to the several public officers who have filed statements and to the department of financial institutions, or to the receiver if the closed depository is a national banking association.

(c) The department of financial institutions or the receiver shall cause notice of the decision to be published by one (1) publication in a newspaper of general circulation in the county where the closed depository is situated. This notice must be under the heading "Notice to Depositors of _____" (inserting the name of the closed depository). The costs of the publication shall be charged to the liquidation expense of the closed depository.

(d) Except as otherwise provided in this chapter, the decision of the attorney general and the auditor of state, if they agree, is final, and has the same force as a final judgment of a court. However, if any depositor of the closed depository, within ten (10) days after the publication of the notice required by this section, files objections to that decision in writing in any court competent to determine matters concerning the closed depository, the auditor of state shall withhold payment of the claim until the objections are determined by the court.

(e) If the attorney general and auditor of state do not send a copy of their decision to the department of financial institutions or to the receiver of the national banking association within the time required by this section, or if objections in writing are made as provided in this section, the department of financial institutions or any receiver or any treasurer or other person having funds on deposit in the closed depository may petition any court competent to hear and determine matters pertaining to the liquidation of the closed depository and to determine the amount of public funds deposited in the manner required by this chapter. The court shall, without delay, hear and determine the issues presented by the petition and enter judgment accordingly.

As added by P.L.19-1987, SEC.15. Amended by P.L.5-1988, SEC.39.

IC 5-13-13-3

Payment of amount determined; subrogation of board; distribution of assets of closed depository

Sec. 3. (a) Whenever the decision of the attorney general and auditor of state has become final, or whenever a court of competent jurisdiction as provided in section 2 of this chapter has determined the amount payable from the insurance fund on account of public funds deposited in the closed depository, the board for depositories shall, subject to IC 5-13-12-8(c), cause the amount to be paid to the treasurer or public officer out of the insurance fund.

(b) After payment is made under subsection (a), the board, on behalf of the public deposit insurance fund, is then subrogated to all of the right, title, and interest of the depositor of the public funds for

the amount of the depository's claim against any federal deposit insurance agency and against the closed depository. The board is so subrogated to the extent that the insurance fund has paid the loss not reimbursed by the insurance. The board is entitled to share in the distribution of the assets of the closed depository on the basis ratably with other depositories, but the insurance fund shall be paid in full before any distribution is made on account of public funds not insured under the terms of this chapter. The board shall pay any sum or sums received from any distribution into the insurance fund.
As added by P.L.19-1987, SEC.15.

IC 5-13-13-4
Anticipatory warrants; issuance; obligation of board; amounts, form, and rate of interest

Sec. 4. (a) Whenever the assets in the insurance fund are not sufficient to pay the claims of any kind that have been finally determined and have become payable, the board for depositories shall issue anticipatory warrants for the purpose of raising money for the immediate payment of the claims. The warrants outstanding and unpaid must not at any time exceed the sum of three hundred million dollars ($300,000,000). Interest may be paid upon the warrants from the date the rate was established by the board for depositories. Interest is payable at the end of each year or for a shorter period as the warrants remain unpaid.

(b) The warrants are the obligation of the board for depositories payable out of the public deposit insurance fund only and do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. Each warrant must have printed on its face the words, "This warrant is an obligation of the board for depositories payable solely out of the public deposits insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal, the interest, or any other amount owed on the warrants.".

(c) Subject to the limitations in subsections (a) through (b), the warrants shall be issued in the individual and gross amounts and in the form and at the rate of interest approved by the board for depositories.
As added by P.L.19-1987, SEC.15. Amended by P.L.115-2010, SEC.18.

IC 5-13-13-5
Anticipatory warrants; sale; proceeds; application for allotment of definite amount; record

Sec. 5. (a) The secretary-investment manager on behalf of the board for depositories has the powers and duties set out in this section and section 6 of this chapter and shall sell all anticipatory warrants issued under this chapter at a price not less than par plus accrued interest. The proceeds of the sale of the warrants shall be

paid into the insurance fund and shall be applied exclusively to the payment of the claims on account of which the warrants were issued.

(b) Any person may file an application with the secretary-investment manager for an allotment of a definite amount of the warrants. The secretary-investment manager shall then apportion to the several applicants an amount of warrants as the secretary-investment manager sees fit, but no allotments shall be made in an amount less than two thousand dollars ($2,000).

(c) The secretary-investment manager shall make and retain in the secretary-investment manager's office a complete record of all warrants sold to each purchaser and of the post office address of the purchaser. Purchasers of warrants may notify the secretary-investment manager of their post office addresses, or of any change in their addresses, and of the warrants owned or held by them, and the secretary-investment manager shall change the secretary-investment manager's sale record accordingly.

As added by P.L.19-1987, SEC.15.

IC 5-13-13-6

Anticipatory warrants; payment; unpaid warrants

Sec. 6. (a) All anticipatory warrants and all interest or the warrants shall be payable by the secretary-investment manager solely from the money paid into the insurance fund and the money is, except for the payment of expenses incident to the operation of the insurance fund, exclusively and irrevocably pledged to the payment of all warrants in the consecutive order in which they were issued. The warrants, as to interest as well as principal, shall be paid out of the money in the insurance fund before the payment of any claims that may arise and be finally determined subsequent to the issue and sale of any warrants or series of warrants.

(b) When any warrant or series of warrants is outstanding and unpaid, the secretary-investment manager shall, when the secretary-investment manager has money in the insurance fund sufficient to pay a reasonable amount of the outstanding and unpaid warrants, notify the persons who, according to the secretary-investment manager's record, hold the warrants or warrants then payable. The secretary-investment manager shall mail each notice to the post office address of the person as shown by the records of sale. The notice must state that the warrant or warrants will be paid on presentation, and that interest will cease after the expiration of ten (10) days from the mailing of the notice. At the expiration of the ten (10) day period, interest ceases on the warrant or warrants.

As added by P.L.19-1987, SEC.15.

IC 5-13-13-7

Shortage of assets in insurance fund; substitution of other security; pledge of other securities by depositories

Sec. 7. (a) At any time when the board for depositories determines that the assets of the insurance fund are insufficient to pay its liabilities, accrued or contingent, or determines that the assessments due or to become due will not be sufficient to maintain the insurance fund in a solvent condition and insure the safekeeping and prompt payment of public funds, the board may enter an order requiring any or all then constituted depositories to substitute other security, in the amount and type as determined by the board from time to time, to secure the safekeeping and prompt payment of public funds. The collateral to be accepted by the board for depositories under this chapter may include, but is not limited to, the following:

(1) United States Treasury securities.

(2) Federal agency securities.

(3) An irrevocable letter of credit issued by a Federal Home Loan Bank if:

(A) the federal home loan bank issuing the irrevocable letter of credit maintains a rating of at least the third highest level from at least one (1) of the nationally recognized rating agencies; and

(B) the irrevocable letter of credit provides that the board for depositories may draw on the letter when necessary to satisfy losses to the public deposit insurance fund under state law.

(b) The board may require any or all then constituted depositories to deliver and pledge to the proper local board of finance or to the state board of finance, under the conditions for joint control of the collateral by the depositories as may be approved by the board for depositories, bonds or other obligations that the board determines are acceptable collateral. The market value of these securities, at the time of delivery, must be an amount determined by the board, which may not exceed the amount of public funds then on deposit with the respective depositories. The board may require depositories to pledge acceptable securities to such an extent that the market value of the pledge will at all times be substantially equal to the amount of public funds on deposit in the respective depositories.

(c) Whenever an order is in force and the amount of public funds on deposit is at least ten percent (10%) less than the market value of securities pledged to secure the payment, as required by the board, the depository may withdraw the excess amount of pledged collateral.

(d) Any order of the board for depositories becomes effective within the time fixed by the board. However, the time of effectiveness must not be earlier than thirty (30) days from the date of entry of the order by the board. The order continues in force until rescinded by the board. Upon the entry of any order by the board for depositories, all then constituted depositories affected by the order shall comply with the order. Upon compliance, and full payment of all its liabilities by the insurance fund, depositories are not required

to pay any further assessments for insurance under this chapter until the order requiring collateral has been revoked or rescinded and the collateral returned to the respective depositories.

(e) A depository may elect at any time to pledge and deliver collateral to the board in an amount equal to one hundred percent (100%) of the public funds the depository has on deposit. A depository that:

(1) elects this option;

(2) has pledged and delivered the collateral to the board; and

(3) has maintained a one hundred percent (100%) collateral level continuously for the twelve (12) months immediately preceding an assessment;

is exempt from paying any assessment authorized by this article while the collateral continues to be maintained with the board.

(f) If the fund balance is zero (0), each depository shall pledge and deliver collateral to the board equal to the depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total deposit accounts of public funds for the previous four (4) quarters, as reported under this article, as determined by the board from time to time, with at least fifteen (15) days notice to the depository, to secure the safekeeping and prompt payment of public funds.

As added by P.L.19-1987, SEC.15. Amended by P.L.115-2010, SEC.19.

IC 5-13-13-8

Reopening or reorganization of closed depository

Sec. 8. (a) If in any closed depository there are public funds of the state or of any political subdivision, the treasurer of state may, with the consent of the state board of finance, if the public funds belong to the state, and the public officer who has charge of the public funds of any political subdivision, may, with the consent of the local board of finance of the political subdivision to which the public funds belong, join with other depositors of the closed depository in a plan for reopening or the reorganization of the closed depository.

(b) The treasurer of state may bind the state, or any proper local officer may bind the political subdivision, as the case may be, after being authorized, as provided in this chapter, in accordance with the terms of the plan for reopening or reorganization.

As added by P.L.19-1987, SEC.15. Amended by P.L.18-1996, SEC.27.

IC 5-13-14
Chapter 14. Miscellaneous Provisions

IC 5-13-14-1
Loan for proper conduct of business of state or political subdivision; limitation; pledge of deposits in closed depository

Sec. 1. (a) If the state or any political subdivision has public funds on deposit in a closed depository, the state or political subdivision may borrow an amount of money necessary for the proper conduct of the business of the state or political subdivision.

(b) The amount of money borrowed under subsection (a) may not exceed the amount of money the state or political subdivision has on deposit and unpledged in the closed depository at the time the loan is made.

(c) For the purpose of securing the payment of a loan made under this section, the state or any political subdivision, through the treasurer of state, county treasurer, or fiscal officer of any political subdivision other than a county, may pledge any or all of the deposits in the closed depository.

As added by P.L.19-1987, SEC.16.

IC 5-13-14-2
No liability for public servant for loss of funds in closed depository

Sec. 2. A public servant is not liable for loss of public funds in any closed depository if the funds have been deposited in the manner required by this article.

As added by P.L.19-1987, SEC.16. Amended by P.L.107-2011, SEC.2.

IC 5-13-14-3
Criminal liability of public servant for failure to deposit; liability on bond

Sec. 3. A public servant who violates the depository duties in this article is subject to criminal prosecution under IC 35-44.2-2-1. The public servant also is liable upon the public servant's official bond for any loss or damage that accrues.

As added by P.L.19-1987, SEC.16. Amended by P.L.107-2011, SEC.3; P.L.126-2012, SEC.22.

IC 5-13-14-4
Repealed

(As added by P.L.19-1987, SEC.16. Amended by P.L.107-2011, SEC.4. Repealed by P.L.126-2012, SEC.23.)

IC 5-14

ARTICLE 14. PUBLIC RECORDS AND PUBLIC MEETINGS

IC 5-14-1

Repealed

(Repealed by P.L.19-1983, SEC.12.)

IC 5-14-1.5
Chapter 1.5. Public Meetings (Open Door Law)

IC 5-14-1.5-1
Purpose

Sec. 1. In enacting this chapter, the general assembly finds and declares that this state and its political subdivisions exist only to aid in the conduct of the business of the people of this state. It is the intent of this chapter that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. The purposes of this chapter are remedial, and its provisions are to be liberally construed with the view of carrying out its policy.

As added by Acts 1977, P.L.57, SEC.1. Amended by P.L.67-1987, SEC.1.

IC 5-14-1.5-2
Definitions

Sec. 2. For the purposes of this chapter:

(a) "Public agency", except as provided in section 2.1 of this chapter, means the following:

(1) Any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the state.

(2) Any county, township, school corporation, city, town, political subdivision, or other entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.

(3) Any entity which is subject to either:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) audit by the state board of accounts that is required by statute, rule, or regulation.

(4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.

(7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are:

(1) A public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business.

(2) The board, commission, council, or other body of a public agency which takes official action upon public business.

(3) Any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include any of the following:

(1) Any social or chance gathering not intended to avoid this chapter.

(2) Any on-site inspection of any:

(A) project;

(B) program; or

(C) facilities of applicants for incentives or assistance from the governing body.

(3) Traveling to and attending meetings of organizations devoted to betterment of government.

(4) A caucus.

(5) A gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources.

(6) An orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action.

(7) A gathering for the sole purpose of administering an oath of office to an individual.

(8) Collective bargaining discussions that the governing body of a school corporation engages in directly with bargaining adversaries. This subdivision only applies to a governing body that has not appointed an agent or agents to conduct collective bargaining on behalf of the governing body as described in subsection (b)(3).

(d) "Official action" means to:

(1) receive information;

(2) deliberate;

(3) make recommendations;

(4) establish policy;

(5) make decisions; or

(6) take final action.

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.1; P.L.33-1984, SEC.1; P.L.67-1987, SEC.2; P.L.8-1993, SEC.56; P.L.277-1993(ss), SEC.127; P.L.1-1994, SEC.20; P.L.50-1995, SEC.14; P.L.1-1998, SEC.71; P.L.90-2002, SEC.16; P.L.35-2003, SEC.1; P.L.179-2007, SEC.1; P.L.103-2013, SEC.1.

IC 5-14-1.5-2.1

"Public agency"; certain providers exempted

Sec. 2.1. "Public agency", for purposes of this chapter, does not mean a provider of goods, services, or other benefits that meets the following requirements:

(1) The provider receives public funds through an agreement with the state, a county, or a municipality that meets the following requirements:

(A) The agreement provides for the payment of fees to the entity in exchange for services, goods, or other benefits.

(B) The amount of fees received by the entity under the agreement is not based upon or does not involve a consideration of the tax revenues or receipts of the state, county, or municipality.

(C) The amount of the fees are negotiated by the entity and the state, county, or municipality.

(D) The state, county, or municipality is billed for fees by the entity for the services, goods, or other benefits actually provided by the entity.

(2) The provider is not required by statute, rule, or regulation to

be audited by the state board of accounts.
As added by P.L.179-2007, SEC.2.

IC 5-14-1.5-3
Open meetings; secret ballot votes; member participating by electronic means of communication

Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

(b) A secret ballot vote may not be taken at a meeting.

(c) A meeting conducted in compliance with section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication does not violate this section.
As added by Acts 1977, P.L.57, SEC.1. Amended by P.L.38-1988, SEC.6; P.L.1-1991, SEC.35; P.L.179-2007, SEC.3; P.L.134-2012, SEC.10.

IC 5-14-1.5-3.1
Serial meetings

Sec. 3.1. (a) Except as provided in subsection (b), the governing body of a public agency violates this chapter if members of the governing body participate in a series of at least two (2) gatherings of members of the governing body and the series of gatherings meets all of the following criteria:

(1) One (1) of the gatherings is attended by at least three (3) members but less than a quorum of the members of the governing body and the other gatherings include at least two (2) members of the governing body.

(2) The sum of the number of different members of the governing body attending any of the gatherings at least equals a quorum of the governing body.

(3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.

(4) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of a governing body attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

(b) This subsection applies only to the city-county council of a consolidated city or county having a consolidated city. The city-county council violates this chapter if its members participate in a series of at least two (2) gatherings of members of the city-county council and the series of gatherings meets all of the following criteria:

(1) One (1) of the gatherings is attended by at least five (5) members of the city-county council and the other gatherings include at least three (3) members of the city-county council.
(2) The sum of the number of different members of the city-county council attending any of the gatherings at least equals a quorum of the city-county council.
(3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.
(4) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of the city-county council attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

(c) A gathering under subsection (a) or (b) does not include:
(1) a social or chance gathering not intended by any member of the governing body to avoid the requirements of this chapter;
(2) an onsite inspection of any:
(A) project;
(B) program; or
(C) facilities of applicants for incentives or assistance from the governing body;
(3) traveling to and attending meetings of organizations devoted to the betterment of government;
(4) a caucus;
(5) a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources;
(6) an orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action;
(7) a gathering for the sole purpose of administering an oath of office to an individual; or
(8) a gathering between less than a quorum of the members of the governing body intended solely for members to receive information and deliberate on whether a member or members may be inclined to support a member's proposal or a particular piece of legislation and at which no other official action will occur.

(d) A violation described in subsection (a) or (b) is subject to section 7 of this chapter.

As added by P.L.179-2007, SEC.4.

IC 5-14-1.5-3.5
Electronic meetings of political subdivisions; statutory authorization required

Sec. 3.5. (a) This section applies only to a governing body of a public agency of a political subdivision, other than a governing body of an airport authority or a department of aviation as set forth in section 3.6 of this chapter.

(b) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, video conferencing, or any other electronic means of communication:

(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and

(2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.

(c) The memoranda prepared under section 4 of this chapter for a meeting in which a member participates by using a means of communication described in subsection (b) 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.134-2012, SEC.11. Amended by P.L.154-2016, SEC.1.

IC 5-14-1.5-3.6

Electronic communications by certain governing bodies

Sec. 3.6. (a) This section applies only to a governing body of the following:

(1) A charter school (as defined in IC 20-24-1-4).

(2) A public agency of the state, including a body corporate and politic established as an instrumentality of the state.

(3) An airport authority or a department of aviation under IC 8-22.

(b) A member of a governing body who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits:

(1) the member;

(2) all other members participating in the meeting;

(3) all members of the public physically present at the place where the meeting is conducted; and

(4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;

to simultaneously communicate with each other during the meeting.

(c) The governing body must fulfill both of the following requirements for a member of the governing body to participate in a meeting by electronic communication:

(1) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution, by the commission for higher education, or by the board of directors of the Indiana secondary market for education loans, as established, incorporated, and designated under IC 21-16-5-1. The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:

(A) two (2) of the members; or

(B) one-third (1/3) of the members.

(2) All votes of the governing body during the electronic meeting must be taken by roll call vote.

Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).

(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.

(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:

(1) meets all requirements of this chapter; and

(2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.

(g) A policy adopted by a governing body to govern participation in the governing body's meetings by electronic communication may do any of the following:

(1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.

(2) Subject to subsection (e), limit the number of members who may participate in any one (1) meeting by electronic communication.

(3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.

(4) Limit the number of meetings in a calendar year in which

any one (1) member of the governing body may participate by electronic communication.

(5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action. For purposes of this subdivision, a member casts the deciding vote on an official action if, regardless of the order in which the votes are cast:

(A) the member votes with the majority; and

(B) the official action is adopted or defeated by one (1) vote.

(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.

(9) Provide that a member participating by electronic communication may vote on official action only if, subject to subsection (e), a specified number of members:

(A) are physically present at the location where the meeting is conducted; and

(B) concur in the official action.

(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.

(h) The policy adopted by the governing body must be posted on the Internet web site of the governing body, the charter school, the airport, or the public agency.

(i) Nothing in this section affects a public agency's or charter school's right to exclude the public from an executive session in which a member participates by electronic communication.

As added by P.L.134-2012, SEC.12. Amended by P.L.62-2013,

SEC.1; P.L.132-2013, SEC.1; P.L.280-2013, SEC.4; P.L.30-2015, SEC.1; P.L.154-2016, SEC.2.

IC 5-14-1.5-4
Posting agenda; memoranda of meetings; public inspection of minutes

Sec. 4. (a) A governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other final action adopted by reference to agenda number or item alone is void.

(b) As the meeting progresses, the following memoranda shall be kept:

(1) The date, time, and place of the meeting.

(2) The members of the governing body recorded as either present or absent.

(3) The general substance of all matters proposed, discussed, or decided.

(4) A record of all votes taken by individual members if there is a roll call.

(5) Any additional information required under section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

(c) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the governing body's proceedings. The minutes, if any, are to be open for public inspection and copying.

As added by Acts 1977, P.L.57, SEC.1. Amended by P.L.38-1988, SEC.7; P.L.76-1995, SEC.1; P.L.2-2007, SEC.99; P.L.134-2012, SEC.13.

IC 5-14-1.5-5
Public notice of meetings

Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency as follows:

(1) The governing body of a public agency shall give public notice by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office

exists, at the building where the meeting is to be held.

(2) The governing body of a public agency shall give public notice by delivering notice to all news media which deliver an annual written request for the notices not later than December 31 for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail, if the public agency has the capacity to transmit electronic mail.

(C) Transmitting the notice by facsimile (fax).

(3) This subdivision applies only to the governing body of a public agency of a political subdivision described in section 2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that adopts a policy to provide notice under this subdivision. Notice under this subsection is in addition to providing notice under subdivisions (1) and (2). If the governing body adopts a policy under this subdivision, the governing body of a public agency shall give public notice by delivering notice to any person (other than news media) who delivers to the governing body of the public agency an annual written request for the notices not later than December 31 for the next succeeding calendar year. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:

(A) Transmitting the notice by electronic mail, if the public agency has the capacity to send electronic mail.

(B) Publishing the notice on the public agency's Internet web site at least forty-eight (48) hours in advance of the meeting, if the public agency has an Internet web site.

A court may not declare void any policy, decision, or final action under section 7 of this chapter based on a failure to give a person notice under subdivision (3) if the public agency made a good faith effort to comply with subdivision (3). If a governing body comes into existence after December 31, it shall comply with this subsection upon receipt of a written request for notice. In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time

requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings under subsection (b)(2) must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to subsection (b)(1).

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or

(2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.2; P.L.67-1987, SEC.3; P.L.8-1989, SEC.22; P.L.3-1989, SEC.29; P.L.46-1990, SEC.1; P.L.251-1999, SEC.4; P.L.90-2002, SEC.17; P.L.200-2003, SEC.1; P.L.177-2005, SEC.14; P.L.134-2012, SEC.14.

IC 5-14-1.5-6
Repealed

(Repealed by P.L.1-1991, SEC.36 and P.L.10-1991, SEC.10.)

IC 5-14-1.5-6.1
Executive sessions

Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this clause, "litigation" includes any judicial action or administrative law proceeding under federal or state law.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

(E) School consolidation.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by:

(A) the Indiana economic development corporation;

(B) the office of tourism development;

(C) the Indiana finance authority;

(D) the ports of Indiana;

(E) an economic development commission;

(F) the Indiana state department of agriculture;

(G) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or

(H) a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(14) To train members of a board of aviation commissioners appointed under IC 8-22-2 or members of an airport authority board appointed under IC 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one (1) executive session per calendar year under this subdivision.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable

statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

As added by P.L.1-1991, SEC.37 and P.L.10-1991, SEC.8. Amended by P.L.48-1991, SEC.1; P.L.37-2000, SEC.1; P.L.200-2003, SEC.2; P.L.4-2005, SEC.28; P.L.229-2005, SEC.2; P.L.235-2005, SEC.84; P.L.101-2006, SEC.3; P.L.179-2007, SEC.5; P.L.2-2008, SEC.20; P.L.98-2008, SEC.3; P.L.120-2008, SEC.1; P.L.139-2011, SEC.1; P.L.24-2012, SEC.1; P.L.103-2013, SEC.2; P.L.145-2016, SEC.2.

IC 5-14-1.5-6.5

Collective bargaining meetings; applicable requirements

Sec. 6.5. (a) Whenever a governing body, or any person authorized to act for a governing body, meets with an employee organization, or any person authorized to act for an employee organization, for the purpose of collective bargaining or discussion, the following apply:

(1) Any party may inform the public of the status of collective bargaining or discussion as it progresses by release of factual information and expression of opinion based upon factual information.

(2) If a mediator is appointed, any report the mediator may file at the conclusion of mediation is a public record open to public inspection.

(3) If a factfinder is appointed, any hearings the factfinder holds must be open at all times for the purpose of permitting members of the public to observe and record them. Any findings and recommendations the factfinder makes are public records open to public inspection as provided by any applicable statute relating to factfinding in connection with public collective bargaining.

(b) This section supplements and does not limit any other provision of this chapter.

As added by Acts 1979, P.L.39, SEC.4. Amended by P.L.67-1987, SEC.5; P.L.1-2005, SEC.80; P.L.48-2011, SEC.1.

IC 5-14-1.5-7

Violations; remedies; limitations; costs and fees

Sec. 7. (a) An action may be filed by any person in any court of competent jurisdiction to:

(1) obtain a declaratory judgment;

(2) enjoin continuing, threatened, or future violations of this chapter; or

(3) declare void any policy, decision, or final action:

(A) taken at an executive session in violation of section 3(a) of this chapter;

(B) taken at any meeting of which notice is not given in accordance with section 5 of this chapter;

(C) that is based in whole or in part upon official action

taken at any:

(i) executive session in violation of section 3(a) of this chapter;

(ii) meeting of which notice is not given in accordance with section 5 of this chapter; or

(iii) series of gatherings in violation of section 3.1 of this chapter; or

(D) taken at a meeting held in a location in violation of section 8 of this chapter.

The plaintiff need not allege or prove special damage different from that suffered by the public at large.

(b) Regardless of whether a formal complaint or an informal inquiry is pending before the public access counselor, any action to declare any policy, decision, or final action of a governing body void, or to enter an injunction which would invalidate any policy, decision, or final action of a governing body, based on violation of this chapter occurring before the action is commenced, shall be commenced:

(1) prior to the delivery of any warrants, notes, bonds, or obligations if the relief sought would have the effect, if granted, of invalidating the notes, bonds, or obligations; or

(2) with respect to any other subject matter, within thirty (30) days of either:

(A) the date of the act or failure to act complained of; or

(B) the date that the plaintiff knew or should have known that the act or failure to act complained of had occurred;

whichever is later. If the challenged policy, decision, or final action is recorded in the memoranda or minutes of a governing body, a plaintiff is considered to have known that the act or failure to act complained of had occurred not later than the date that the memoranda or minutes are first available for public inspection.

(c) If a court finds that a governing body of a public agency has violated this chapter, it may not find that the violation was cured by the governing body by only having taken final action at a meeting that complies with this chapter.

(d) In determining whether to declare any policy, decision, or final action void, a court shall consider the following factors among other relevant factors:

(1) The extent to which the violation:

(A) affected the substance of the policy, decision, or final action;

(B) denied or impaired access to any meetings that the public had a right to observe and record; and

(C) prevented or impaired public knowledge or understanding of the public's business.

(2) Whether voiding of the policy, decision, or final action is a necessary prerequisite to a substantial reconsideration of the subject matter.

(3) Whether the public interest will be served by voiding the

policy, decision, or final action by determining which of the following factors outweighs the other:

(A) The remedial benefits gained by effectuating the public policy of the state declared in section 1 of this chapter.

(B) The prejudice likely to accrue to the public if the policy, decision, or final action is voided, including the extent to which persons have relied upon the validity of the challenged action and the effect declaring the challenged action void would have on them.

(4) Whether the defendant acted in compliance with an informal inquiry response or advisory opinion issued by the public access counselor concerning the violation.

(e) If a court declares a policy, decision, or final action of a governing body of a public agency void, the court may enjoin the governing body from subsequently acting upon the subject matter of the voided act until it has been given substantial reconsideration at a meeting or meetings that comply with this chapter.

(f) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff prevails; or

(2) the defendant prevails and the court finds that the action is frivolous and vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary to prevent a violation of this chapter.

(g) A court may assess a civil penalty under section 7.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 7.5 of this chapter.

(h) A court shall expedite the hearing of an action filed under this section.

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.5; P.L.67-1987, SEC.6; P.L.38-1992, SEC.1; P.L.70-1999, SEC.1 and P.L.191-1999, SEC.1; P.L.179-2007, SEC.6; P.L.134-2012, SEC.15.

IC 5-14-1.5-7.5

Civil penalties imposed on public agency, officer, or management level employee

Sec. 7.5. (a) This section applies only to an individual who is:

(1) an officer of a public agency; or

(2) employed in a management level position with a public agency.

(b) If an individual with the specific intent to violate the law fails

to perform a duty imposed on the individual under this chapter by:

(1) failing to give proper notice of a regular meeting, special meeting, or executive session;

(2) taking final action outside a regular meeting or special meeting;

(3) participating in a secret ballot during a meeting;

(4) discussing in an executive session subjects not eligible for discussion in an executive session;

(5) failing to prepare a memorandum of a meeting as required by section 4 of this chapter; or

(6) participating in at least one (1) gathering of a series of gatherings under section 3.1 of this chapter;

the individual and the public agency are subject to a civil penalty under subsection (f).

(c) A civil penalty may only be imposed as part of an action filed under section 7 of this chapter. A court may not impose a civil penalty under this section unless the public access counselor has issued an advisory opinion:

(1) to the complainant and the public agency;

(2) that finds that the individual or public agency violated this chapter; and

(3) before the action under section 7 of this chapter is filed.

Nothing in this section prevents both the complainant and the public agency from requesting an advisory opinion from the public access counselor.

(d) It is a defense to the imposition of a civil penalty under this section that the individual failed to perform a duty under subsection (b) in reliance on either of the following:

(1) An opinion of the public agency's legal counsel.

(2) An opinion of the attorney general.

(e) Except as provided in subsection (i), in an action filed under section 7 of this chapter, a court may impose a civil penalty against one (1) or more of the following:

(1) The individual named as a defendant in the action.

(2) The public agency named as a defendant in the action.

(f) The court may impose against each defendant listed in subsection (c) the following civil penalties:

(1) Not more than one hundred dollars ($100) for the first violation.

(2) Not more than five hundred dollars ($500) for each additional violation.

A civil penalty imposed under this section is in addition to any other civil or criminal penalty imposed. However, in any one (1) action brought under section 7 of this chapter, a court may impose only one (1) civil penalty against an individual, even if the court finds that the individual committed multiple violations. This subsection does not preclude a court from imposing another civil penalty against an individual in a separate action, but an individual may not be assessed

more than one (1) civil penalty in any one (1) action brought under this section.

(g) A court shall distribute monthly to the auditor of state any penalties collected under this section for deposit in the education fund established by IC 5-14-4-14.

(h) An individual is personally liable for a civil penalty imposed on the individual under this section. A civil penalty imposed against a public agency under this section shall be paid from the public agency's budget.

(i) If an officer of a public agency directs an individual who is employed in a management level position to fail to give proper notice as described in subsection (b)(1), the management level employee is not subject to civil penalties under subsection (f).

As added by P.L.134-2012, SEC.16.

IC 5-14-1.5-8

Accessibility to individuals with disabilities

Sec. 8. (a) This section applies only to the following public agencies:

(1) A public agency described in section 2(a)(1) of this chapter.

(2) A public agency:

(A) described in section 2(a)(5) of this chapter; and

(B) created to advise the governing body of a public agency described in section 2(a)(1) of this chapter.

(b) As used in this section, "accessible" means the design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (41 C.F.R. 101-19.6, App. A (1991)) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (56 Fed. Reg. 35605 (1991)).

(c) As used in this section, "individual with a disability" means an individual who has a temporary or permanent physical disability.

(d) A public agency may not hold a meeting at a location that is not accessible to an individual with a disability.

As added by P.L.38-1992, SEC.2.

IC 5-14-2

Chapter 2. Public Access to Criminal Proceedings

IC 5-14-2-1

Definitions

Sec. 1. As used in this chapter:

"Criminal action" means a prosecution initiated in the name of the state of Indiana against an accused alleging the commission of a felony or misdemeanor.

"Criminal proceedings" means court proceedings in a criminal action after the arrest of an accused and before any appeal is instituted; it does not include:

(1) the deliberations of juries;

(2) omnibus hearings except for those portions at which witnesses are sworn and testimony taken; or

(3) any proceeding in which rights of attendance by the general public are otherwise specifically governed by statute or rules of procedure.

"General public" means any individual, or group of individuals, but does not include the parties to the criminal action.

"Open to attendance" means that individuals have the right freely to attend and observe criminal proceedings.

"Rules of procedure" means rules adopted by the supreme court of Indiana.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-2

Open attendance

Sec. 2. Criminal proceedings are presumptively open to attendance by the general public.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-3

Exclusion of general public; opportunity to be heard

Sec. 3. No court may order the exclusion of the general public from any criminal proceeding, or part of a criminal proceeding, unless it first affords the parties and the general public a meaningful opportunity to be heard on the issue of any proposed exclusion.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-4

Hearing on exclusion motion or order

Sec. 4. Whenever any motion to exclude the general public from a criminal proceeding is filed with a court, or if a court proposes to issue such an exclusion order on its own, the court must set a hearing date on the motion or proposed order. The hearing date shall be set sufficiently in advance so that the parties and members of the general public can prepare their pleadings and evidence and file briefs on the

motion or proposed order. The time for the hearing date shall not be extended, however, so that it imposes an unreasonable delay under the circumstances of the case.
As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-5
Notice of hearing

Sec. 5. The court shall notify the parties of the hearing date and shall notify the general public by posting a copy of the hearing notice at a place within the confines of the court accessible to the general public.
As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-6
Hearing procedures

Sec. 6. (a) At the hearing, any party or member of the general public may object to any proposed exclusion. Any member of the general public has the right to be represented by counsel.

(b) If no objection is presented to the court, the court may rule upon the motion to exclude or issue its proposed exclusion order, without further proceedings.

(c) If an objection is presented to the court, then the party who filed the motion to exclude, or the court, if it proposed to issue an exclusion order on its own, has the burden of proving by clear and convincing evidence that:

(1) dissemination of information about the content of the criminal proceeding and about its record would create a serious and imminent danger to the defendant's rights;

(2) any prejudicial effect created by any such dissemination cannot be avoided by any reasonable alternative means; and

(3) there is a substantial probability that the exclusion will be effective in protecting against the perceived harm.

(d) If the court finds the burden of proof has not been met, it shall deny the motion to exclude or withdraw any proposed exclusion order.

(e) If the court finds the burden of proof has been met, it may grant the motion or issue the proposed order, but:

(1) any exclusion must extend no further than the circumstances reasonably require; and

(2) the exclusion must be temporary.

A complete record shall be kept and made available to the general public for public inspection at the earliest time consistent with trial fairness.

(f) All proceedings on a motion or a proposed court order to exclude the public must be recorded for subsequent review.

(g) The court must make, on the record, specific findings of fact and conclusions of law to support its ruling on any such motion or proposed order.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-7
Inherent power of court

Sec. 7. This chapter does not affect the inherent power of a court to make limited exclusions of witnesses, to relieve overcrowding, to protect the order and decorum of the courtroom, or to exclude those individuals whose presence constitutes a direct threat to the safety of the spectators, parties, or witnesses.
As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-8
Original action to contest exclusion ruling of trial court

Sec. 8. (a) Any party or member of the general public aggrieved by the ruling of the court on the issue of exclusion of the general public from a criminal proceeding has the right to bring an original action before the supreme court of Indiana under the Rules of Procedure for Original Actions Including Writs of Mandate and Prohibition contesting the ruling.

(b) The general public has standing to bring an original action.

(c) Either the filing of a motion or a proposed court order to exclude the general public, or the presenting to the court of an objection to a motion to exclude, constitutes a showing that the duty to act has been presented or brought to the attention of the trial court.

(d) A trial court is without authority to act upon any exclusion motion or issue an exclusion order on its own unless:

(1) it complies with sections 3, 4, and 5 of this chapter; and
(2) its findings of fact and conclusions of law are supported by the record of the proceedings.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-3
Chapter 3. Access to Public Records

IC 5-14-3-1
Public policy; construction; burden of proof for nondisclosure

Sec. 1. A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.
As added by P.L.19-1983, SEC.6. Amended by P.L.77-1995, SEC.1.

IC 5-14-3-2 Version a
Definitions

Note: This version of section amended by P.L.58-2016, SEC.1. See also following version of this section amended by P.L.198-2016, SEC.12.

Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Criminal intelligence information" means data that has been evaluated to determine that the data is relevant to:

(1) the identification of; and

(2) the criminal activity engaged in by;

an individual who or organization that is reasonably suspected of involvement in criminal activity.

(d) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(e) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(f) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(g) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(h) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(i) "Investigatory record" means information compiled in the course of the investigation of a crime.

(j) "Law enforcement activity" means:

(1) a traffic stop;

(2) a pedestrian stop;

(3) an arrest;

(4) a search;

(5) an investigation;

(6) a pursuit;

(7) crowd control;

(8) traffic control; or

(9) any other instance in which a law enforcement officer is enforcing the law.

The term does not include an administrative activity, including the completion of paperwork related to a law enforcement activity, or a custodial interrogation conducted in a place of detention as described in Indiana Evidence Rule 617, regardless of the ultimate admissibility of a statement made during the custodial interrogation.

(k) "Law enforcement recording" means an audio, visual, or audiovisual recording of a law enforcement activity captured by a camera or other device that is:

(1) provided to or used by a law enforcement officer in the

scope of the officer's duties; and

(2) designed to be worn by a law enforcement officer or attached to the vehicle or transportation of a law enforcement officer.

(l) "Offender" means a person confined in a penal institution as the result of the conviction for a crime.

(m) "Patient" has the meaning set out in IC 16-18-2-272(d).

(n) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(o) "Private university police department" means the police officers appointed by the governing board of a private university under IC 21-17-5.

(p) "Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(q) "Public agency", except as provided in section 2.1 of this chapter, means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts that is required by statute, rule, or regulation.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the

investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, gaming agents of the Indiana gaming commission, gaming control officers of the Indiana gaming commission, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(11) A private university police department. The term does not include the governing board of a private university or any other department, division, board, entity, or office of a private university.

(r) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(s) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(t) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(u) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

As added by P.L.19-1983, SEC.6. Amended by P.L.34-1984, SEC.1; P.L.54-1985, SEC.1; P.L.50-1986, SEC.1; P.L.42-1986, SEC.2; P.L.341-1989(ss), SEC.6; P.L.2-1991, SEC.29; P.L.2-1992, SEC.53; P.L.2-1993, SEC.49; P.L.58-1993, SEC.1; P.L.8-1993, SEC.57;

P.L.277-1993(ss), SEC.128; P.L.1-1994, SEC.21; P.L.77-1995, SEC.2; P.L.50-1995, SEC.15; P.L.1-1999, SEC.6; P.L.256-1999, SEC.1; P.L.204-2001, SEC.12; P.L.90-2002, SEC.18; P.L.261-2003, SEC.5; P.L.2-2005, SEC.16; P.L.170-2005, SEC.17; P.L.1-2006, SEC.101; P.L.1-2007, SEC.28; P.L.179-2007, SEC.7; P.L.227-2007, SEC.57; P.L.3-2008, SEC.28; P.L.51-2008, SEC.1; P.L.248-2013, SEC.2; P.L.58-2016, SEC.1.

IC 5-14-3-2 Version b
Definitions

Note: This version of section amended by P.L.198-2016, SEC.12. See also preceding version of this section amended by P.L.58-2016, SEC.1.

Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Criminal intelligence information" means data that has been evaluated to determine that the data is relevant to:

(1) the identification of; and

(2) the criminal activity engaged in by;

an individual who or organization that is reasonably suspected of involvement in criminal activity.

(d) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(e) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(f) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(g) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(h) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or

memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(i) "Investigatory record" means information compiled in the course of the investigation of a crime.

(j) "Offender" means a person confined in a penal institution as the result of the conviction for a crime.

(k) "Patient" has the meaning set out in IC 16-18-2-272(d).

(l) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(m) "Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(n) "Public agency", except as provided in section 2.1 of this chapter, means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts that is required by

statute, rule, or regulation.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, gaming agents of the Indiana gaming commission, gaming control officers of the Indiana gaming commission, and the security division of the state lottery commission.

(7) Any license branch operated under IC 9-14.1.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(o) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(p) "Standard sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(q) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(r) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

As added by P.L.19-1983, SEC.6. Amended by P.L.34-1984, SEC.1; P.L.54-1985, SEC.1; P.L.50-1986, SEC.1; P.L.42-1986, SEC.2; P.L.341-1989(ss), SEC.6; P.L.2-1991, SEC.29; P.L.2-1992, SEC.53; P.L.2-1993, SEC.49; P.L.58-1993, SEC.1; P.L.8-1993, SEC.57; P.L.277-1993(ss), SEC.128; P.L.1-1994, SEC.21; P.L.77-1995, SEC.2; P.L.50-1995, SEC.15; P.L.1-1999, SEC.6; P.L.256-1999, SEC.1; P.L.204-2001, SEC.12; P.L.90-2002, SEC.18; P.L.261-2003, SEC.5; P.L.2-2005, SEC.16; P.L.170-2005, SEC.17; P.L.1-2006, SEC.101; P.L.1-2007, SEC.28; P.L.179-2007, SEC.7; P.L.227-2007, SEC.57; P.L.3-2008, SEC.28; P.L.51-2008, SEC.1; P.L.248-2013, SEC.2; P.L.198-2016, SEC.12.

IC 5-14-3-2.1
"Public agency"; certain providers exempted

Sec. 2.1. "Public agency", for purposes of this chapter, does not mean a provider of goods, services, or other benefits that meets the following requirements:

(1) The provider receives public funds through an agreement with the state, a county, or a municipality that meets the following requirements:

(A) The agreement provides for the payment of fees to the entity in exchange for services, goods, or other benefits.

(B) The amount of fees received by the entity under the agreement is not based upon or does not involve a consideration of the tax revenues or receipts of the state, county, or municipality.

(C) The amount of the fees are negotiated by the entity and the state, county, or municipality.

(D) The state, county, or municipality is billed for fees by the entity for the services, goods, or other benefits actually provided by the entity.

(2) The provider is not required by statute, rule, or regulation to be audited by the state board of accounts.

As added by P.L.179-2007, SEC.8.

IC 5-14-3-3
Right to inspect and copy public agency records or recordings; electronic data storage; use of information for commercial purposes; contracts

Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

(1) identify with reasonable particularity the record being requested; and

(2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request

refuses to state the purpose of the request, unless such condition is required by other applicable statute. If a request is for inspection or copying of a law enforcement recording, the request must provide the information required under subsection (i).

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). Within a reasonable time after the request is received by the agency, the public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on the person's own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

(1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.

(2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map.

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has

created a list of names and addresses (excluding electronic mail account addresses), it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to any individual or entity for political purposes and may not be used by any individual or entity for political purposes. In addition, the lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. The prohibition in this subsection against the disclosure of lists for political or commercial purposes applies to the following lists of names and addresses (including electronic mail account addresses):

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state educational institution or of persons involved in programs or activities conducted or supervised by the state educational institution.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) with respect to disclosure related to a commercial purpose, prohibiting the disclosure of the list to commercial entities for commercial purposes;

(B) with respect to disclosure related to a commercial purpose, specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes; or

(C) with respect to disclosure related to a political purpose, prohibiting the disclosure of the list to individuals and entities for political purposes.

A policy adopted under subdivision (3)(A) or (3)(B) must be uniform and may not discriminate among similarly situated commercial entities. For purposes of this subsection, "political purposes" means influencing the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question or attempting to solicit a contribution to influence the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question.

(g) A public agency may not enter into or renew a contract or an obligation:

(1) for the storage or copying of public records; or

(2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs

the right of the public to inspect and copy the agency's public records.

(h) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

(i) A request to inspect or copy a law enforcement recording must be in writing. A request identifies a law enforcement recording with reasonable particularity as required by this section only if the request provides the following information regarding the law enforcement activity depicted in the recording:

(1) The date and approximate time of the law enforcement activity.

(2) The specific location where the law enforcement activity occurred.

(3) The name of at least one (1) individual, other than a law enforcement officer, who was directly involved in the law enforcement activity.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.2; P.L.51-1986, SEC.1; P.L.58-1993, SEC.2; P.L.77-1995, SEC.3; P.L.173-2003, SEC.4 and P.L.261-2003, SEC.6; P.L.22-2006, SEC.1; P.L.1-2007, SEC.29; P.L.2-2007, SEC.100; P.L.134-2012, SEC.17; P.L.58-2016, SEC.2.

IC 5-14-3-3.5

State agencies; enhanced access to public records; office of technology

Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

(1) Secretary of state.

(2) Auditor.

(3) Treasurer.

(4) Attorney general.

(5) Superintendent of public instruction.

However, each state office described in subdivisions (1) through (5) and the judicial department of state government may use the computer gateway administered by the office of technology established by IC 4-13.1-2-1, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

(1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).

(2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:

(A) the third party; or

(B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

(1) Unauthorized enhanced access to public records.

(2) Unauthorized alteration of public records.

(3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the office of technology.

As added by P.L.58-1993, SEC.3. Amended by P.L.77-1995, SEC.4; P.L.19-1997, SEC.2; P.L.14-2004, SEC.183; P.L.177-2005, SEC.15.

IC 5-14-3-3.6

Public agencies; enhanced access to public records; office of technology

Sec. 3.6. (a) As used in this section "public agency" does not include a state agency (as defined in section 3.5(a) of this chapter).

(b) As an additional means of inspecting and copying public records, a public agency may provide enhanced access to public records maintained by the public agency.

(c) A public agency may provide a person with enhanced access to public records if any of the following apply:

(1) The public agency provides enhanced access to the person through its own computer gateway and provides for the protection of public records under subsection (d).

(2) The public agency has entered into a contract with a third party under which the public agency provides enhanced access to the person through the third party's computer gateway or otherwise, and the contract between the public agency and the third party provides for the protection of public records in accordance with subsection (d).

(d) A contract entered into under this section and any other provision of enhanced access must provide that the third party and the person will not engage in the following:

(1) Unauthorized enhanced access to public records.

(2) Unauthorized alteration of public records.

(3) Disclosure of confidential public records.

(e) A contract entered into under this section or any provision of enhanced access may require the payment of a reasonable fee to either the third party to a contract or to the public agency, or both, from the person.

(f) A public agency may provide enhanced access to public records through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

As added by P.L.19-1997, SEC.3. Amended by P.L.177-2005, SEC.16.

IC 5-14-3-4

Records and recordings exempted from disclosure; time limitations; destruction of records

Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim, without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

(i) the Indiana economic development corporation;

(ii) the ports of Indiana;

(iii) the Indiana state department of agriculture;

(iv) the Indiana finance authority;

(v) an economic development commission;

(vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial

activities in Indiana; or

(vii) a governing body of a political subdivision with industrial, research, or commercial prospects;

if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of

employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following:

(A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2.

(B) Vulnerability assessments.

(C) Risk planning documents.

(D) Needs assessments.

(E) Threat assessments.

(F) Intelligence assessments.

(G) Domestic preparedness strategies.

(H) The location of community drinking water wells and surface water intakes.

(I) The emergency contact information of emergency responders and volunteers.

(J) Infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems.

(K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:

(i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.

(ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval

of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

(i) emergency management worker (as defined in IC 10-14-3-3);

(ii) public safety officer (as defined in IC 35-47-4.5-3);

(iii) emergency medical responder (as defined in IC 16-18-2-109.8); or

(iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a law enforcement officer (as defined in IC 35-31.5-2-185);

(iii) a judge (as defined in IC 33-38-12-3);

(iv) the victim of a crime; or

(v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or

(B) concern or could affect the security of a jail or

correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

(A) Name.

(B) Address.

(C) Telephone number.

(D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

(A) Date of birth.

(B) Driver's license number.

(C) Taxpayer identification number.

(D) Employer identification number.

(E) Account number.

(27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

As added by P.L.19-1983, SEC.6. Amended by P.L.57-1983, SEC.1;

P.L.34-1984, SEC.2; P.L.54-1985, SEC.3; P.L.50-1986, SEC.2; P.L.20-1988, SEC.12; P.L.11-1990, SEC.111; P.L.1-1991, SEC.38; P.L.10-1991, SEC.9; P.L.50-1991, SEC.1; P.L.49-1991, SEC.1; P.L.1-1992, SEC.11; P.L.2-1993, SEC.50; P.L.58-1993, SEC.4; P.L.190-1999, SEC.2; P.L.37-2000, SEC.2; P.L.271-2001, SEC.1; P.L.201-2001, SEC.1; P.L.1-2002, SEC.17; P.L.173-2003, SEC.5; P.L.261-2003, SEC.7; P.L.208-2003, SEC.1; P.L.200-2003, SEC.3; P.L.210-2005, SEC.1; P.L.1-2006, SEC.102; P.L.101-2006, SEC.4; P.L.2-2007, SEC.101; P.L.172-2007, SEC.1; P.L.179-2007, SEC.9; P.L.3-2008, SEC.29; P.L.51-2008, SEC.2; P.L.98-2008, SEC.4; P.L.120-2008, SEC.2; P.L.94-2010, SEC.1; P.L.170-2011, SEC.1; P.L.134-2012, SEC.18; P.L.184-2013, SEC.1; P.L.248-2013, SEC.3; P.L.175-2013, SEC.1; P.L.56-2014, SEC.1; P.L.168-2014, SEC.9; P.L.9-2015, SEC.1; P.L.181-2015, SEC.20; P.L.145-2016, SEC.3; P.L.58-2016, SEC.3.

IC 5-14-3-4.1
Repealed

(Repealed by P.L.1-1989, SEC.75.)

IC 5-14-3-4.3
Job title or job descriptions of law enforcement officers

Sec. 4.3. Nothing contained in section 4(b)(8) of this chapter requires a law enforcement agency to release to the public the job title or job description of law enforcement officers.

As added by P.L.35-1984, SEC.1.

IC 5-14-3-4.4
Investigatory records, records relating to criminal intelligence information, records relating to public safety; agency actions; court actions

Sec. 4.4. (a) This section applies to a request for a record that the public agency considers to be excepted from disclosure under section 4(b)(1) or 4(b)(25) of this chapter. The public agency may do either of the following:

(1) Deny disclosure of the record or a part of the record. The person requesting the information may appeal the denial under section 9 of this chapter.

(2) Refuse to confirm or deny the existence of the record, regardless of whether the record exists or does not exist, if the fact of the record's existence or nonexistence would reveal information that would:

(A) impede or compromise an ongoing law enforcement investigation or result in danger to an individual's safety, including the safety of a law enforcement officer or a confidential source; or

(B) reveal information that would have a reasonable likelihood of threatening public safety.

(b) This subsection applies to a request for a record that the public agency considers to be excepted from disclosure under section 4(b)(19) of this chapter. The agency may consult with the counterterrorism and security council established by IC 10-19-8-1 in formulating a response. The public agency may do either of the following:

(1) Deny disclosure of the record or a part of the record. The agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. The person requesting the information may appeal the denial under section 9 of this chapter.

(2) Refuse to confirm or deny the existence of the record regardless of whether the record exists or does not exist, if the fact of the record's existence or nonexistence would reveal information that would have a reasonable likelihood of threatening public safety.

(c) If a public agency does not respond to a request for a record under this section:

(1) within twenty-four (24) hours of receiving the request for a record from a person who:

(A) is physically present in the agency office;

(B) makes the request by telephone; or

(C) requests enhanced access to a document; or

(2) within seven (7) days of receiving the request for a record made by mail or facsimile;

the request for the record is deemed denied. The person requesting the information may appeal the denial under section 9 of this chapter.

(d) If a public agency refuses to confirm or deny the existence of a record under this section, the name and title or position of the person responsible for the refusal shall be given to the person making the records request.

(e) A person who has received a refusal from an agency to confirm or deny the existence of a record may file an action in the circuit or superior court of the county in which the response was received:

(1) to compel the public agency to confirm whether the record exists or does not exist; and

(2) if the public agency confirms that the record exists, to compel the agency to permit the person to inspect and copy the record.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its refusal to confirm or deny the existence of the record. The public agency meets its burden of proof by filing a public affidavit with the court that provides with reasonable specificity of detail, and not simply conclusory

statements, the basis of the agency's claim that it cannot be required to confirm or deny the existence of the requested record. If the public agency meets its burden of proof, the burden of proof shifts to the person requesting access to the record. The person requesting access to the record meets the person's burden of proof by proving any of the following:

(1) The agency's justifications for not confirming the existence of the record contradict other evidence in the trial record.

(2) The agency is withholding the record in bad faith.

(3) An official with authority to speak for the agency has acknowledged to the public in a documented disclosure that the record exists. The person requesting the record must prove that the information requested:

(A) is as specific as the information previously disclosed; and

(B) matches the previously disclosed information.

(g) Either party may make an interlocutory appeal of the trial court's determination on whether the agency's refusal to confirm or deny the existence of the record was proper.

(h) If the court, after the disposition of any interlocutory appeals, finds that the agency's refusal to confirm or deny was improper, the court shall order the agency to disclose whether the record exists or does not exist. If the record exists and the agency claims that the record is exempt from disclosure under this chapter, the court may review the public record in camera to determine whether any part of the record may be withheld.

(i) In an action filed under this section, the court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

A plaintiff is eligible for the awarding of attorney's fees, court costs, and other reasonable expenses regardless of whether the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor.

(j) A court that hears an action under this section may not assess a civil penalty under section 9.5 of this chapter in connection with the action.

As added by P.L.248-2013, SEC.4.

IC 5-14-3-4.5
Repealed

(As added by P.L.4-2005, SEC.29. Repealed by P.L.175-2013, SEC.2.)

IC 5-14-3-4.7

Negotiation records; final offers; certification of final offer disclosure

Sec. 4.7. (a) Records relating to negotiations between the Indiana finance authority and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the authority if the records are created while negotiations are in progress.

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the authority to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the authority shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

As added by P.L.235-2005, SEC.85.

IC 5-14-3-4.8

Records exempt from disclosure requirements; office of tourism development negotiations; final offers public

Sec. 4.8. (a) Records relating to negotiations between the office of tourism development and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the office of tourism development if the records are created while negotiations are in progress.

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the office of tourism development to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the office of tourism development shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

As added by P.L.229-2005, SEC.3.

IC 5-14-3-4.9

Ports of Indiana negotiation records excepted from disclosure; disclosure of final offers

Sec. 4.9. (a) Records relating to negotiations between the ports of Indiana and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the ports of Indiana if the records are created while negotiations are in progress.

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the ports of Indiana to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the ports of Indiana shall certify that the information being disclosed accurately and completely represents the terms of the final offer.
As added by P.L.98-2008, SEC.5.

IC 5-14-3-5
Information relating to arrest or summons; jailed persons; agency records

Sec. 5. (a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:

(A) time and location of the arrest or the issuance of the summons;

(B) investigating or arresting officer (other than an undercover officer or agent); and

(C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including the person's name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.

(3) The time and date that the person was received and the time and date of the person's discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

(c) An agency shall maintain a daily log or record that lists suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency.

(2) The time and nature of the agency's response to all complaints or requests for assistance.

(3) If the incident involves an alleged crime or infraction:

(A) the time, date, and location of occurrence;

(B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4 or IC 35-42-3.5;

(C) the factual circumstances surrounding the incident; and

(D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The

record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) This chapter does not affect IC 5-2-4, IC 10-13-3, or IC 5-11-1-9.

As added by P.L.19-1983, SEC.6. Amended by P.L.39-1992, SEC.1; P.L.2-2003, SEC.24; P.L.1-2012, SEC.1.

IC 5-14-3-5.1

Inspection of law enforcement recordings; obscuring of undercover law enforcement officer; obscuring of confidential informants

Sec. 5.1. (a) As used in this section, "requestor" means the following:

(1) An individual who is depicted in a law enforcement recording.

(2) If the individual described in subdivision (1) is deceased:

(A) the surviving spouse, father, mother, brother, sister, son, or daughter of the individual; or

(B) the personal representative (as defined in IC 6-4.1-1-9) of or an attorney representing the deceased individual's estate.

(3) If the individual described in subdivision (1) is an incapacitated person (as defined in IC 29-3-1-7.5), the legal guardian, attorney, or attorney in fact of the incapacitated person.

(4) A person that is an owner, tenant, lessee, or occupant of real property, if the interior of the real property is depicted in the recording.

(5) A person who:

(A) is the victim of a crime; or

(B) suffers a loss due to personal injury or property damage;

if the events depicted in the law enforcement recording are relevant to the person's loss or to the crime committed against the person.

(b) A public agency shall allow a requestor to inspect a law enforcement recording at least twice, if:

(1) the requestor submits a written request under section 3 of this chapter for inspection of the recording; and

(2) if section 4(b)(19) of this chapter applies, the public agency that owns, occupies, leases, or maintains the airport approves the disclosure of the recording.

The public agency shall allow the requestor to inspect the recording in the company of the requestor's attorney. A law enforcement recording may not be copied or recorded by the requestor or the requestor's attorney during an inspection.

(c) Before an inspection under subsection (b), the public agency:

(1) shall obscure in the recording information described in section 4(a) of this chapter; and

(2) may obscure any information identifying:

(A) a law enforcement officer operating in an undercover capacity; or

(B) a confidential informant.

(d) Before an inspection under subsection (b), only the information in the recording described in subsection (c) may be obscured by the public agency.

(e) If a person is denied access to inspect a recording under this section, the person may appeal the denial under section 9 of this chapter.

As added by P.L.58-2016, SEC.4.

IC 5-14-3-5.2

Exemptions to right of inspection; court orders permitting inspection

Sec. 5.2. (a) A public agency shall permit any person to inspect or copy a law enforcement recording unless one (1) or more of the following circumstances apply:

(1) Section 4(b)(19) of this chapter applies and the person has not demonstrated that the public agency that owns, occupies, leases, or maintains the airport approves the disclosure of the recording.

(2) The public agency finds, after due consideration of the facts of the particular case, that access to or dissemination of the recording:

(A) creates a significant risk of substantial harm to any person or to the general public;

(B) is likely to interfere with the ability of a person to receive a fair trial by creating prejudice or bias concerning the person or a claim or defense presented by the person;

(C) may affect an ongoing investigation, if the recording is an investigatory record of a law enforcement agency as defined in section 2 of this chapter and notwithstanding its exclusion under section 4(b)(1) of this chapter; or

(D) would not serve the public interest.

However, before permitting a person to inspect or copy the recording, the public agency must comply with the obscuring provisions of subsection (f), if applicable.

(b) If a public agency denies a person the opportunity to inspect or copy a law enforcement recording under subsection (a), the person may petition the circuit or superior court of the county in which the law enforcement recording was made for an order permitting inspection or copying of a law enforcement recording. The court shall review the decision of the public agency de novo and grant the order unless one (1) or more of the following apply:

(1) If section 4(b)(19) of this chapter applies, the petitioner fails to establish by a preponderance of the evidence that the public agency that owns, occupies, leases, or maintains the airport

approves the disclosure of the recording.

(2) The public agency establishes by a preponderance of the evidence in light of the facts of the particular case, that access to or dissemination of the recording:

(A) creates a significant risk of substantial harm to any person or to the general public;

(B) is likely to interfere with the ability of a person to receive a fair trial by creating prejudice or bias concerning the person or a claim or defense presented by the person;

(C) may affect an ongoing investigation, if the recording is an investigatory record of a law enforcement agency, as defined in section 2 of this chapter, notwithstanding its exclusion under section 4; or

(D) would not serve the public interest.

(c) Notwithstanding section 9(i) of this chapter, a person that obtains an order for inspection of or to copy a law enforcement recording under this section may not be awarded attorney's fees, court costs, and other reasonable expenses of litigation. The penalty provisions of section 9.5 of this chapter do not apply to a petition filed under this section.

(d) If the court grants a petition for inspection of or to copy the law enforcement recording, the public agency shall disclose the recording. However, before disclosing the recording, the public agency must comply with the obscuring provisions of subsection (e), if applicable.

(e) A public agency that discloses a law enforcement recording under this section:

(1) shall obscure:

(A) any information that is required to be obscured under section 4(a) of this chapter; and

(B) depictions of:

(i) an individual's death or a dead body;

(ii) acts of severe violence that are against any individual who is clearly visible and that result in serious bodily injury (as defined in IC 35-31.5-2-292);

(iii) serious bodily injury (as defined in IC 35-31.5-2-292);

(iv) nudity (as defined in IC 35-49-1-5);

(v) an individual whom the public agency reasonably believes is less than eighteen (18) years of age;

(vi) personal medical information;

(vii) a victim of a crime, or any information identifying the victim of a crime, if the public agency finds that obscuring this information is necessary for the victim's safety; and

(viii) a witness to a crime or an individual who reports a crime, or any information identifying a witness to a crime or an individual who reports a crime, if the public agency finds that obscuring this information is necessary for safety of the witness or individual who reports a crime;

and

(2) may obscure:

(A) any information identifying:

(i) a law enforcement officer operating in an undercover capacity; or

(ii) a confidential informant; and

(B) any information that the public agency may withhold from disclosure under section 4(b)(2) through 4(b)(26) of this chapter.

(f) A court shall expedite a proceeding filed under this section. Unless prevented by extraordinary circumstances, the court shall conduct a hearing (if required) and rule on a petition filed under this section not later than thirty (30) days after the date the petition is filed.

As added by P.L.58-2016, SEC.5.

IC 5-14-3-5.3

Retention of law enforcement recordings

Sec. 5.3. (a) Except as provided in subsection (c), a public agency that is not the state or a state agency shall retain an unaltered, unobscured law enforcement recording for at least one hundred ninety (190) days after the date of the recording.

(b) Except as provided in subsection (c), a public agency that is the state or a state agency shall retain an unaltered, unobscured law enforcement recording for at least two hundred eighty (280) days after the date of the recording.

(c) A public agency shall retain an unaltered, unobscured law enforcement recording for a period longer than the period described in subsections (a) and (b) if the following conditions are met:

(1) Except as provided in subdivision (3), if a person defined as a requestor as set forth in section 5.1(a) of this chapter notifies the public agency in writing not more than:

(A) one hundred eighty (180) days (if the public agency is not the state or a state agency); or

(B) two hundred seventy (270) days (if the public agency is the state or a state agency);

after the date of the recording that the recording is to be retained, the recording shall be retained for at least two (2) years after the date of the recording. The public agency may not request or require the person to provide a reason for the retention.

(2) Except as provided in subdivision (3), if a formal or informal complaint is filed with the public agency regarding a law enforcement activity depicted in the recording less than:

(A) one hundred eighty (180) days (if the public agency is not the state or a state agency); or

(B) two hundred seventy (270) days (if the public agency is the state or a state agency);

after the date of the recording, the public agency shall automatically retain the recording for at least two (2) years after the date of the recording.

(3) If a recording is used in a criminal, civil, or administrative proceeding, the public agency shall retain the recording until final disposition of all appeals and order from the court.

(d) The public agency may retain a recording for training purposes for any length of time.

As added by P.L.58-2016, SEC.6.

IC 5-14-3-5.5

Sealing certain records by court; hearing; notice

Sec. 5.5. (a) This section applies to a judicial public record.

(b) As used in this section, "judicial public record" does not include a record submitted to a court for the sole purpose of determining whether the record should be sealed.

(c) Before a court may seal a public record not declared confidential under section 4(a) of this chapter, it must hold a hearing at a date and time established by the court. Notice of the hearing shall be posted at a place designated for posting notices in the courthouse.

(d) At the hearing, parties or members of the general public must be permitted to testify and submit written briefs. A decision to seal all or part of a public record must be based on findings of fact and conclusions of law, showing that the remedial benefits to be gained by effectuating the public policy of the state declared in section 1 of this chapter are outweighed by proof by a preponderance of the evidence by the person seeking the sealing of the record that:

(1) a public interest will be secured by sealing the record;

(2) dissemination of the information contained in the record will create a serious and imminent danger to that public interest;

(3) any prejudicial effect created by dissemination of the information cannot be avoided by any reasonable method other than sealing the record;

(4) there is a substantial probability that sealing the record will be effective in protecting the public interest against the perceived danger; and

(5) it is reasonably necessary for the record to remain sealed for a period of time.

Sealed records shall be unsealed at the earliest possible time after the circumstances necessitating the sealing of the records no longer exist.

As added by P.L.54-1985, SEC.4. Amended by P.L.68-1987, SEC.1.

IC 5-14-3-6

Partially disclosable records; computer or microfilm record systems; fees

Sec. 6. (a) If a public record contains disclosable and nondisclosable information, the public agency shall, upon receipt of

a request under this chapter, separate the material that may be disclosed and make it available for inspection and copying.

(b) If a public record stored on computer tape, computer disks, microfilm, or a similar or analogous record system is made available to:

(1) a person by enhanced access under section 3.5 of this chapter; or

(2) a governmental entity by an electronic device;

the public agency may not make the record available for inspection without first separating the material in the manner required by subsection (a).

(c) A public agency may charge a person who makes a request for disclosable information the agency's direct cost of reprogramming a computer system if:

(1) the disclosable information is stored on a computer tape, computer disc, or a similar or analogous record system; and

(2) the public agency is required to reprogram the computer system to separate the disclosable information from nondisclosable information.

(d) A public agency is not required to reprogram a computer system to provide:

(1) enhanced access; or

(2) access to a governmental entity by an electronic device.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.5; P.L.58-1993, SEC.5; P.L.77-1995, SEC.5.

IC 5-14-3-6.5

Confidentiality of public record

Sec. 6.5. A public agency that receives a confidential public record from another public agency shall maintain the confidentiality of the public record.

As added by P.L.34-1984, SEC.3.

IC 5-14-3-7

Protection against loss, alteration, destruction, and unauthorized enhanced access

Sec. 7. (a) A public agency shall protect public records from loss, alteration, mutilation, or destruction, and regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees.

(b) A public agency shall take precautions that protect the contents of public records from unauthorized enhanced access, unauthorized access by an electronic device, or alteration.

(c) This section does not operate to deny to any person the rights secured by section 3 of this chapter.

As added by P.L.19-1983, SEC.6. Amended by P.L.58-1993, SEC.6.

IC 5-14-3-8

Fees; copies

Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter:

(1) to inspect a public record; or

(2) to search for, examine, or review a record to determine whether the record may be disclosed.

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents ($0.10) per page, whichever is greater. A state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars ($5) per document. The fee for copying documents may not exceed the greater of:

(1) ten cents ($0.10) per page for copies that are not color copies or twenty-five cents ($0.25) per page for color copies; or

(2) the actual cost to the agency of copying the document.

As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

(1) a person is entitled to a copy of a public record under this chapter; and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, law enforcement recording, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form. However, the fee for a copy of a law enforcement recording may not exceed one hundred fifty dollars ($150).

(2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.

(3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic map may be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

(1) Public agency program support.

(2) Nonprofit activities.

(3) Journalism.

(4) Academic research.

(l) This subsection does not apply to a state agency. A fee collected under subsection (g) for the copying of a law enforcement

recording may be:

(1) retained by the public agency; and

(2) used without appropriation for one (1) or more of the following purposes:

(A) To purchase cameras and other equipment for use in connection with the agency's law enforcement recording program.

(B) For training concerning law enforcement recording.

(C) To defray the expenses of storing, producing, and copying law enforcement recordings.

Money from a fee described in this subsection does not revert to the local general fund at the end of a fiscal year.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.6; P.L.51-1986, SEC.2; P.L.58-1993, SEC.7; P.L.78-1995, SEC.1; P.L.151-1999, SEC.1; P.L.89-2001, SEC.1; P.L.215-2007, SEC.1; P.L.16-2008, SEC.1; P.L.58-2016, SEC.7.

IC 5-14-3-8.3

Enhanced access fund; establishment by ordinance; purpose

Sec. 8.3. (a) The fiscal body of a political subdivision having a public agency that charges a fee under section 8(h) or 8(i) of this chapter shall adopt an ordinance establishing an enhanced access fund. The ordinance must specify that the fund consists of fees collected under section 8(h) or 8(i) of this chapter. The fund shall be administered by the public agency or officer designated in the ordinance or resolution. Money in the fund must be appropriated and expended in the manner authorized in the ordinance.

(b) The fund is a dedicated fund with the following purposes:

(1) The replacement, improvement, and expansion of capital expenditures.

(2) The reimbursement of operating expenses incurred in providing enhanced access to public information.

As added by P.L.58-1993, SEC.8.

IC 5-14-3-8.5

Electronic map generation fund; establishment by ordinance; purpose

Sec. 8.5. (a) The fiscal body of a political subdivision having a public agency that charges a fee under section 8(j) of this chapter shall adopt an ordinance establishing an electronic map generation fund. The ordinance must specify that the fund consists of fees collected under section 8(j) of this chapter. The fund shall be administered by the public agency that collects the fees.

(b) The electronic map generation fund is a dedicated fund with the following purposes:

(1) The maintenance, upgrading, and enhancement of the electronic map.

(2) The reimbursement of expenses incurred by a public agency

in supplying an electronic map in the form requested by a purchaser.

As added by P.L.58-1993, SEC.9.

IC 5-14-3-9

Denial of disclosure; action to compel disclosure; intervenors; burden of proof; attorney's fees and costs

Sec. 9. (a) This section does not apply to a request for information under section 4.4 of this chapter.

(b) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(c) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(d) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

(1) that a request for release of the public record has been denied; and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access

counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) This subsection does not apply to an action under section 5.2 of this chapter. If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that:

(i) the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(ii) if the action is for denial of access to a recording under section 5.1 of this chapter, the plaintiff is not a "requestor" as that term is defined in section 5.1 of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter. However, if the complaint alleges that a public agency denied disclosure of a public record by redacting information in the public record, the court shall conduct an in camera inspection of the public record with the redacted information included.

(i) Except as provided in subsection (k), in any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

Except as provided in subsection (k), the plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the

public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) Except as provided in subsection (k), a court may assess a civil penalty under section 9.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 9.5 of this chapter.

(k) This subsection applies only to an action to appeal the denial of access to a law enforcement recording under section 5.1 of this chapter. A requestor (as defined in section 5.1 of this chapter) may bring an action to appeal from the denial of access to a law enforcement recording without first seeking or receiving an informal inquiry response or advisory opinion from the public access counselor. If the requestor prevails in an action under this subsection:

(1) the requestor is eligible for an award of reasonable attorney's fees, court costs, and other reasonable expenses; and

(2) a court may assess a civil penalty under section 9.5 of this chapter.

(l) A court shall expedite the hearing of an action filed under this section.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.7; P.L.50-1986, SEC.3; P.L.68-1987, SEC.2; P.L.58-1993, SEC.10; P.L.19-1997, SEC.4; P.L.70-1999, SEC.2 and P.L.191-1999, SEC.2; P.L.173-2003, SEC.6 and P.L.261-2003, SEC.8; P.L.22-2005, SEC.2; P.L.134-2012, SEC.19; P.L.248-2013, SEC.5; P.L.58-2016, SEC.8.

IC 5-14-3-9.5

Civil penalties imposed on public agency, officer, or management level employee

Sec. 9.5. (a) This section does not apply to any matter regarding:

(1) the work product of the legislative services agency under personnel rules approved by the legislative council; or

(2) the work product of individual members and the partisan staffs of the general assembly.

(b) As used in subsections (c) through (k), "individual" means:

(1) an officer of a public agency; or

(2) an individual employed in a management level position with a public agency.

(c) If an individual:

(1) continues to deny a request that complies with section 3(b) of this chapter for inspection or copying of a public record after the public access counselor has issued an advisory opinion:

(A) regarding the request for inspection or copying of the public record; and

(B) that instructs the public agency to allow access to the

public record; and

(2) denies the request with the specific intent to unlawfully withhold a public record that is subject to disclosure under this chapter;

the individual and the public agency employing the individual are subject to a civil penalty under subsection (h).

(d) If an individual intentionally charges a copying fee that the individual knows exceeds the amount set by statute, fee schedule, ordinance, or court order, the individual is subject to a civil penalty under subsection (h).

(e) A civil penalty may only be imposed as part of an action filed under section 9 of this chapter. A court may not impose a civil penalty under this section unless the public access counselor has issued an advisory opinion:

(1) to the complainant and the public agency;

(2) that instructs the public agency to allow access to the public record; and

(3) before the action under section 9 of this chapter is filed.

Nothing in this section prevents both the person requesting the public record and the public agency from requesting an advisory opinion from the public access counselor.

(f) It is a defense to the imposition of a civil penalty under this section that the individual denied access to a public record in reliance on either of the following:

(1) An opinion of the public agency's legal counsel.

(2) An opinion of the attorney general.

(g) A court may impose a civil penalty for a violation under subsection (c) against one (1) or more of the following:

(1) The individual named as a defendant in the action.

(2) The public agency named as a defendant in the action.

(h) In an action under this section, a court may impose the following civil penalties:

(1) Not more than one hundred dollars ($100) for the first violation.

(2) Not more than five hundred dollars ($500) for each additional violation.

A civil penalty imposed under this section is in addition to any other civil or criminal penalty imposed. However, in any one (1) action brought under this section, a court may impose only one (1) civil penalty against an individual, even if the court finds that the individual committed multiple violations. This subsection does not preclude a court from imposing another civil penalty against an individual in a separate action, but an individual may not be assessed more than one (1) civil penalty in any one (1) action brought under this section.

(i) A court shall distribute monthly to the auditor of state any penalties collected under this section for deposit in the education fund established by IC 5-14-4-14.

(j) An individual is personally liable for a civil penalty imposed on the individual under this section. A civil penalty imposed against a public agency under this section shall be paid from the public agency's budget.

(k) If an officer of a public agency directs an individual who is employed in a management level position to deny a request as described in subsection (c)(1), the management level employee is not subject to civil penalties under subsection (h).

As added by P.L.134-2012, SEC.20.

IC 5-14-3-10

Classified confidential information; unauthorized disclosure or failure to protect; offense; discipline

Sec. 10. (a) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency, except as provided by IC 4-15-10, who knowingly or intentionally discloses information classified as confidential by state statute, including information declared confidential under:

(1) section 4(a) of this chapter; or

(2) section 4(b) of this chapter if the public agency having control of the information declares it to be confidential;

commits a Class A infraction.

(b) A public employee may be disciplined in accordance with the personnel policies of the agency by which the employee is employed if the employee intentionally, knowingly, or recklessly discloses or fails to protect information classified as confidential by state statute.

(c) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency who unintentionally and unknowingly discloses confidential or erroneous information in response to a request under IC 5-14-3-3(d) or who discloses confidential information in reliance on an advisory opinion by the public access counselor is immune from liability for such a disclosure.

(d) This section does not apply to any provision incorporated into state law from a federal statute.

As added by P.L.17-1984, SEC.2. Amended by P.L.54-1985, SEC.8; P.L.68-1987, SEC.3; P.L.77-1995, SEC.6; P.L.70-1999, SEC.3 and P.L.191-1999, SEC.3; P.L.126-2012, SEC.24.

IC 5-14-3.5

Chapter 3.5. Access to Financial Data for State Agencies

IC 5-14-3.5-1

"State agency"

Sec. 1. (a) As used in this chapter, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of government, including the administrative branch of state government, the legislative branch of state government, and the judicial branch of state government.

(b) The term does not include a state educational institution.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-2

Data on Indiana transparency web site

Sec. 2. (a) The auditor of state, working with the office of technology established by IC 4-13.1-2-1, or another organization that is part of a state educational institution, and the office of management and budget established by IC 4-3-22-3, shall post on the Indiana transparency Internet web site the following data:

(1) A listing of state expenditures and fund balances, including expenditures for contracts, grants, and leases.

(2) A listing of state owned real and personal property that has a value of more than twenty thousand dollars ($20,000).

The web site must be electronically searchable by the public and must be intuitive to users of the web site.

(b) The data base must include for each state agency:

(1) the amount, date, payer, and payee of expenditures;

(2) a listing of state expenditures by:

(A) personal services;

(B) other operating expenses; or

(C) total operating expenses;

to reflect how the funds were appropriated in the state budget act;

(3) a listing of state fund balances; and

(4) a listing of property owned by the state.

(c) The data base must include for each state educational institution a listing of the annual salaries for employees of the state educational institution.

As added by P.L.172-2011, SEC.15. Amended by P.L.177-2013, SEC.1.

IC 5-14-3.5-3

Graphic representations of data

Sec. 3. The auditor of state may enhance and organize the presentation of the information through the use of graphic representations.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-4
Public access not allowed to certain data

Sec. 4. (a) The auditor of state may not allow public access under this section to:

(1) a payee's address;
(2) personal information that is protected under state or federal law or rule; or
(3) information that is protected as a trade secret under state or federal law or by rule.

(b) The auditor of state may make information protected under subsection (a) available in an aggregate format only.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-5
Immunity from civil liability

Sec. 5. The state and state officers, officials, and employees are immune from any civil liability for posting confidential information under section 4 of this chapter if the information was posted in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures or fund balances.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-6
State agencies providing required data to auditor of state

Sec. 6. To the extent any information required to be in the data base is collected or maintained by a state agency or state educational institution, the state agency or state educational institution shall provide that information to the auditor of state for inclusion in the data base.
As added by P.L.172-2011, SEC.15. Amended by P.L.177-2013, SEC.2.

IC 5-14-3.5-7
Prohibition against charging fee for access

Sec. 7. The auditor of state may not charge a fee for access to the data base.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-8
Cooperation by state agencies

Sec. 8. Except as provided in section 9 of this chapter, a state agency shall cooperate with and provide information to the auditor of state as necessary to implement and administer this chapter.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-9
State agencies not required to record information or expend resources for computer programming

Sec. 9. This chapter does not require a state agency to record information or expend resources for the purpose of computer programming to make information reportable under this chapter.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-10
Links to other web sites

Sec. 10. The office of technology established by IC 4-13.1-2-1 shall work with the auditor of state to include a link on the Internet web site established under this chapter to the Internet web site of each Internet web site operated by:

(1) the state; or
(2) a state agency.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-11
Links on state agency web sites to Indiana transparency web site

Sec. 11. Each state agency shall include a link on the agency's Internet web site to the Internet web site established under this chapter.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-12
Completing design and posting information

Sec. 12. The auditor of state and the office of technology shall initially complete the design of the Internet web site and establish and post the information required under this chapter for all state agencies.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-13
Repealed

(As added by P.L.172-2011, SEC.15. Repealed by P.L.121-2016, SEC.11.)

IC 5-14-3.5-14
Submitting of forms in an electronic format

Sec. 14. In order to comply with this chapter, the auditor may require that forms required to be submitted under this chapter be submitted in an electronic format.
As added by P.L.172-2011, SEC.15.

IC 5-14-3.6

Chapter 3.6. Access to Financial Data for State Educational Institutions

IC 5-14-3.6-1

"Commission"

Sec. 1. As used in this chapter, "commission" refers to the commission for higher education of the state of Indiana established by IC 21-18-2.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-2

"State educational institution"

Sec. 2. As used in this chapter, "state educational institution" has the meaning set forth in IC 21-7-13-32.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-3

Web site established by commission

Sec. 3. The commission shall establish a web site where members of the public may view the following:

(1) The audited financial statement of each state educational institution.

(2) A comparison between the amount appropriated to each state educational institution and the amount allotted for expenditure by the state educational institution.

(3) Information concerning the outstanding debt of each state educational institution, the purposes for which the outstanding debt was used, and the sources of repayment for the outstanding debt.

(4) For each state educational institution, all financial and other reports to a state agency that are public records.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-4

Links on state educational institutions' web sites

Sec. 4. Each state educational institution shall include a link on the state educational institution's Internet web site to the web site established under this chapter.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-5

Repealed

(As added by P.L.172-2011, SEC.16. Repealed by P.L.121-2016, SEC.12.)

IC 5-14-3.7

Chapter 3.7. Access to Financial Data for Local Schools

IC 5-14-3.7-1

"Department"

Sec. 1. As used in this chapter, "department" means the department of education established by IC 20-19-3-1.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-2

"Political subdivision"

Sec. 2. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-2.5

"School corporation"

Sec. 2.5. As used in this chapter, "school corporation" has the meaning set forth in IC 36-1-2-17.

As added by P.L.84-2014, SEC.2.

IC 5-14-3.7-3 Version a

Department posting information on Indiana transparency web site

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 3. (a) The department, working with the office of technology established by IC 4-13.1-2-1 or another organization that is part of a state educational institution, the state board of accounts established by IC 5-11-1-1, the department of local government finance established under IC 6-1.1-30-1.1, and the office of management and budget established by IC 4-3-22-3, shall post on the Indiana transparency Internet web site a data base that lists expenditures and fund balances, including expenditures for contracts, grants, and leases, for public schools. The web site must be electronically searchable by the public.

(b) The data base must include for public schools:

(1) the amount, date, payer, and payee of expenditures;

(2) a listing of expenditures by:

(A) personal services;

(B) other operating expenses; or

(C) total operating expenses;

(3) a listing of fund balances;

(4) a listing of real and personal property owned by the public school;

(5) the report required under IC 6-1.1-33.5-7; and

(6) information for evaluating the fiscal health of each school corporation in the format required by section 16(b) of this chapter.

As added by P.L.172-2011, SEC.17. Amended by P.L.84-2014, SEC.3.

IC 5-14-3.7-3 Version b
Department posting information on Indiana transparency web site

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 3. (a) The department, working with the office of technology established by IC 4-13.1-2-1 or another organization that is part of a state educational institution, the state board of accounts established by IC 5-11-1-1, the department of local government finance established under IC 6-1.1-30-1.1, and the office of management and budget established by IC 4-3-22-3, shall post on the Indiana transparency Internet web site a data base that lists expenditures and fund balances, including expenditures for contracts, grants, and leases, for public schools. The web site must be electronically searchable by the public.

(b) The data base must include for public schools:

(1) the amount, date, payer, and payee of expenditures;

(2) a listing of expenditures specifically identifying those for:

(A) personal services;

(B) other operating expenses or total operating expenses; and

(C) debt service, including lease payments, related to debt;

(3) a listing of fund balances, specifically identifying balances in funds that are being used for accumulation of money for future capital needs;

(4) a listing of real and personal property owned by the public school;

(5) the report required under IC 6-1.1-33.5-7; and

(6) information for evaluating the fiscal health of each school corporation in the format required by section 16(b) of this chapter.

As added by P.L.172-2011, SEC.17. Amended by P.L.84-2014, SEC.3; P.L.208-2016, SEC.2.

IC 5-14-3.7-4
Presentation of information

Sec. 4. To the extent possible, the department shall present information in the data base established under this chapter in a manner that is searchable and intuitive to users.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-5
Public access not allowed for certain information

Sec. 5. (a) The department may not allow public access under this section to:

(1) a payee's address;

(2) personal information that is protected under state or federal law or rule; or

(3) information that is protected as a trade secret under state or federal law or by rule.

(b) The department may make information protected under subsection (a) available in an aggregate format only.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-6

Immunity from civil liability

Sec. 6. Employees of the state are immune from any civil liability for posting confidential information under section 5 of this chapter if an employee of the state posted the information in reliance on a determination made by a public school about the confidentiality of information relating to the educational institution's expenditures or fund balances.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-7

Information to be provided to the department by public schools

Sec. 7. To the extent any information required to be in the data base is collected or maintained by a public school, the public school shall provide that information to the department for inclusion in the data base.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-8

Fee for access prohibited

Sec. 8. The department may not charge a fee for access to the data base.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-9

Public schools required to cooperate and provide information to the department

Sec. 9. Except as provided in section 10 of this chapter, a public school shall cooperate with and provide information to the department as necessary to implement and administer this chapter.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-10

Recording information or expending resources for computer programming not required

Sec. 10. This chapter does not require a public school or state agency to record information or expend resources for the purpose of computer programming to make information reportable under this chapter. This section does not waive requirements under any law that a prescribed form must be submitted electronically.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-11
Links on state web site and public school web sites

Sec. 11. The office of technology established by IC 4-13.1-2-1 shall work with the department to include a link on the Internet web site established under this chapter to the Internet web site of each Internet web site operated by:

(1) the state; or
(2) a public school.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-12
Links on public school web sites

Sec. 12. Each public school shall include a link on the public school's Internet web site to the Internet web site established under this chapter.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-13
Design of web site and establishing and posting information

Sec. 13. The department and the office of technology shall initially complete the design of the Internet web site and establish and post the information required under this chapter for all public schools.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-14
Report by the department

Sec. 14. Not later than November 15, 2011, the department shall provide a report to the state board of finance and the legislative council on the progress the office has made to comply with this chapter. The report to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-15
Forms submitted in an electronic format

Sec. 15. In order to comply with this chapter, the department may require that forms required to be submitted under this chapter be submitted in an electronic format.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-16
Development of fiscal health indicators; publication on Internet dashboard

Sec. 16. (a) The department of local government finance shall develop indicators of fiscal health for evaluating the fiscal health of

a school corporation. The department of local government finance may consider including any of the following in the indicators developed under this subsection:

(1) The cash balance of a school corporation.

(2) The debt to revenue ratio of a school corporation.

(3) The condition of a school corporation's property tax base as measured by both the assessed value of the school corporation and the amount of per capita revenue generated from the school corporation's tax base.

(4) The per capita amount of a school corporation's general fund operating revenue.

(5) Any trends in the amount of a school corporation's tax revenue.

(6) Whether a school corporation maintains a structural deficit or a structural surplus.

(7) The extent that the school corporation is affected by tax increment financing districts.

(8) The extent that the school corporation's property tax base is affected by exempt properties.

(9) The school corporation's bond rating.

(10) The amount of retiree benefits paid by the school corporation.

(11) The amount of pension contributions paid on behalf of the school corporation's employees.

(12) Any other factor that the department of local government finance considers relevant to evaluating the fiscal health of a school corporation.

(b) The department of local government finance shall use the indicators developed under subsection (a) and the associated fiscal data to present the information for evaluating the fiscal health of each school corporation on the Indiana transparency Internet web site. The information must be presented in a manner that:

(1) can be conveniently and easily accessed from a single web page; and

(2) is commonly known as an Internet dashboard.

The information must be available on the Indiana transparency Internet web site in the format required by this subsection before July 1, 2015.

(c) Neither the department of local government finance nor any other state agency may use the fiscal health indicators developed under this section to assign a school corporation a summative grade.

As added by P.L.84-2014, SEC.4.

IC 5-14-3.8

Chapter 3.8. Access to Financial Data for Local Units

IC 5-14-3.8-1

"Department"

Sec. 1. As used in this chapter, "department" means the department of local government finance established under IC 6-1.1-30-1.1.

As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-2

"Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 5-11-10.5-1.

As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-3 Version a

Information posted on the Indiana transparency web site

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 3. The department, working with the office of technology established by IC 4-13.1-2-1, or another organization that is part of a state educational institution, the office of management and budget established by IC 4-3-22-3, and the state board of accounts established by IC 5-11-1-1, shall post on the Indiana transparency Internet web site the following:

(1) The financial reports required by IC 5-11-1-4.

(2) The report on expenditures per capita prepared under IC 6-1.1-33.5-7.

(3) A listing of the property tax rates certified by the department.

(4) An index of audit reports prepared by the state board of accounts.

(5) Local development agreement reports prepared under IC 4-33-23-10 and IC 4-33-23-17.

(6) Information for evaluating the fiscal health of a political subdivision in the format required by section 8(b) of this chapter.

(7) Any other financial information deemed appropriate by the department.

As added by P.L.172-2011, SEC.18. Amended by P.L.229-2013, SEC.37; P.L.84-2014, SEC.5.

IC 5-14-3.8-3 Version b

Information posted on the Indiana transparency web site

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 3. The department, working with the office of technology

established by IC 4-13.1-2-1, or another organization that is part of a state educational institution, the office of management and budget established by IC 4-3-22-3, and the state board of accounts established by IC 5-11-1-1, shall post on the Indiana transparency Internet web site the following:

(1) The financial reports required by IC 5-11-1-4.

(2) The report on expenditures per capita prepared under IC 6-1.1-33.5-7.

(3) A listing of the property tax rates certified by the department.

(4) An index of audit reports prepared by the state board of accounts.

(5) Local development agreement reports prepared under IC 4-33-23-10 and IC 4-33-23-17.

(6) Information for evaluating the fiscal health of a political subdivision in the format required by section 8(b) of this chapter.

(7) A listing of expenditures specifically identifying those for:

(A) personal services;

(B) other operating expenses or total operating expenses; and

(C) debt service, including lease payments, related to debt.

(8) A listing of fund balances, specifically identifying balances in funds that are being used for accumulation of money for future capital needs.

(9) Any other financial information deemed appropriate by the department.

As added by P.L.172-2011, SEC.18. Amended by P.L.229-2013, SEC.37; P.L.84-2014, SEC.5; P.L.208-2016, SEC.3.

IC 5-14-3.8-3.5

Political subdivision contracts

Sec. 3.5. (a) As used in this section, "contract" includes all pages of a contract and any attachments to the contract.

(b) A political subdivision shall scan and upload the digital image of a contract to the Indiana transparency Internet web site during each year that the contract amount to be paid by the political subdivision for that year exceeds the lesser of:

(1) ten percent (10%) of the political subdivision's property tax levy for that year; or

(2) fifty thousand dollars ($50,000).

A political subdivision shall scan and upload the contract not later than sixty (60) days after the date the contract is executed.

(c) Nothing in this section prohibits the political subdivision from withholding any information in the contract that the political subdivision shall or may withhold from disclosure under IC 5-14-3.

As added by P.L.142-2016, SEC.1.

IC 5-14-3.8-4
Immunity from civil liability

Sec. 4. Employees of the department are immune from any civil liability for posting confidential information under section 3 of this chapter if an employee of the department posted the information in reliance on a determination made by a political subdivision.
As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-5
Recording of information or expending resources for computer programming not required

Sec. 5. This chapter does not require a political subdivision to record information or expend resources for the purpose of computer programming to make information reportable under this chapter. This section does not waive requirements under any law that a prescribed form must be submitted electronically.
As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-6
Repealed

(As added by P.L.172-2011, SEC.18. Repealed by P.L.121-2016, SEC.13.)

IC 5-14-3.8-7
Submission of forms in an electronic format

Sec. 7. The department may require that prescribed forms be submitted in an electronic format. The department, working with the office of technology established by IC 4-13.1-2-1 or another organization that is part of a state educational institution, shall develop and maintain a secure, web-based system that facilitates electronic submission of the forms under this section. Political subdivisions shall submit forms under this section through the web-based system as prescribed by the department.
As added by P.L.172-2011, SEC.18. Amended by P.L.137-2012, SEC.10.

IC 5-14-3.8-8
Development of fiscal health indicators; publication on Internet dashboard

Sec. 8. (a) The department shall develop indicators of fiscal health for evaluating the fiscal health of a political subdivision. The department may consider including any of the following in the indicators developed under this subsection:

(1) The cash balance of a political subdivision.
(2) The debt to revenue ratio of a political subdivision.
(3) The condition of a political subdivision's property tax base and income tax base, if any, as measured by both the assessed value of the political subdivision and the amount of per capita

revenue generated from the political subdivision's tax bases.

(4) The per capita amount of a political subdivision's general fund operating revenue.

(5) Any trends in the amount of a political subdivision's tax revenue.

(6) Whether a political subdivision maintains a structural deficit or a structural surplus.

(7) The number and size of the tax increment financing districts designated by a redevelopment commission established by the political subdivision, if any.

(8) The extent that the political subdivision is affected by tax increment financing districts.

(9) The extent that the political subdivision's property tax base is affected by exempt properties.

(10) The political subdivision's bond rating.

(11) The amount of retiree benefits paid by the political subdivision.

(12) The amount of pension contributions paid on behalf of the political subdivision's employees.

(13) Any other factor that the department considers relevant to evaluating the fiscal health of a political subdivision.

(b) The department shall use the indicators developed under subsection (a) and the associated fiscal data to present the information for evaluating the fiscal health of a political subdivision on the Indiana transparency Internet web site. The information must be presented in a manner that:

(1) can be conveniently and easily accessed from a single web page; and

(2) is commonly known as an Internet dashboard.

The information must be available on the Indiana transparency Internet web site in the format required by this subsection before July 1, 2015.

(c) Neither the department of local government finance nor any other state agency may use the fiscal health indicators developed under this section to assign a political subdivision a summative grade.

As added by P.L.84-2014, SEC.6.

IC 5-14-3.9

Chapter 3.9. Financial and Operational Summary of a Political Subdivision

IC 5-14-3.9-1

"Department"

Sec. 1. As used in this chapter, "department" refers to the department of local government finance established by IC 6-1.1-30-1.1.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-2

"Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" means a county, township, city, town, school corporation, library district, fire protection district, public transportation corporation, local hospital authority or corporation, local airport authority district, special service district, special taxing district, or other separate local governmental entity that may sue and be sued.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-3

"Summary"

Sec. 3. As used in this chapter, "summary" means the financial and operational summary required by this chapter.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-4

Application of chapter

Sec. 4. This chapter applies only to a political subdivision that has an Internet web site. This chapter does not require a political subdivision to establish an Internet web site.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-5

Political subdivision summary publication on Internet web site

Sec. 5. (a) After July 31, 2017, the department shall publish an annual summary of each political subdivision on the Indiana transparency Internet web site on the dates determined by the department.

(b) A political subdivision shall prominently display on the main Internet web page of the political subdivision's Internet web site the link provided by the department to the Indiana transparency Internet web site established under IC 5-14-3.7.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-6

Information included in summary

Sec. 6. The department shall determine the information to be disclosed in the summary that the department considers necessary to reflect the financial condition and operations of the political subdivision, which may include the following:

(1) Information disclosed under IC 5-14-3.7 or IC 5-14-3.8.
(2) Total operating budget.
(3) Approximate number of full-time and part-time employees.
(4) Outstanding indebtedness and interest paid on indebtedness.
(5) Disbursements.
(6) Assessed valuation and tax rates.
(7) Revenue from all sources.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-7
Form of summary

Sec. 7. (a) Subject to the requirements of this section, the department shall determine the form of the summary, which must be presented in a manner that:

(1) can be conveniently and easily accessed from a single web page; and
(2) is commonly known as an Internet dashboard.

(b) The summary must be in a form that is concise and reasonably easy to understand.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-8
School corporation educational performance information

Sec. 8. (a) This section applies only to a school corporation.

(b) The summary must include the educational performance information of each school in the school corporation. The department of education (established by IC 20-19-3-1) shall determine the contents of the educational performance information.

As added by P.L.208-2016, SEC.4.

IC 5-14-4
Chapter 4. Public Access Counselor

IC 5-14-4-1
"Counselor" defined
Sec. 1. As used in this chapter, "counselor" refers to the public access counselor appointed under section 6 of this chapter.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-2
"Office" defined
Sec. 2. As used in this chapter, "office" refers to the office of the public access counselor established under section 5 of this chapter.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-3
"Public access laws" defined
Sec. 3. As used in this chapter, "public access laws" refers to:
(1) IC 5-14-1.5;
(2) IC 5-14-3; or
(3) any other state statute or rule governing access to public meetings or public records.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-4
"Public agency" defined
Sec. 4. As used in this chapter, "public agency" has the meaning set forth in:
(1) IC 5-14-1.5-2 for purposes of matters concerning public meetings; and
(2) IC 5-14-3-2 for purposes of matters concerning public records.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-5
Establishment of office
Sec. 5. The office of the public access counselor is established. The office shall be administered by the public access counselor appointed under section 6 of this chapter.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-6
Appointment; term
Sec. 6. The governor shall appoint a public access counselor for a term of four (4) years at a salary to be fixed by the governor.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-7

Removal for cause

Sec. 7. The governor may remove the counselor for cause.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-8

Vacancies in office

Sec. 8. If a vacancy occurs in the office, the governor shall appoint an individual to serve for the remainder of the counselor's unexpired term.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-9

Requirements for position

Sec. 9. (a) The counselor must be a practicing attorney.

(b) The counselor shall apply the counselor's full efforts to the duties of the office and may not be actively engaged in any other occupation, practice, profession, or business.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-10

Powers and duties

Sec. 10. The counselor has the following powers and duties:

(1) To establish and administer a program to train public officials and educate the public on the rights of the public and the responsibilities of public agencies under the public access laws. The counselor may contract with a person or a public or private entity to fulfill the counselor's responsibility under this subdivision.

(2) To conduct research.

(3) To prepare interpretive and educational materials and programs in cooperation with the office of the attorney general.

(4) To distribute to newly elected or appointed public officials the public access laws and educational materials concerning the public access laws.

(5) To respond to informal inquiries made by the public and public agencies by telephone, in writing, in person, by facsimile, or by electronic mail concerning the public access laws.

(6) To issue advisory opinions to interpret the public access laws upon the request of a person or a public agency. However, the counselor may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under IC 5-14-1.5 or IC 5-14-3.

(7) To make recommendations to the general assembly concerning ways to improve public access.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-11

Additional personnel

Sec. 11. The counselor may employ additional personnel necessary to carry out the functions of the office subject to the approval of the budget agency.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-12

Annual report by counselor

Sec. 12. The counselor shall submit a report in an electronic format under IC 5-14-6 not later than June 30 of each year to the legislative services agency concerning the activities of the counselor for the previous year. The report must include the following information:

(1) The total number of inquiries and complaints received.

(2) The number of inquiries and complaints received each from the public, the media, and government agencies.

(3) The number of inquiries and complaints that were resolved.

(4) The number of complaints received about each of the following:

(A) State agencies.

(B) County agencies.

(C) City agencies.

(D) Town agencies.

(E) Township agencies.

(F) School corporations.

(G) Other local agencies.

(5) The number of complaints received concerning each of the following:

(A) Public records.

(B) Public meetings.

(6) The total number of written advisory opinions issued and pending.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4. Amended by P.L.28-2004, SEC.58.

IC 5-14-4-13

Statute of limitations

Sec. 13. An informal inquiry or other request for assistance under this chapter does not delay the running of a statute of limitation that applies to a lawsuit under IC 5-14-1.5 or IC 5-14-3 concerning the subject matter of the inquiry or other request.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-14

Education fund

Sec. 14. (a) An education fund is established to provide funds for the program established under section 10(1) of this chapter.

(b) The fund consists of the following:

(1) Civil penalties collected under IC 5-14-1.5-7.5 and IC 5-14-3-9.5.

(2) Money appropriated by the general assembly.

(3) Grants, gifts, contributions, and money received from any other source.

(c) The treasurer of state shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this section.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) 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.

As added by P.L.134-2012, SEC.21.

IC 5-14-5
Chapter 5. Formal Complaint Procedure

IC 5-14-5-1
"Counselor" defined
Sec. 1. As used in this chapter, "counselor" refers to the public access counselor appointed under IC 5-14-4-6.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-2
"Person" defined
Sec. 2. As used in this chapter, "person" means an individual, a business, a corporation, an association, or an organization. The term does not include a public agency.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-3
"Public agency" defined
Sec. 3. As used in this chapter, "public agency" has the meaning set forth in:
(1) IC 5-14-1.5-2, for purposes of matters concerning public meetings; and
(2) IC 5-14-3-2, for purposes of matters concerning public records.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-4
Complaint not required to file action
Sec. 4. A person or a public agency is not required to file a complaint under this chapter before filing an action under IC 5-14-1.5 or IC 5-14-3.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-5
Cooperation from public agencies
Sec. 5. A public agency shall cooperate with the counselor in any investigation or proceeding under this chapter.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-6
Grounds for complaint
Sec. 6. A person or a public agency denied:
(1) the right to inspect or copy records under IC 5-14-3;
(2) the right to attend any public meeting of a public agency in violation of IC 5-14-1.5; or
(3) any other right conferred by IC 5-14-3 or IC 5-14-1.5 or any other state statute or rule governing access to public meetings or public records;

may file a formal complaint with the counselor under the procedure prescribed by this chapter or may make an informal inquiry under IC 5-14-4-10(5).
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-7
Time for filing complaint

Sec. 7. (a) A person or a public agency that chooses to file a formal complaint with the counselor must file the complaint not later than thirty (30) days after:

(1) the denial; or

(2) the person filing the complaint receives notice in fact that a meeting was held by a public agency, if the meeting was conducted secretly or without notice.

(b) A complaint is considered filed on the date it is:

(1) received by the counselor; or

(2) postmarked, if received more than thirty (30) days after the date of the denial that is the subject of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-8
Complaint forwarded to public agency

Sec. 8. When the counselor receives a complaint under section 7 of this chapter, the counselor shall immediately forward a copy of the complaint to the public agency that is the subject of the complaint.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-9
Advisory opinion

Sec. 9. Except as provided in section 10 of this chapter, the counselor shall issue an advisory opinion on the complaint not later than thirty (30) days after the complaint is filed.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-10
Priority of complaints

Sec. 10. (a) If the counselor determines that a complaint has priority, the counselor shall issue an advisory opinion on the complaint not later than seven (7) days after the complaint is filed.

(b) The counselor shall adopt rules under IC 4-22-2 establishing criteria for complaints that have priority.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-11
Form of complaint

Sec. 11. The public access counselor shall determine the form of a formal complaint filed under this chapter.
As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-12
Statute of limitations

Sec. 12. The filing of a formal complaint under this chapter does not delay the running of a statute of limitation that applies to a lawsuit under IC 5-14-1.5 or IC 5-14-3 concerning the subject matter of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-6

Chapter 6. Electronic Transmission of Reports to the General Assembly

IC 5-14-6-1

"Public agency"

Sec. 1. As used in this chapter, "public agency" includes the following:

(1) The judicial branch of state government.

(2) A state agency (as defined in IC 4-13-1-1).

(3) A body corporate and politic created by statute.

(4) A state educational institution.

As added by P.L.51-2003, SEC.1. Amended by P.L.2-2007, SEC.102.

IC 5-14-6-2

"Report"

Sec. 2. As used in this chapter, "report" includes any annual or other report that a public agency:

(1) voluntarily; or

(2) under a statutory directive;

submits to the entire membership of the general assembly, the legislative services agency, the legislative council, or a committee established under IC 2-5-1.3-4. The term does not include any document prepared at the request of an individual member of the general assembly.

As added by P.L.51-2003, SEC.1. Amended by P.L.53-2014, SEC.65.

IC 5-14-6-3

Prohibition on paper reports to the general assembly; restriction on use of public funds for paper reports

Sec. 3. (a) A public agency may not submit a report to the general assembly, the legislative services agency, the legislative council, or a committee established under IC 2-5-1.3-4 on paper.

(b) Notwithstanding any law, no funds appropriated to a public agency from the state treasury may be used to duplicate, print, distribute, or mail a report to the general assembly, the legislative services agency, the legislative council, or a committee established under IC 2-5-1.3-4 in violation of this chapter.

As added by P.L.51-2003, SEC.1. Amended by P.L.53-2014, SEC.66.

IC 5-14-6-4

Electronic format required; distribution of electronic information

Sec. 4. (a) A public agency shall submit all reports in an electronic format specified by the executive director of the legislative services agency. Unless otherwise specified in statute, the electronic copy shall be delivered to the executive director of the legislative services agency.

(b) An agency that submits a report under subsection (a) shall do

the following:

(1) Post, or cause to be posted, a copy of the report on the Internet.

(2) Subject to the policies established by the legislative council, send a copy of the report:

(A) for reports required to be sent to the entire membership of the general assembly, to each member of the general assembly;

(B) for reports required to be sent to the legislative council, to each member of the legislative council; and

(C) for reports required to be sent to a committee established under IC 2-5-1.3-4, to each member of the committee;

using the member's senate or house of representatives electronic mail address. The legislative council may provide for the legislative services agency to make electronic distribution of reports under this subdivision instead of having the agency make the distribution.

(c) The legislative services agency shall periodically compile reports received under this chapter on a CD-ROM or other suitable storage medium and shall distribute copies of the CD-ROM or other medium to any member of the general assembly who requests a copy.

As added by P.L.51-2003, SEC.1. Amended by P.L.53-2014, SEC.67.

IC 5-14-7
Repealed

(Repealed by P.L.123-2015, SEC.28.)

IC 5-15

ARTICLE 15. PRESERVATION OF PUBLIC RECORDS

IC 5-15-1

Chapter 1. Reproduction of Records

IC 5-15-1-1

Copying of records by electronic or other process; destruction of original records; copies to be received as evidence

Sec. 1. (a) Any officer, office, court, commission, board, institution, department, agent, or employee of the state, county, or any political subdivision being charged with the duty or authorized or required by law to record, preserve, keep, maintain, or file any record, document, plat, paper or instrument-in-writing, may, whenever any such officer, office, court, commission, board, institution, department, agent, or employee of the state, county, or any political subdivision shall deem it necessary, for the purpose of recording or copying same, preserving and protecting same, reducing space required for storage or filing of same, or any similar purpose, have or cause to have any or all such records recorded, copied, or reproduced by any photostatic, photographic, micrographic, electronic, or other process which correctly and accurately copies or reproduces, recreates, or forms a medium of copying or reproducing the original record, document, plat, paper, or instrument-in-writing. Any officer, office, court, commission, board, institution, department, agent, or employee of the state may have or cause to have records recorded, copied, or reproduced under this subsection by any optical imaging process that correctly and accurately copies or reproduces, recreates, or forms a medium of copying or reproducing the original record, document, plat, paper, or instrument-in-writing.

(b) The original filing record may be destroyed if:

(1) the record has been copied or is capable of being reproduced or recreated under subsection (a); and

(2) an approved retention schedule allows for the destruction.

(c) Copies, recreations, or reproductions made under subsection (a):

(1) shall have the same force and effect at law as the original record destroyed under subsection (b); and

(2) shall be received as evidence in any court where the original record could have been so introduced;

if the recreations, copies, or reproductions are properly certified as to authenticity and accuracy by a duly constituted official custodian of such records.

(d) All micrographics and imaging processes done under this chapter shall comply with the quality standards developed under

IC 5-15-5.1-8.

(e) This section does not apply to the state court administration division of the supreme court.

(Formerly: Acts 1947, c.195, s.1.) As amended by Acts 1979, P.L.40, SEC.16; P.L.50-1991, SEC.2; P.L.79-1995, SEC.1; P.L.171-2015, SEC.7.

IC 5-15-2

Chapter 2. Reinstatement of Destroyed Records

IC 5-15-2-1

Judicial records; certified copies of lost or destroyed originals

Sec. 1. Whenever any record, bond, execution, order of sale or other writ, or the returns thereon, or any other paper or part thereof, in any judicial proceeding of any judicial court of this state, shall before or after March 9, 1881, be lost or destroyed, any party or person interested therein may, on application by complaint in writing and upon notice, as provided in section 3 of this chapter, in the court having jurisdiction over, or the custody or control thereof, and on showing to the satisfaction of such court, that the same has been lost or destroyed without fault or neglect of the party or person making such application, obtain an order from such court authorizing such defect to be supplied by a duly certified copy of the original, where the same can be obtained, which certified copy shall be entered of record in said court and shall thereafter have the same force and effect as the original would have had in all respects.

(Formerly: Acts 1881, c.30, s.1.) As amended by P.L.25-1986, SEC.82.

IC 5-15-2-2

Judicial records; loss or destruction of originals; certified copy unobtainable

Sec. 2. Whenever the loss or destruction of any such record, bond, execution, order of sale, or other writ, or the returns thereon, or any other paper or part thereof, shall before or after March 9, 1881, happen and such defect cannot be supplied as provided in section 1 of this chapter, any party or person interested therein may file his complaint in the court to which the same belonged or which has jurisdiction over or custody or control of the same, showing the loss or destruction thereof, and that a certified copy thereof cannot be obtained by the party or person making such application, and the substance of the same so lost or destroyed, and that such loss or destruction occurred without the fault or neglect of the party making such application, and that such loss or destruction, unless supplied, will or may result in damage to the person making such application; and thereupon the defendants named in such complaint shall be served with summons or notified by publication, as provided in section 3 of this chapter, and said cause shall stand for hearing by said court the same as other civil cases in said court.

(Formerly: Acts 1881, c.30, s.2.) As amended by P.L.25-1986, SEC.83.

IC 5-15-2-3

Notice of hearings

Sec. 3. The defendants, their legal representatives, or the

necessary parties in all cases mentioned in the preceding sections, shall have ten (10) days' notice of the time set for the hearing thereof, by summons issued by the clerk of such court; or if such defendants are nonresidents of the state of Indiana, or their residence be unknown, or the names of any necessary party defendants be unknown, such notice may be given by three (3) successive weeks' publication in some weekly newspaper of general circulation published in said county to be named by the person making the application, his agent or attorney; or if none be published in such county, then such notice shall be given by publication in the weekly newspaper published in this state nearest the county seat of such county, such published notice to be given by the clerk of such court on affidavit filed by plaintiff, his agent, attorney or some competent person; the last of which notices shall be published ten (10) days before the first day of the term of court in which said claim may be pending, or ten (10) days before a day in said term for which said cause may be set for hearing, which day shall be named in the summons or notice.
(Formerly: Acts 1881, c.30, s.3.)

IC 5-15-2-4
Resisting complaint; answer of nul-tiel record; admission of oral testimony; reinstatement

Sec. 4. Such defendants may resist such complaint by answer of nul-tiel record, and no other, as to the existence of the record, bond, execution, order of sale or other writ, or the returns thereon, or other paper sought to be reinstated; and upon the trial thereof, oral testimony shall be admitted, and strict proof of dates, sums and amounts, and actual entries and forms of record shall not be required on the trial of such issue; but the court shall, on such hearing, if the question is presented, determine, and in its record of reinstatement set forth, what satisfaction, in whole or in part, by payment or otherwise, has been made of any judgment or decree sought to be reinstated since the rendition thereof, and if, upon such hearing, such court shall be satisfied that the statements in such complaint are true, the court shall make an order reciting what was the substance and effect of such lost or destroyed record, bond, execution, order of sale or other writ, or the returns thereon, or other paper or part thereof, and what satisfaction, by payment or otherwise, in whole or in part, has been made of any judgment or decree so sought to be reinstated when that question is presented; which order shall be entered of record in said court and shall have the same force and effect that the original record would have had if the same had not been lost or destroyed, subject to any satisfaction found by the court.
(Formerly: Acts 1881, c.30, s.4.)

IC 5-15-2-5
Motion to set aside reinstatement

Sec. 5. In all cases where any record, bond, execution, order of sale or other writ, or the returns thereon, or any other paper, or part thereof mentioned in this chapter has been or may be lost or destroyed, in whole or in part, and has been reinstated without appearance of or actual notice to the defendants in such proceeding of reinstatement, any such defendants may, at any time within two (2) years thereafter, unless he may be under disabilities, then within two (2) years after the removal of such disabilities, on affidavit of merits have the same set aside on motion in writing, of which motion the plaintiff or complainant shall have the same notice required to be given the defendants in section 3 of this chapter, and when such reinstatement shall be set aside the same proceedings shall be had thereon as if the defendant had appeared to the original complaint for reinstatement.
(Formerly: Acts 1881, c.30, s.5.) As amended by P.L.25-1986, SEC.84.

IC 5-15-2-6
Affidavit for reinstatement; stay of proceedings

Sec. 6. In all actions pending on March 9, 1881, or that may be commenced after March 9, 1881, in any court of record in this state, any party thereto may, on application to such court verified by affidavit, show that any record, bond, execution, order of sale, or other writ or the returns thereon, or any other paper of the record or files of any court in this state necessary to be used in evidence in such cause has been lost or destroyed, in whole or in part, without his fault or neglect, which affidavit shall show the competency and necessity of the same as evidence in the cause, and that the same has not been reinstated, and such court shall, unless the adverse party will admit on the trial the facts stated in such affidavit, stay all proceedings for a reasonable time, that said destroyed record, in whole or in part, may be reinstated, the court shall, upon cause shown, grant further and additional time for the reinstatement of such record; but the trial of such action shall not be delayed more than one (1) year for such reinstatement, and to expedite the reinstatement of the same the court may, on motion of either party, refer the question of such destruction and reinstatement, as shown in such affidavit, to a master commissioner to be appointed by the court to hear, examine, and take all the evidence and report fully all the facts in writing to the court, as provided for in this chapter.
(Formerly: Acts 1881, c.30, s.6.) As amended by P.L.25-1986, SEC.85.

IC 5-15-2-7
Reference of complaint to master commissioner; proceedings

Sec. 7. Whenever any complaint is filed in any court for the reinstatement of any record, bond, execution, order of sale or other writ, or the returns thereon, or any other paper or part thereof, as

above provided, the court may, on its own motion, or upon application of either party, refer to a master commissioner for examination and hearing all the evidence, written and oral, in such case; and such master commissioner shall hear such evidence as in other cases, and shall make a full and complete report thereof to the court, and shall also report to the court, in form, such record, bond, execution, order of sale or other writ, or the returns thereon, or any other paper or part thereof sought to be reinstated, and the court, if it finds the forms so reported to be substantially correct, as shown by the evidence reported, shall order the same reinstated accordingly; and when so entered of record by the court, it shall have the same force and effect as the original would have had if the same had not been lost or destroyed; or such court may, from the report of such master commissioner, find, determine and say what such original or part thereof was before its loss or destruction, and shall order the same reinstated; and when so reinstated, it shall have the same force and effect as the original would have had if the same had not been lost or destroyed. Which report of master commissioner, and the finding and judgment of the court thereon, shall be governed by the same practice as in other civil cases. Before such master commissioner shall proceed to hear and examine the evidence in any case referred to him, he shall give the parties thereto reasonable notice of the time and place of hearing the same. Said master commissioner shall have power to issue writs of subpoena, which writs and other notices shall be served by the sheriff, administer oaths, require the production of all writings, records, or parts of records, papers, memoranda or exhibits in any case referred to him; and he shall report to the court, for punishment for contempt, any person for failure to appear before him, on due and sufficient notice, to give testimony or to furnish any writing, record or part of record, paper, memorandum or exhibit that may be required in evidence in any case so referred. Such master commissioner shall be allowed by the court for his services, reasonable compensation, to be taxed and paid as the court may direct.
(Formerly: Acts 1881, c.30, s.7.)

IC 5-15-2-8
Title to real estate; quieting title by complaint

Sec. 8. Whenever any record of any court of this state, or any pleading or paper of the files of such court, any probated will or will filed for probate, or any execution or decretal order or other writ issued out of such court, or by the clerk thereof, has been lost or destroyed, in whole or in part, and such lost or destroyed record, paper, will, order or writ in any way forms a part of the evidence of any title to or interest in any real estate, either legal or equitable, any person holding such title to or interest in such real estate may, by complaint in the proper court of the county in which such real estate is situated, have his title to or interest in such real estate declared

quieted and set at rest. All persons having or claiming any interest in such real estate shall be made defendants to such complaint and shall be served with notice as provided in section 3 of this chapter. The complaint shall specify the plaintiff's title to or interest in the real estate and shall state with reasonable certainty the record, paper, order, will or writ lost or destroyed and how the same constitutes a part of the evidence of his title to or interest in such real estate. Upon the trial of such cause, oral testimony shall be admitted of the loss or destruction, and the contents of such records, papers, wills, orders, or writs so lost or destroyed; and such rule of evidence shall be applicable to every part of such records, papers, orders, wills, or writs, the issuing of such writs, and other process of such courts, and the returns thereon, notices by publication and the proof thereof.
(Formerly: Acts 1881, c.30, s.8.) As amended by P.L.25-1986, SEC.86.

IC 5-15-2-9
Probate records; reinstatement

Sec. 9. The judge of any court having probate jurisdiction, the records of which may before March 9, 1881, have been or may after March 9, 1881, be destroyed, in whole or in part, may proceed, upon his own motion or on complaint in writing by any interested party, to reinstate the records and proceedings of such court relating to decedents' estates, guardianships, records of wills, wills probated, and wills filed for probate in said court; and for the purpose of reinstating said records, wills, papers, or proceedings, or any part thereof, may, on his own motion or on written complaint filed by any interested party, issue citations and compel the attendance of all parties for that purpose; and may, in his discretion, refer such matter to a master commissioner, as provided for in section 7 of this chapter. All persons interested shall be notified as provided for in section 3 of this chapter, or in such manner and for such time as the court may direct, and oral testimony shall be admissible of the existence, contents, and destruction of such records, papers, and wills.
(Formerly: Acts 1881, c.30, s.9.) As amended by P.L.25-1986, SEC.87.

IC 5-15-2-10
Judicial records; special term to reinstate lost or destroyed records

Sec. 10. The judge of any court, the records or papers whereof have been or may be destroyed, in whole or in part, is hereby authorized to hold any special term or terms of said court, for such length of time and at such time or times as may to him, in his discretion seem proper for the purpose of reinstating records and papers of such court. And process may be made returnable at such special terms, and all proceedings had thereat in such cases, the same as at a regular term of said court.

(Formerly: Acts 1881, c.30, s.10.)

IC 5-15-3
Chapter 3. Transcribing and Preserving Damaged Records

IC 5-15-3-1
Damage to judicial records; transcription order

Sec. 1. Whenever any civil order book, probate order book, judgment docket, entry docket or other record book in which are kept any of the records and proceedings of any circuit, superior or criminal court in this state have been or shall be damaged by fire or otherwise to the extent, that, in the opinion of the judge or such court, it is necessary in order to preserve and perpetuate the contents thereof, to transcribe the same into a new book, such judge shall make an order to be entered in the civil order book of such court ordering and directing the clerk of such court to transcribe the contents of such damaged book into a new book of like size and form, to be provided for that purpose by the county in which such court is held.

(Formerly: Acts 1893, c.19, s.1.)

IC 5-15-3-2
Transcription by clerk

Sec. 2. (a) The clerk of the court shall promptly, under the direction of the court, transcribe the contents of a damaged book described in section 1 of this chapter into a new book of like size and form, in plain, legible handwriting. The clerk shall certify that the transcription is a full, true, correct, and complete transcript of the contents of the damaged book.

(b) The judge of the court shall examine the record transcribed and certified by the clerk. If the judge finds the record to be a correct transcript of the original, the judge shall certify the judge's finding, at the end of the transcript immediately after the certificate of the clerk. The judge shall include the date of the judge's certification.

(Formerly: Acts 1893, c.19, s.2.) As amended by P.L.171-2015, SEC.8.

IC 5-15-3-3
Preservation of damaged books

Sec. 3. Damaged books described in section 1 of this chapter shall be preserved and maintained by the office of the clerk of the court or by the Indiana state archives as set forth in IC 5-15-6-6.

(Formerly: Acts 1893, c.19, s.3.) As amended by P.L.171-2015, SEC.9.

IC 5-15-3-4
Transcribed books; treatment as original

Sec. 4. Such transcribed book, when so made and certified, shall bear the name and number of the original damaged book of which it is a transcript, and such authenticated transcript therein contained,

shall be deemed, held to be and treated as the original, and shall have the full force and effect of the original for all purposes, and shall be admitted in evidence in all cases the same as the original.
(Formerly: Acts 1893, c.19, s.4.)

IC 5-15-3-5
Repealed
(Repealed by P.L.4-1988, SEC.5.)

IC 5-15-4
Repealed

(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-15-5
Repealed

(Repealed by Acts 1979, P.L.40, SEC.25.)

IC 5-15-5.1

Chapter 5.1. State Commission on Public Records

IC 5-15-5.1-1

Definitions

Sec. 1. (a) The definitions in this section apply throughout this chapter:

(b) "Administration" means the Indiana archives and records administration created by this chapter.

(c) "Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the Constitution of the State of Indiana, by law, or by executive or legislative order.

(d) "Critical records" means records necessary to:

(1) resume or continue governmental operations;

(2) the reestablishing of the legal and financial responsibilities of government in Indiana; or

(3) protect and fulfill governmental obligations to the citizens of Indiana.

(e) "Form" means every piece of paper, electronic content, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

(f) "Forms management" means the program maintained by the administration to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the:

(1) form's size, style, and size of type;

(2) format;

(3) type of construction;

(4) number of plies;

(5) quality, weight, and type of paper and carbon; and

(6) use of the form for data entry as well as the distribution.

(g) "Imaging" means the process by which a record is converted from physical form to a computer readable digital image file.

(h) "Indiana state archives" means the program maintained by the administration for the preservation of those records and other government papers that have been determined by the administration to have sufficient permanent values to warrant their continued preservation by the state.

(i) "Information management" means the program maintained by the administration for the application of management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping, including management of filing, microfilming, and imaging equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical

documentation, micrographic retention programming, electronic content management systems, and critical records protection.

(j) "Local government" means a political subdivision (as defined in IC 36-1-2-13).

(k) "Microfilm" means a photographic film containing an image greatly reduced in size from the original.

(l) "Nonrecord materials" means all identical copies of forms, records, reference books, and exhibit materials that are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and that are not included within the definition of record.

(m) "Personal records" means:

(1) all documentary materials of a private or nonpublic character that do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of a public official, including diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal that are not prepared or used for, or circulated or communicated in the course of, transacting government business; or

(2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not considered public records.

(n) "Public official" means:

(1) an individual holding an office created by the Constitution of the State of Indiana, by act or resolution of the general assembly, or by the governor;

(2) all officers of the executive and administrative branch of state or local government; and

(3) all other officers, heads, presidents, or chairpersons of agencies of state or local government.

(o) "Record" means all documentation of the informational, communicative, or decision making processes of state and local government, its agencies and subdivisions made or received by any agency of state and local government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or local government or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is generated on:

(1) paper or paper substitutes;

(2) photographic or chemically based media;

(3) magnetic, electronic, or machine readable media; or

(4) any other materials, regardless of form or characteristics.

(p) "Records center" means a program maintained by the administration primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained

for varying periods of time but should not be maintained in an agency's office equipment or space.

(q) "Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the administration.

(r) "Records series" means documents or records that are filed in a unified arrangement and having similar physical characteristics or relating to a similar function or activity.

(s) "Retention schedule" means a set of instructions prescribing how long, where, and in what form a records series must be kept.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.1-1999, SEC.7; P.L.84-2012, SEC.16; P.L.134-2012, SEC.22; P.L.171-2015, SEC.10.

IC 5-15-5.1-2

Application of chapter

Sec. 2. (a) This chapter applies to records:

(1) open to the public and carrying no classification or restriction;

(2) required to be kept confidential by federal law, rule, or regulation;

(3) declared confidential by the general assembly; or

(4) declared confidential by a rule adopted under specific authority for confidential records granted to an agency by the general assembly.

(b) The provisions of this chapter do not apply to state-supported colleges and universities, but the administration may offer its services to them.

(c) The provisions of this chapter shall in no way restrict the powers and duties of the state board of accounts as prescribed by IC 5-11.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.19-1983, SEC.8; P.L.36-1984, SEC.1; P.L.171-2015, SEC.11.

IC 5-15-5.1-3

Creation of archives and records administration; seal; serving legislative and judicial branches

Sec. 3. There is created the Indiana archives and records administration to administer this chapter. The administration shall adopt a seal which shall be the seal of the state of Indiana. The administration shall offer its services to the legislative and judicial branches of state government.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.12.

IC 5-15-5.1-4

Director; qualifications; staff; salaries

Sec. 4. (a) The governor shall appoint a director as the executive

head of the administration. The director must be versed in the principles of information and forms management, archives, and the affairs and organization of state government. It is the intent of the general assembly that the director be a person who is qualified by training and experience to administer the affairs of the administration.

(b) The director, subject to the approval of the governor and the budget agency, shall appoint such staff as necessary to implement this chapter.

(c) The salary of the director is subject to the approval of the governor and the budget agency. Salaries of the staff are subject to the approval of the state personnel department and the budget agency. The provisions of IC 4-15-2.2 apply to the staff of the administration.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.3-1989, SEC.28; P.L.100-2012, SEC.18; P.L.171-2015, SEC.13.

IC 5-15-5.1-5

Duties and powers of the archives and records administration

Sec. 5. (a) Subject to approval by the oversight committee on public records created by section 18 of this chapter, the administration shall do the following:

(1) Establish a forms management program for state government and approve the design, typography, format, logo, data sequence, form analysis, form number, and agency file specifications of each form.

(2) Establish a central state form numbering system and a central cross index filing system of all state forms, and standardize, consolidate, and eliminate, wherever possible, forms used by state government.

(3) Approve, provide, and may, in the manner prescribed by IC 5-22, purchase photo-ready copy for all forms.

(4) Establish a statewide records management program, prescribing the standards and procedures for record making and record keeping. However, the investigative and criminal history records of the state police department are exempted from this requirement.

(5) Coordinate utilization of all micrographics and imaging equipment in state government.

(6) Assist the Indiana department of administration in coordinating utilization of all duplicating and printing equipment in the executive and administrative branches.

(7) Advise the Indiana department of administration with respect to the purchase of all records storage equipment.

(8) Establish and operate a distribution center for the receipt, storage, and distribution of all material printed for an agency.

(9) Establish and operate a statewide archival program to be called the Indiana state archives for the permanent government

records of the state and local governments, provide consultant services for archival programs, conduct surveys, and provide training for records coordinators.

(10) Establish and operate a statewide record preservation laboratory.

(11) Prepare, develop, and implement record retention schedules.

(12) Establish and operate a central records center to be called the Indiana state records center, which shall accept all records approved for transfer to it, provide secure storage and reference service for the same, and submit written notice to the applicable agency of intended destruction of records in accordance with approved retention schedules.

(13) Demand from any person, organization, or body who has illegal possession of original state or local government records those records, which shall be delivered to the administration.

(14) Have the authority to examine all forms and records housed or possessed by state agencies and local governments for the purpose of fulfilling the provisions of this chapter.

(15) In coordination with the office of technology established by IC 4-13.1-2-1, establish standards to ensure the preservation of adequate and permanent computerized and auxiliary automated information records of state agencies and local government.

(16) Notwithstanding IC 5-14-3-8, establish a schedule of fees for services provided to patrons of the Indiana state archives, patrons of the state imaging and microfilm laboratory, and state agencies. A copying fee established under this subdivision may exceed the copying fee set forth in IC 5-14-3-8(c).

(17) Advise the office of technology established by IC 4-13.1-2-1 with respect to records management and archival principles as applicable to the purchase of all electronic content and information management systems.

(b) In implementing a forms management program, the administration shall follow procedures and forms prescribed by the federal government.

(c) Fees collected under subsection (a)(16) shall be deposited in the state archives preservation and reproduction account established by section 5.3 of this chapter.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.28-1983, SEC.52; P.L.58-1993, SEC.11; P.L.49-1997, SEC.29; P.L.177-2005, SEC.17; P.L.84-2012, SEC.17; P.L.171-2015, SEC.14.

IC 5-15-5.1-5.3

State archives preservation and reproduction account; establishment

Sec. 5.3. (a) The state archives preservation and reproduction account (referred to in this section as "the account") is established as

an account within the state general fund. The account shall be administered by the administration. The money in the account does not revert to any other account within the state general fund at the end of a state fiscal year.

(b) The account consists of fees collected under section 5(a)(16) of this chapter.

(c) Money in the account is annually appropriated to the administration for use in the preservation and reproduction of public records by the administration.

As added by P.L.58-1993, SEC.12. Amended by P.L.171-2015, SEC.15.

IC 5-15-5.1-6

Designing, numbering, standardizing, consolidating, and eliminating forms; consultation with affected agency or local government

Sec. 6. The administration shall design, redesign, number, standardize, consolidate, or eliminate when obsolete, all forms used by state government, apply the definition of record to any governmental materials so questioned, and determine the nature of nonrecord materials housed or maintained by an agency or local government. In performing these functions, the administration shall consult with each affected agency and local government and shall consider each agency's and local government's statutory responsibilities, its relationships with federal or other governmental agencies and the requirements of state law.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.16.

IC 5-15-5.1-6.5

Racial or ethnic identification information; multiracial classification

Sec. 6.5. (a) This section does not apply to a printed document that was printed and in stock before July 1, 1995.

(b) As used in this section, "multiracial" means having a biological parent who is of a different race from the other biological parent.

(c) All forms, questionnaires, and other printed or electronic documents:

(1) that are used by a public agency (as defined in IC 5-14-3-2) to request information on the racial or ethnic identification of a respondent; and

(2) that contain an enumeration of racial and ethnic classifications from which the respondent must select a classification;

must include among the choices the classification multiracial.

As added by P.L.80-1995, SEC.1.

IC 5-15-5.1-7

Archives available for public use, subject to need for preservation; furnishing copies of archival materials

Sec. 7. The administration shall make the archives of the state available for public use under supervised control at reasonable hours. However, the administration shall weigh the need for preservation from deterioration or mutilation of original records in establishing access use to such items. The administration shall furnish copies of archival materials upon request, unless confidential by law or restricted by promulgated rule, and payment of fees as may be required.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.17.

IC 5-15-5.1-8

State imaging and microfilm laboratory; standards for microfilming and imaging documents

Sec. 8. The administration shall operate a state imaging and microfilm laboratory. The oversight committee in coordination with the supreme court shall promulgate regulations concerning quality standards for microfilming and imaging documents that shall allow documents meeting those standards to be admissible in court. Such microfilming and imaging standards shall be followed by all state agencies and local governments.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.18.

IC 5-15-5.1-9

Copies of records transferred to archives and records administration; force and effect

Sec. 9. Copies of records transferred from the office of their origin to the custody of the administration, when certified by the director or the director's designee, under seal of the administration, shall have the same force and effect as if certified by the original custodian.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.19.

IC 5-15-5.1-10

Duties of agencies and local governments

Sec. 10. (a) Each agency and local government shall:

(1) Make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and local government to protect the legal and financial rights of the government and of persons directly affected by the agency's activities and the local government's activities.

(2) Cooperate fully with the administration in implementing the

provisions of this chapter.

(3) Establish and maintain an active and continuing program for the economical and efficient management of information and assist the administration in the conduct of information management surveys.

(4) Implement information management procedures and regulations issued by the administration.

(5) Establish necessary safeguards against the removal, alteration, or loss of records; safeguards shall include notification to all officials and employees of the agency or local government that records in the custody of the agency or local government may not be alienated or destroyed except in accordance with:

(A) the provisions of this chapter; and

(B) if applicable, an order of the county commission of public records under IC 5-15-6.

(b) Each agency shall do the following:

(1) Submit to the administration a recommended retention schedule for each form and records series in the agency's custody. However, retention schedules for forms and records series that are common to at least two (2) agencies may be established by the oversight committee. Records may not be scheduled for retention any longer than is necessary to perform required functions. Records requiring retention for several years must be transferred to the records center.

(2) Designate an agency information coordinator who shall assist the administration in the content requirements of the form design process and in the development of the agency's records retention schedules.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.20.

IC 5-15-5.1-11
Title to records

Sec. 11. Title to any record transferred to the Indiana state archives as authorized by this chapter or IC 5-15-6 shall be vested in the administration. However, title to any record deposited in the Indiana state records center shall remain with the agency transferring that record.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.21.

IC 5-15-5.1-12
Critical records program

Sec. 12. The administration shall establish and maintain a critical records program for the state of Indiana. It shall determine what records are essential to the continuity of state and local government operations and shall survey agency and local government records to

identify those records. The administration shall plan and implement a program for protection of critical records through dispersal, duplication, or secure vault storage of those records.
As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.22.

IC 5-15-5.1-13
Confidential records; destruction

Sec. 13. Records designated as confidential by law shall be so treated by the administration in the maintenance, storage, transfer, or other disposition of those records. Confidential records scheduled for destruction shall be destroyed in such a manner that they cannot be read, interpreted, or reconstructed.
As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.19-1983, SEC.9; P.L.171-2015, SEC.23.

IC 5-15-5.1-14
Mutilation, sale, loan, or other disposition of records by public official or agency

Sec. 14. A public official or agency may not mutilate, destroy, sell, loan, or otherwise dispose of any government record, except under a record retention schedule or with the written consent of the administration.
As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.24.

IC 5-15-5.1-15
Public official's delivery of records to successor; deposit of records with archives and records administration upon termination of state agency or local government

Sec. 15. (a) A public official who has the custody of any records, excluding personal records, shall at the expiration of the public official's term of office or appointment, deliver to the public official's successor, or to the administration if there is no successor, all materials defined as records by this chapter.

(b) Upon the termination of a state agency or local government whose functions have not been transferred to another agency or local government the records of the state agency or local government shall be deposited with the administration. The administration shall determine which records are of sufficient legal, historical, administrative, research or fiscal value to warrant their continued preservation. Records that are determined to be of insufficient value to warrant continued preservation shall be disposed of or destroyed.
As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.25.

IC 5-15-5.1-16
Transfer of records to state archives; agreements with legislature

and supreme court

Sec. 16. (a) The administration may enter into agreements with the legislative branch of government for transfer of the permanent records of that body not having current administrative value to the Indiana state archives.

(b) The administration may enter into agreements with the Indiana supreme court and court of appeals and their clerk for transfer of the permanent records of those bodies not having current administrative value to the state archives.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.171-2015, SEC.26.

IC 5-15-5.1-17

State or local government official's delivery of books, records, and other materials to archives and records administration; copying

Sec. 17. (a) A state or local government official may turn over to the administration, in accordance with the rules of the administration for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials not in current use in the official's office.

(b) Subject to subsection (c), the administration may make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material of any local government office for preservation in the state archives. Local government officials shall permit such copies to be made of the books, records, documents, and papers in their respective offices.

(c) The administration shall copy the official copy of the rules (including incorporated matters filed under IC 4-22-2-21) published under IC 4-22-2. Any duplicate original copy possessed by another agency is not a critical record and may not be copied. If the publisher prepares micrographic copies of these documents and the copies are in a form that meets the specifications of the administration, the administration shall arrange with the publisher to obtain the number of copies needed by the administration, rather than copying the documents as part of a separate program.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.31-1985, SEC.42; P.L.11-1996, SEC.3; P.L.171-2015, SEC.27.

IC 5-15-5.1-18

Oversight committee; composition; secretary; compensation and expenses

Sec. 18. (a) The oversight committee on public records consists ex officio of:

(1) the governor or the governor's designee;

(2) the secretary of state or the secretary's designee;

(3) the state examiner of the state board of accounts or the state examiner's designee;

(4) the director of the state library;

(5) the director of the historical bureau;
(6) the director of the Indiana archives and records administration;
(7) the commissioner of the department of administration or the commissioner's designee;
(8) the public access counselor; and
(9) the chief information officer of the office of technology appointed under IC 4-13.1-2-3 or the chief information officer's designee.

(b) The oversight committee also consists of two (2) lay members appointed by the governor for a term of four (4) years. One (1) lay member shall be a professional journalist or be a member of an association related to journalism.

(c) The oversight committee shall elect one (1) of its members to be chairman. The director of the Indiana archives and records administration shall be the secretary of the committee. The ex officio members of the oversight committee shall serve without compensation and shall receive no reimbursement for any expense which they may incur. Each lay member is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures, established by the department of administration and approved by the budget agency and each lay member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.114-2001, SEC.1; P.L.177-2005, SEC.18; P.L.171-2015, SEC.28.

IC 5-15-5.1-19
Duties of oversight committee

Sec. 19. (a) It is the duty of the oversight committee to:
(1) function as the policy making body for the administration; and
(2) determine what records have no apparent official value but should be preserved for research or other purposes.

(b) The oversight committee shall maintain a master list of all record series that are classified as confidential by statute or rule.

(c) The oversight committee has final approval of all record retention schedules.

(d) The oversight committee has final approval of a fee schedule established by the administration under section 5(a)(16) of this chapter.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.19-1983, SEC.10; P.L.58-1993, SEC.13; P.L.171-2015, SEC.29.

IC 5-15-5.1-20
Establishment of standards by oversight committee; forms; records using archival materials, processes, and standards; rules

Sec. 20. (a) The oversight committee shall:

(1) establish standards for safeguarding personal information systems that shall be followed by agencies maintaining such systems;

(2) approve the content of all forms that involve confidential records; and

(3) require use of archival materials, processes, and standards for records that the administration determines should be preserved indefinitely.

(b) The oversight committee may adopt rules under IC 4-22-2 necessary for the performance of its duties, consistent with this chapter and other applicable Indiana laws.

As added by Acts 1979, P.L.40, SEC.1. Amended by P.L.19-1983, SEC.11; P.L.30-1989, SEC.3; P.L.171-2015, SEC.30.

IC 5-15-5.1-20.5

Restriction on location of state archives facility

Sec. 20.5. A facility to house some or all of the state archives or to be used in the administration of the state archives may not be located on land bound by New York Street, Ohio Street, West Street, and Senate Avenue in Indianapolis.

As added by P.L.213-2015, SEC.65.

IC 5-15-6

Chapter 6. Local Public Records Commissions

IC 5-15-6-1

County commissions of public records; creation; membership; meetings

Sec. 1. (a) A commission is hereby created in each county of the state which shall be known as the county commission of public records of _____ county.

(b) The county commission shall consist, ex officio, of:

(1) the judge of the circuit court or the judge's designee;

(2) the president of the board of county commissioners or the president's designee;

(3) the county auditor or the auditor's designee;

(4) the clerk of the circuit court or the clerk's designee;

(5) the county recorder or the recorder's designee;

(6) the superintendent of schools of the school district in which the county seat is located or the superintendent's designee; and

(7) either:

(A) the city controller of the county seat city or the city controller's designee; or

(B) if there is no city controller as described in clause (A), then the clerk-treasurer of the county seat city or town.

(c) The commission shall elect one (1) of its members to be chairman. The clerk of the circuit court or the county recorder must be secretary of the commission. The person who serves as secretary shall be determined as follows:

(1) By mutual agreement of the clerk of the circuit court and the county recorder.

(2) If a mutual agreement cannot be reached under subdivision (1), by an affirmative vote of a majority of members of the county commission.

The commission shall provide to the administration the names and contact information for the chairman and secretary not later than thirty (30) days after the date of the determination. The members of the county commission shall serve without compensation and shall receive no disbursement for any expense.

(d) The county commission shall meet at least one (1) time in each calendar year.

(Formerly: Acts 1939, c.91, s.1; Acts 1955, c.319, s.1; Acts 1969, c.141, s.1; Acts 1972, P.L.41, SEC.1.) As amended by P.L.50-1991, SEC.3; P.L.78-2014, SEC.1; P.L.171-2015, SEC.31.

IC 5-15-6-1.1

"Administration"

Sec. 1.1. "Administration" means the Indiana archives and records administration created by IC 5-15-5.1.

As added by P.L.171-2015, SEC.32.

IC 5-15-6-1.2
"County commission" or "commission"

Sec. 1.2. As used in this chapter, "county commission" or "commission" refers to the county commission of public records created by section 1 of this chapter.

As added by P.L.50-1991, SEC.4.

IC 5-15-6-1.3
"Indiana state archives"

Sec. 1.3. As used in this chapter, "Indiana state archives" has the meaning set forth in IC 5-15-5.1-1.

As added by P.L.50-1991, SEC.5.

IC 5-15-6-1.4
"Local government"

Sec. 1.4. As used in this chapter, "local government" means a political subdivision (as defined in IC 36-1-2-13).

As added by P.L.50-1991, SEC.6.

IC 5-15-6-1.5
"Public record" or "record"

Sec. 1.5. As used in this chapter, "public record" or "record" means a record (as defined in IC 5-15-5.1-1), except that "public record" or "record" means local government rather than state and local government documentation.

As added by P.L.50-1991, SEC.7. Amended by P.L.171-2015, SEC.33.

IC 5-15-6-1.6
"Records management"

Sec. 1.6. As used in this chapter, "records management" means a program to apply management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of records undertaken to improve efficiency and reduce costs of record keeping, including management of the following:

(1) Filing and microfilming equipment and supplies.
(2) Filing and information retrieval systems.
(3) Records.
(4) Historical documentation.
(5) Micrographic retention programming.
(6) Critical records protection.

As added by P.L.50-1991, SEC.8.

IC 5-15-6-1.7
"Retention schedule"

Sec. 1.7. As used in this chapter, "retention schedule" has the meaning set forth in IC 5-15-5.1-1.

As added by P.L.50-1991, SEC.9.

IC 5-15-6-2
Duties of county commission

Sec. 2. (a) It shall be the duty of the county commission to review and approve orders under section 7 of this chapter subject to compliance with an approved retention schedule.

(b) The county commission may request the assistance of the administration in developing records management programs.

(Formerly: Acts 1939, c.91, s.2.) As amended by Acts 1979, P.L.40, SEC.17; P.L.50-1991, SEC.10; P.L.171-2015, SEC.34.

IC 5-15-6-2.5
Retention schedules; records not covered under schedules; exceptions to schedules; documentation of disposition; jurisdiction over records

Sec. 2.5. (a) The county commission shall implement retention schedules for use by local government officials as part of a records management program for local government public records not more than thirty (30) days after adoption by the oversight committee on public records as established by IC 5-15-5.1-18.

(b) All requests to destroy, transfer, or otherwise dispose of records that are not covered by an approved retention schedule are to be submitted to the county commission and administration according to the procedure established under this chapter.

(c) Requests for exceptions to an approved retention schedule shall be submitted to the county commission. The commission may not consider requests for retention of records that are shorter in duration than the approved retention schedule.

(d) Local government officers shall submit documentation of destruction, transfer, or other disposal of records according to an approved retention schedule to the county commission with a copy submitted to the administration.

(e) Whenever a local government includes parts of more than one (1) county, the commission of the county that contains the greatest percentage of population of the local government has jurisdiction over the records of the local government for the purposes of this chapter.

As added by P.L.50-1991, SEC.11. Amended by P.L.84-2012, SEC.18; P.L.171-2015, SEC.35.

IC 5-15-6-3
Prerequisites to destruction of financial records

Sec. 3. No financial records or records relating to financial records shall be destroyed until the earlier of the following actions:

(1) The audit of the records by the state board of accounts has been completed, report filed, and any exceptions set out in the report satisfied.

(2) The financial record or records have been copied or reproduced in accordance with a retention schedule or with the

written consent of the administration.

(Formerly: Acts 1939, c.91, s.3; Acts 1955, c.319, s.2.) As amended by P.L.50-1991, SEC.12; P.L.74-1995, SEC.5; P.L.47-1997, SEC.1; P.L.10-1997, SEC.10; P.L.79-1998, SEC.9; P.L.171-2015, SEC.36.

IC 5-15-6-4

Prohibition against destroying or removing records less than three years after filing except according to approved retention schedule

Sec. 4. (a) Except as provided in subsection (b), no records shall be destroyed, removed, or transferred from any office until a period of at least three (3) years shall have elapsed from the date on which the records were filed, nor even after that time if the records are in frequent use by the officer having charge of the office.

(b) Records may be destroyed, removed, or transferred from any office before three (3) years elapse after the date on which the records were filed if the destruction, removal, or transfer is according to an approved retention schedule.

(Formerly: Acts 1939, c.91, s.4.) As amended by P.L.50-1991, SEC.13; P.L.171-2015, SEC.37.

IC 5-15-6-5

Records having official value; state archives

Sec. 5. Public records having an official value but which are used infrequently by the officer with whom they are filed or maintained shall, on order of the commission and the consent of the administration, be removed and transferred to the Indiana state archives.

(Formerly: Acts 1939, c.91, s.5.) As amended by P.L.50-1991, SEC.14; P.L.171-2015, SEC.38.

IC 5-15-6-6

Records having historical value; state archives

Sec. 6. Public records having no apparent official value, but having a historical value shall be transferred to and shall, with the consent of the administration, constitute a part of the Indiana state archives.

(Formerly: Acts 1939, c.91, s.6.) As amended by P.L.50-1991, SEC.15; P.L.171-2015, SEC.39.

IC 5-15-6-7

Order of commission that public records be destroyed, removed, or transferred; genealogical or historical society may obtain records

Sec. 7. (a) When any public records are ordered to be destroyed, removed, or transferred, the commission shall enter an order to that effect on its minutes, stating the date on which the order is entered and a general description of the public records which the commission orders to be destroyed, removed, or transferred.

(b) A copy of any order to destroy public records shall be delivered to:

(1) the administration;

(2) any active genealogical society of the county; and

(3) any active historical society of the county;

not later than sixty (60) days before the destruction date, accompanied by a written statement that the Indiana state archives or society may procure at its expense such records for its own purposes.

(c) The order delivered under subsection (b) must state that the records will be made available to the Indiana state archives, the genealogical society, or the historical society subject to the following provisions:

(1) Genealogical or historical societies of the county which have an active organization shall have priority in the procuring of the public records.

(2) If there is more than one (1) genealogical or historical society of the county with an active organization, the earliest established genealogical or historical society shall have priority in the procuring of the public records.

(3) In order to procure all or part of the public records included in the order, a genealogical or historical society must offer to the Indiana state archives sufficient proof of ability to properly preserve the records in question, or the state archives may deny the records to the genealogical or historical society and give priority to another genealogical or historical society in the county or the Indiana state archives.

(4) If within thirty (30) days of the delivery of the destruction order to the genealogical or historical society, the society has not notified the commission of an intent to procure all or part of the records included in the order, the Indiana state archives may upon request procure at the archive's expense the records for the archive's own purposes within the remaining time in the sixty (60) day period.

(5) If a genealogical or historical society that has obtained records under this section subsequently wishes to destroy, transfer, or otherwise dispose of these records, the genealogical or historical society shall submit a request to the county commission for authorization to destroy, transfer, or otherwise dispose of the records according to the procedure set forth in this chapter.

(6) Records obtained by a genealogical or historical society under this chapter remain public records and are subject to all applicable public records laws.

(Formerly: Acts 1939, c.91, s.7; Acts 1963, c.341, s.1.) As amended by P.L.51-1991, SEC.1; P.L.50-1991, SEC.16; P.L.171-2015, SEC.40.

IC 5-15-6-8

Reckless, knowing, or intentional destruction or damage to public records; offense; exceptions

Sec. 8. A public official or other person who recklessly, knowingly, or intentionally destroys or damages any public record commits a Level 6 felony unless:

(1) the commission shall have given its approval in writing that the public records may be destroyed;

(2) the commission shall have entered its approval for destruction of the public records on its own minutes; or

(3) authority for destruction of the records is granted by an approved retention schedule established under this chapter.

(Formerly: Acts 1939, c.91, s.8.) As amended by P.L.50-1991, SEC.17; P.L.158-2013, SEC.79.

IC 5-15-6-9

Repealed

(Repealed by P.L.50-1991, SEC.19.)

IC 5-15-6-10

Repealed

(Repealed by Acts 1978, P.L.2, SEC.521.)

IC 5-15-6-11

Application of chapter

Sec. 11. This chapter does not apply to public records of a hospital established and operated under IC 16-22 and IC 16-23.

As added by P.L.40-1992, SEC.1. Amended by P.L.2-1993, SEC.51; P.L.184-2005, SEC.1.

IC 5-15-6-12

Retention of compilation or creation of list or report; considerations

Sec. 12. Notwithstanding any other provision of this chapter, a local government official is not required to retain a compilation or creation of a list or report if:

(1) the list or report:

(A) consists solely of information contained in public records; and

(B) is generated by a computer program; and

(2) the compilation or creation does not result in the permanent electronic storage of the information.

As added by P.L.58-1993, SEC.14.

IC 5-15-7
Repealed

(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-15-8
Repealed

(Repealed by Acts 1980, P.L.212, SEC.10.)

IC 5-16

ARTICLE 16. PUBLIC WORKS

IC 5-16-1

Chapter 1. Public Works by State Agencies

IC 5-16-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 8 of this chapter by P.L.20-1991 applies to public works contracts for which notices calling for sealed proposals for the work are published after June 30, 1991.

As added by P.L.220-2011, SEC.97.

IC 5-16-1-1

Repealed

(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 5-16-1-1.1

Application of chapter

Sec. 1.1. (a) For purposes of this section, the term "person" includes a sole proprietorship, partnership, association, corporation, limited liability company, fiduciary, or individual.

(b) This chapter applies to the construction, alteration, or repair of a public building or other public work or improvement owned by the state. In addition, the provisions of this chapter concerning the adoption of plans and specifications and the awarding of contracts also apply to work or improvements to be performed on real property that is being or that will be leased by the state from another person if:

(1) the estimated cost of the work or improvement is twenty-five thousand dollars ($25,000) or more; and

(2) the lease gives the state an option to buy the real property.

As added by Acts 1979, P.L.42, SEC.1. Amended by Acts 1981, P.L.57, SEC.1; P.L.33-1983, SEC.14; P.L.52-1986, SEC.1; P.L.8-1993, SEC.58.

IC 5-16-1-1.2

Adoption of plans and specifications; awarding of contract

Sec. 1.2. (a) When a public building or other public work or improvement of any character is to be constructed, erected, altered, or repaired at the expense of the state or a commission created by law (excepting the Indiana department of transportation), and when the estimated costs of the work or improvement is greater than twenty-five thousand dollars ($25,000) the board, commission, trustee, officer, or agent acting on behalf of the state or commission created by law (excepting the Indiana department of transportation), shall adopt plans and specifications and shall award a contract for the public work or improvement to the lowest and best bidder who

submits a bid for the performance of the work.

(b) Notwithstanding subsection (a), whenever the cost of any public work is estimated to be less than twenty-five thousand dollars ($25,000), the officer or agent acting on behalf of the state or commission having authority to employ workmen and own, rent, or lease equipment may purchase materials in the manner provided by law and perform the work by means of its own workmen and owned or leased equipment without awarding a construction contract for the work.

As added by Acts 1981, P.L.57, SEC.2. Amended by P.L.28-1983, SEC.53; P.L.52-1986, SEC.2; P.L.18-1990, SEC.11.

IC 5-16-1-1.3

Construction or alteration of certain public buildings

Sec. 1.3. Construction or alteration of any public building, the estimated cost of which is more than twenty-five thousand dollars ($25,000), may not be undertaken by any officer or agent hereinbefore mentioned or referred to except pursuant to and in compliance with plans and specifications therefor approved by a duly licensed architect or engineer.

As added by Acts 1981, P.L.57, SEC.3.

IC 5-16-1-1.4

Securing bids or causing work to be done; placement of plans on file

Sec. 1.4. For the purpose of securing bids or for the purpose of causing the work to be done in the desired manner, the state or commission created by law (excepting the Indiana department of transportation) shall prepare, and place on file in its office, plans and specifications of the building or improvements sought to be constructed, erected, altered, or repaired whenever the estimated cost of the work is greater than twenty-five thousand dollars ($25,000).

As added by Acts 1981, P.L.57, SEC.4. Amended by P.L.52-1986, SEC.3; P.L.18-1990, SEC.12.

IC 5-16-1-1.5

State educational institutions; performance of certain work by its own employees; conditions

Sec. 1.5. (a) The governing board of any state educational institution, acting on behalf of said institution, may purchase materials in the manner provided by law and perform any work by means of its own employees and owned or leased equipment in the construction, rehabilitation, extension, maintenance or repair of any building, structure, improvement, or facility, of said institutions, without awarding a contract therefor, whenever the cost of such work shall be estimated to be less than three hundred thousand dollars ($300,000).

(b) The workforce of a state educational institution may perform

a public work described in subsection (a) only if:

(1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and

(2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars ($100,000), the state educational institution:

(A) publishes a notice under IC 5-3-1 that:

(i) describes the public work that the state educational institution intends to perform with its own workforce; and

(ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the state educational institution's own workforce.

A public work project performed by a state educational institution's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) If a public work project involves a structure, an improvement, or a facility under the control of a state educational institution, the state educational institution may not artificially divide the project to bring any part of the project under this section.

As added by Acts 1981, P.L.57, SEC.5. Amended by P.L.229-2011, SEC.77; P.L.172-2011, SEC.19; P.L.6-2012, SEC.35; P.L.252-2015, SEC.8.

IC 5-16-1-1.6

Declaration of emergency reconstruction or repair of building or structure; quotes by invitation

Sec. 1.6. In the case of fire, flood, windstorm, casualty or other extraordinary emergency, including mechanical failure of any part of a building or structure, and where the health, safety or welfare of the public or the necessary governmental operations are endangered by such loss or damage, the responsible board or commission may, upon a declaration of emergency recorded in its minutes, proceed to reconstruct or repair the building or structure without advertising for bids. However, in such an emergency, quotes may be invited from at least three (3) or more persons, firms, limited liability companies, or corporations known to deal in the work required to be done, and the minutes of the board or commission shall show the names of those persons, firms, limited liability companies, or corporations invited to submit quotes.

As added by Acts 1981, P.L.57, SEC.6. Amended by P.L.8-1993, SEC.59; P.L.143-2014, SEC.1.

IC 5-16-1-1.7

Purdue University; agricultural or forestry land; declaration of emergency; quotes by invitation

Sec. 1.7. On agricultural or forestry land owned or occupied by Purdue University and used by it for educational or research purposes, the trustees of the university may, upon a declaration of necessity recorded in its minutes, award contracts without advertising for bids or otherwise satisfying the requirements of this chapter, if the cost of work is estimated to be less than two hundred thousand dollars ($200,000). However, quotes shall be invited from at least three (3) or more persons, firms, limited liability companies, or corporations known to deal in the work required to be done. The minutes of the board shall show the names of those invited to submit quotes.

As added by Acts 1981, P.L.57, SEC.7. Amended by P.L.8-1993, SEC.60; P.L.229-2011, SEC.78; P.L.172-2011, SEC.20; P.L.143-2014, SEC.2.

IC 5-16-1-1.8
Repealed

(Repealed by P.L.24-1985, SEC.25(b).)

IC 5-16-1-1.9
Educational institutions; building construction or repair contracts

Sec. 1.9. (a) Notwithstanding this article, a state educational institution may award a contract for any construction or repair work to any building, structure, or improvement of the institution without advertising for bids and meeting other contract awarding requirements of this article whenever the estimated cost of the project is less than one hundred fifty thousand dollars ($150,000). However, in awarding any contract under this section the state educational institution must do the following:

(1) Invite quotes from at least three (3) persons, firms, limited liability companies, or corporations known to deal in the work required to be done.

(2) Give notice of the project if the estimated cost of the project is more than one hundred fifty thousand dollars ($150,000). If required, notice must include a description of the work to be done and be given in at least one (1) newspaper of general circulation printed and published in the county in which the work is to be done.

(3) Award the contract to the person who submits the lowest and best quote.

(b) A state educational institution that awards a contract under this section to a minority business enterprise may include the contract when assessing the state educational institution's performance in meeting the goal set under section 7 of this chapter.

As added by Acts 1981, P.L.58, SEC.1. Amended by P.L.52-1986, SEC.4; P.L.70-1989, SEC.1; P.L.8-1993, SEC.61; P.L.2-2007, SEC.103; P.L.229-2011, SEC.79; P.L.172-2011, SEC.21; P.L.143-2014, SEC.3.

IC 5-16-1-2

Bidders; submission of statement of experience, proposed plan, financial status, and trust relationship; forms

Sec. 2. (a) Each bidder shall be required to submit under oath with and as a part of the bidder's bid a statement of:

(1) the bidder's experience;

(2) the bidder's proposed plan for performing such work;

(3) the equipment available for the performance of such work;

(4) the bidder's financial status; and

(5) if a trust (as defined in IC 30-4-1-1(a)), the name of each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(b) The statements required by this section shall be submitted on forms which shall be prescribed by the state board of accounts. The forms prescribed shall:

(1) be designated, respectively, as the experience questionnaire, the plan and equipment questionnaire, and the contractor's financial statement; and

(2) be based, so far as applicable, on the standard questionnaires and financial statements for bidders as approved and recommended by the joint conference on construction practices, for use in investigating the qualifications of bidders on public construction work.

The forms shall be used by all such boards, commissions, trustees, officers, and agents in obtaining the information required in the administration of this chapter.

(c) If the information submitted by any bidder on the forms prescribed in this section is found, on examination, to be unsatisfactory, the bid submitted by such bidder shall not be considered.

(Formerly: Acts 1947, c.306, s.2; Acts 1965, c.251, s.1; Acts 1967, c.152, s.1.) As amended by P.L.33-1983, SEC.15; P.L.336-1989(ss), SEC.15.

IC 5-16-1-3

Filing of plans and specifications; notice; publication; minimum bid invitations

Sec. 3. (a) Upon the filing of the plans, specifications, and drawings, as provided in section 1.4 of this chapter, the officer or agent shall twice publish a notice indicating that drawings, plans, and specifications are on file at the office and calling for sealed proposals for the work by a day fixed in the publication. The time lapse between the date of publication and the date of receiving bids is governed by the size of the contemplated project and is in the discretion of the board, commission, trustee, officer, or agent publishing the notice. In no event shall the lapsed time be more than six (6) weeks.

(b) Notwithstanding subsection (a), if a public building or other

public work or improvement under this chapter is estimated to cost less than twenty-five thousand dollars ($25,000) and a contract is to be awarded for the work, the awarding officer, commission, or agent may:

(1) publish notice in the manner provided in subsection (a); or
(2) invite bids from not less than three (3) persons, firms, limited liability companies, or corporations, known to deal in the work proposed to be done, by mailing a notice for the work not less than three (3) days before the time fixed for receiving bids indicating that plans and specifications are on file in a certain office.

(Formerly: Acts 1947, c.306, s.3; Acts 1949, c.136, s.2.) As amended by P.L.52-1986, SEC.5; P.L.8-1993, SEC.62.

IC 5-16-1-4
Repealed

(Repealed by P.L.33-1983, SEC.17.)

IC 5-16-1-5
Repealed

(Repealed by P.L.1-1990, SEC.62.)

IC 5-16-1-6
Trench safety systems; cost recovery

Sec. 6. (a) This section applies to a public building or other public work or improvement that may require creation of a trench of at least five (5) feet in depth.

(b) IOSHA 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 shall 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.1-1990, SEC.63.

IC 5-16-1-7
Minority business enterprises; award of contracts

Sec. 7. A board, a commission, a trustee, an officer, or agent must establish as a goal that five percent (5%) of the contracts awarded be let to minority business enterprises (as defined in IC 4-13-16.5-1).

As added by P.L.1-1990, SEC.64.

IC 5-16-1-8
Plumbing installations; proof of licensure

Sec. 8. (a) A person who submits a bid or quote for a public works contract under this chapter that involves the installation of plumbing

must submit evidence that the person is a licensed plumbing contractor under IC 25-28.5-1.

(b) If a public works contract under this chapter is awarded to a person who does not meet the requirements of subsection (a), the contract is void.

As added by P.L.20-1991, SEC.2. Amended by P.L.143-2014, SEC.4.

IC 5-16-1-9

Application of IC 5-22-16.5 to award of contracts under chapter

Sec. 9. (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 public works 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.3.

IC 5-16-2

Chapter 2. Public Works Bids to be Submitted and Opened at Public Meeting

IC 5-16-2-1

Time for submitting bid; opening bids

Sec. 1. All state officers, administrative boards or agencies acting on behalf of the state or any state institution or state agency, authorized by law to let contracts for public work shall have no authority to require any bidder to submit his bid at any time earlier than the open meeting at which it is to be received. All such meetings for receiving bids shall be open to the public and all bidders shall be entitled to attend. Bids so received shall be opened publicly and read aloud at the time and place designated for the receipt thereof.

(Formerly: Acts 1913, c.228, s.1; Acts 1965, c.317, s.1.) As amended by Acts 1981, P.L.57, SEC.9.

IC 5-16-2-1.4

Rejection of bids or quotes submitted

Sec. 1.4. The political body or officer authorized to let contracts for public works or improvement may, in the reasonable exercise of discretion, reject all bids or quotes submitted.

As added by Acts 1977, P.L.59, SEC.1. Amended by P.L.143-2014, SEC.5.

IC 5-16-2-1.5

Awarding contract; notice to proceed; time limits and failure to meet; elections of successful bidder

Sec. 1.5. (a) Within sixty (60) days from the date on which bids are opened as specified in section 1 of this chapter, the political body or officer authorized to let contracts for public work or improvement shall award that contract and shall provide the successful bidder with written notice to proceed. However, if general obligation bonds are to be sold to finance the construction which is the subject of the bid, ninety (90) days shall be allowed; if revenue bonds are to be issued and approval by the utility regulatory commission obtained, or if special taxing district general obligation or revenue bonds are to be issued and sold to finance the construction, one hundred fifty (150) days shall be allowed. A failure to award and execute the contract and to issue notice to proceed within the time required by this section entitles the successful bidder to either:

(1) reject the contract and withdraw his bid without prejudice; or

(2) grant an extension of time to effect award and execution of the contract and notice to proceed at an agreed later date.

(b) If the successful bidder elects to reject the contract and withdraw his bid, notice of that election must be given to the political body or the officer authorized to let the contract in writing within

fifteen (15) days of the sixty (60) day expiration date or any extension thereof.
As added by Acts 1977, P.L.59, SEC.2. Amended by Acts 1979, P.L.43, SEC.1; P.L.23-1988, SEC.7.

IC 5-16-2-2
Void contracts
Sec. 2. All contracts for public work by any of the political bodies or officers mentioned in this chapter which are not let in conformity with the provisions of this chapter shall be void.
(Formerly: Acts 1913, c.228, s.2.) As amended by Acts 1977, P.L.59, SEC.3.

IC 5-16-2-3
Supplemental effect of chapter
Sec. 3. This chapter shall be construed as supplemental to the laws in force on April 30, 1913, relating to the letting of contracts for public work and shall not repeal or amend any of such laws except such as are contrary to the provisions of this chapter.
(Formerly: Acts 1913, c.228, s.3.) As amended by P.L.25-1986, SEC.89.

IC 5-16-3
Chapter 3. Filing Blueprints and Specifications

IC 5-16-3-1
Blueprints and specifications; filing

Sec. 1. (a) A public official, board, commission, or other public agency having charge of the construction of a public building, an addition to the building or an alteration of the building shall file in the division of fire and building safety, within sixty (60) days after the completion of the building project, a complete set of blueprints and a complete set of bound specifications for the public building, addition, or alteration.

(b) Subsection (a) does not apply to buildings, additions, or alterations that are constructed at a cost of less than twenty-five thousand dollars ($25,000).

(Formerly: Acts 1951, c.185, s.1.) As amended by P.L.8-1984, SEC.7; P.L.52-1986, SEC.6; P.L.1-2006, SEC.103.

IC 5-16-3-2
Depository for blueprints and specifications; state librarian

Sec. 2. The division of fire and building safety of the department of homeland security shall provide a safe depository for all blueprints and specifications filed as provided in section 1 of this chapter and retain them for inspection and loan under the conditions and restrictions as the fire prevention and building safety commission shall determine by rule. The fire prevention and building safety commission may designate the librarian of the state of Indiana as the custodian of any blueprints and specifications filed with it, at any time, and it shall be the duty of the state librarian to safely preserve the same in the state archives as public documents.

(Formerly: Acts 1951, c.185, s.2.) As amended by P.L.8-1984, SEC.8; P.L.1-2006, SEC.104.

IC 5-16-3-3
Repealed

(Repealed by Acts 1978, P.L.2, SEC.521.)

IC 5-16-4
Repealed

(Repealed by Acts 1972, P.L.43, SEC.1.)

IC 5-16-5

Chapter 5. Withholding and Bond to Secure Payment of Subcontractors, Labor, and Materialmen

IC 5-16-5-0.4

"Person"

Sec. 0.4. As used in this chapter, "person" includes a natural person, firm, limited liability company, or corporation.

As added by P.L.75-2012, SEC.4.

IC 5-16-5-0.5

"Public body"

Sec. 0.5. As used in this chapter, "public body" refers to a board, commission, trustee, officer, or agent acting on behalf of the state or a commission created by law.

As added by P.L.75-2012, SEC.5.

IC 5-16-5-0.6

"Public work"

Sec. 0.6. As used in this chapter, "public work" refers to the construction, erection, alteration, or repair of a public building, public improvement, or other public work, the cost of which is paid for by funds derived from taxation. The term includes all roads, highways, streets, alleys, bridges, sewers, drains, or other public improvements.

As added by P.L.75-2012, SEC.6.

IC 5-16-5-1

Withholding final payments; filing claims for payment; release of surety

Sec. 1. (a) Except as otherwise provided in this chapter, when a public work is performed under contract at the expense of the state or a commission created by law, the public body shall withhold final payment to the contractor until the contractor has paid to:

(1) all subcontractors;

(2) all suppliers of materials for material furnished;

(3) all labor employed in the public work; and

(4) all those furnishing any service in relation to or in connection with the public work;

all bills due and owing to the persons described in subdivisions (1) through (4) who have filed a claim under subsection (c).

(b) If there is not a sufficient sum owing to the contractor on the contract to pay all the bills, then the sum owing on the contract shall be prorated in payment of all the bills among the persons entitled to payment.

(c) A person claiming payment under this section must file with the public body a claim not later than sixty (60) days after the last labor is performed, the last material is furnished, or the last service

is rendered by that person, as provided in section 2 of this chapter.

(d) If there is no dispute among the claimants, the public body shall pay all claims out of the funds due the contractor and take a receipt for each payment. The total of amounts paid under this subsection shall be deducted from the contract price.

(e) If there is a dispute among the claimants, the public body shall retain sufficient funds until the dispute is settled, the correct amounts are determined, and payment of those amounts shall be made as provided in subsection (d).

(f) Except for amounts required to be withheld under subsection (e) or as otherwise provided in this chapter, this chapter does not preclude a full, final, and complete settlement upon a contract with a contractor after thirty (30) days from the date of the completion and acceptance of the work as completed.

(g) The surety of a contractor may not be released until the expiration of one (1) year after the final settlement with the contractor.

(Formerly: Acts 1911, c.173, s.1; Acts 1925, c.44, s.1; Acts 1931, c.168, s.1; Acts 1933, c.258, s.1.) As amended by Acts 1981, P.L.57, SEC.10; P.L.75-2012, SEC.7.

IC 5-16-5-2

Payment provisions in contracts; payment bonds; statements of amount due; suits on bond; application of statute to bonds and claims on state highway projects

Sec. 2. (a) A contract awarded for a public work must provide for the payment of subcontractors, labor, suppliers of materials, and those performing service in connection with the public work. The contract must provide for the payment of subcontractors by withholding by the public body funds sufficient from the contract price to pay the subcontractors, labor, suppliers of materials, and those furnishing service in relation to or in connection with the public work. The contractor shall execute a bond to the state, approved by the public body in an amount equal to the total contract price. The bond shall be conditioned for payment by the contractor, the contractor's successors and assigns, and by the subcontractors, their successors and assigns, of all indebtedness, which may accrue to any person for any labor or service performed, materials furnished, or service rendered in the public work. The bond by its terms shall be conditioned to directly inure to the benefit of subcontractors, laborers, suppliers of materials, and those performing service who have furnished or supplied labor, material, or service for the public work.

(b) The bond required under subsection (a) shall be deposited with the public body for the benefit of a person interested in and entitled to the bond. The bond shall be conditioned that:

(1) a change, modification, omission, or addition in and to the terms or conditions of the contract, plans, specifications,

drawings, or profile; or

(2) any irregularity or defect in the contract or in the proceedings preliminary to the letting and awarding of the contract;

does not affect or operate to release or discharge the surety.

(c) The provisions of this chapter become a part of the terms of a contract awarded under this chapter. A bond for a public work is subject to this chapter.

(d) A person to whom money is due for having performed labor or having furnished material or service for a public work under this chapter must, not later than sixty (60) days after that person completed the labor or service or after that person furnished the last item of material:

(1) file with the public body duplicate verified statements of the amount due to the person; and

(2) deliver a copy of the statement to the contractor.

The public body shall deliver to the surety on the bond one (1) of the duplicate statements. The failure to deliver a duplicate statement by the public body does not affect or invalidate the rights of the person to whom money is due, nor does the failure to deliver a duplicate statement operate as a defense for the surety.

(e) A suit may not be brought against a surety on a bond under this section before thirty (30) days after both of the following have occurred:

(1) The filing of the verified duplicate statement.

(2) A copy of the notice has been delivered to the contractor.

If the indebtedness is not paid in full after thirty (30) days, the person, may bring an action in a court of competent jurisdiction upon the bond. The action must be brought not later than sixty (60) days after the date of the final completion and acceptance of the public work. An action on the bond against a surety is barred if not brought within this time.

(f) IC 8-23-9, and not this chapter, applies to bonds and claims on state highway road and bridge contracts.

(Formerly: Acts 1911, c.173, s.2; Acts 1925, c.44, s.2; Acts 1931, c.168, s.2; Acts 1933, c.258, s.2.) As amended by Acts 1980, P.L.74, SEC.11; Acts 1981, P.L.57, SEC.11; P.L.18-1990, SEC.13; P.L.8-1993, SEC.63; P.L.75-2012, SEC.8.

IC 5-16-5-3

Conflicting laws

Sec. 3. This chapter shall not be construed as conflicting with any other laws for the protection of labor, subcontractors, or materialmen, but is supplemental to those laws.

(Formerly: Acts 1911, c.173, s.3.) As amended by P.L.25-1986, SEC.90.

IC 5-16-5.5

Chapter 5.5. Retainage, Bonds, and Payment of Contractors and Subcontractors

IC 5-16-5.5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 2 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.98.

IC 5-16-5.5-1

Definitions

Sec. 1. As used in this chapter:

"State agency" means the state of Indiana or any commission or agency created by law.

"Agent" shall include any board, commission, trustee, officer or agent which acts on behalf of a state agency.

"Public building", "public work" and "public improvement" or combinations thereof shall be construed to include all buildings, work or improvements the cost of which is paid for from public funds but shall not include highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys, railroad projects (as defined in IC 8-5-15-1) and dedicated highway rights-of-way.

"Substantial completion" shall be construed to mean the date when the construction of a structure or building is sufficiently completed, in accordance with the plans and specifications, as modified by any completed change orders agreed to by the parties, so that the state agency can occupy the structure or building for the use for which it was intended. Furthermore, the warranty period shall commence no later than the date of substantial completion.

"Contractor" shall mean any person, firm, limited liability company, or corporation who is party to a contract with a state agency to construct, erect, alter or repair any public building or is any way involved in public work or public improvement.

"Subcontractor" shall mean and include any person, firm, limited liability company, or corporation who is a party to a contract with the contractor and who furnishes and performs on-site labor on any public building, work or improvement. It also shall include materialmen who supply contractors or subcontractors as contained herein.

"Retainage" means any amount to be withheld from any payment to a contractor or subcontractor pursuant to the terms of a contract until the occurrence of a specified event.

"Escrowed principal" shall mean the value of all cash and securities or other property at the time placed in an escrow account.

"Escrowed income" shall mean the value of all property held in an

escrow account over the escrowed principal in such account.
(Formerly: Acts 1972, P.L.44, SEC.1.) As amended by Acts 1977, P.L.60, SEC.1; Acts 1981, P.L.57, SEC.12; P.L.8-1993, SEC.64; P.L.160-2006, SEC.5.

IC 5-16-5.5-2
Contracts governed by this chapter

Sec. 2. To the extent that this chapter is applicable, all contracts between a contractor and a state agency concerning any public building, work, or improvement entered into after May 1, 1972, and which contracts are in excess of two hundred thousand dollars ($200,000) are to be governed by the provisions of this chapter, as are the rights and duties among the parties to the contract and any subcontractors who do any work under the contract. A state agency may elect to have a contract that is for not more than two hundred thousand dollars ($200,000) be governed by this chapter. All contracts governed by the provisions of this chapter shall include provisions for the retainage of portions of payments by a state agency to contractors, by contractors to subcontractors, and for the payment of subcontractors.
(Formerly: Acts 1972, P.L.44, SEC.1.) As amended by P.L.25-1986, SEC.91; P.L.133-2007, SEC.6.

IC 5-16-5.5-3
Retainage; escrow agreement

Sec. 3. Any state agency which enters into a contract for any public building, work or improvement, and any contractor subcontracting portions of such contract, which contracts contain provision for retainage shall include in their respective contracts a provision that at the time any retainage is withheld, the state agency and/or contractor shall place such retainage in an escrow account, with a bank, savings and loan institution, or the State of Indiana or an instrumentality thereof, as escrow agent selected by mutual agreement between the affected contract parties, pursuant to a written agreement among the bank or savings and loan institution, the state agency, and the contractor as appropriate. The escrow agreement shall provide as follows:

(a) The escrow agent shall promptly invest all escrowed principal in such obligations as shall be selected by the escrow agent in its discretion.

(b) The escrow agent shall hold the escrowed principal and income until receipt of notice from the state agency and the contractor, or the contractor and the subcontractor, specifying the portion or portions of the escrowed principal to be released from the escrow and the person or persons to whom such portion or portions are to be released. Upon receipt of such notice the escrow agent shall promptly remit the designated portion of escrowed principal and the same proportion of then escrowed income to such person or persons.

(c) The escrow agent shall be compensated for its services as the parties may agree on a commercially reasonable fee commensurate with fees then being charged for the handling of escrow accounts of like size and duration. The fee must be paid from the escrowed income of the escrow account.

(d) The agreement may include such other terms and conditions not inconsistent with the foregoing paragraphs (a), (b) and (c) including but not limited to provisions authorizing the escrow agent to commingle the escrowed funds with funds held pursuant to other escrow agreements and limiting the liability of the escrow agent.

(Formerly: Acts 1972, P.L.44, SEC.1.) As amended by Acts 1977, P.L.60, SEC.2.

IC 5-16-5.5-3.1

Escrow accounts; establishment and maintenance; fee; schedule

Sec. 3.1. The treasurer of state may charge a reasonable fee for services that the treasurer renders in connection with the establishment and administration of escrow accounts. If the treasurer charges such fee, the treasurer shall prepare a fee schedule and make it available to the contractor. Any fee must be paid by the contractor at the time the escrow account is established.

As added by P.L.69-1987, SEC.1.

IC 5-16-5.5-3.5

Retainage; options to determine amount

Sec. 3.5. (a) To determine the amount of retainage to be withheld, a state agency shall elect one (1) of the following options:

(1) Withhold no more than ten percent (10%) nor less than six percent (6%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) complete, and nothing further after that.

(2) Withhold no more than five percent (5%) nor less than three percent (3%) of the dollar value of all work satisfactorily completed until the public work is substantially complete.

(b) If upon substantial completion of the work there are any remaining uncompleted minor items, an amount computed under section 6 of this chapter shall be withheld until those items are completed.

As added by Acts 1980, P.L.33, SEC.1. Amended by P.L.133-2007, SEC.7.

IC 5-16-5.5-4

Performance bond; incremented bonding; release or discharge of surety

Sec. 4. At the time of entering into any contract covered by the provisions of this chapter, the contractor shall furnish a valid performance bond which is acceptable to the state agency involved in an amount equal to his total contract price. If it is acceptable to the

state agency involved, this performance bond may provide for incremental bonding in the form of multiple or chronological bonds which, when taken as a whole, equal the total contract price. The surety on the bond shall not be released for a period of one (1) year after final settlement with the contractor. No change, modification, omission or addition in and to the terms or conditions of said contract, plans, specifications, drawings or profile or any irregularity or defect in said contract or in the proceedings preliminary to the letting and awarding thereof shall in any way affect or operate to release or discharge the surety.
(Formerly: Acts 1972, P.L.44, SEC.1.) As amended by Acts 1978, P.L.15, SEC.3.

IC 5-16-5.5-5
Payment of subcontractor; certification of receipt

Sec. 5. Within ten (10) days of the receipt of any payment by the state agency or escrow agent, the contractor or escrow agent shall pay all subcontractors with whom he has contracted their share of the payment the contractor received based upon the service performed by the subcontractor. The contractor shall furnish upon request a sworn statement or certification at the time of payment to him that the subcontractor has received his share of the previous payment to the contractor. The making of an incorrect certification may be considered a breach of contract by the state agency, and it may exercise all of its prerogatives set out in the contract in addition to the remedies for falsifying an affidavit. Such an action may also result in a suspension of prequalification with the certification board established under IC 4-13.6-3-3.
(Formerly: Acts 1972, P.L.44, SEC.1.) As amended by P.L.33-1983, SEC.16; P.L.24-1985, SEC.15.

IC 5-16-5.5-6
Payment of contractor; uncompleted minor items

Sec. 6. The contractor shall be paid in full including all escrowed principal and escrowed income by the state agency and escrow agent within sixty-one (61) days following the date of substantial completion, subject to IC 1971, 5-16-5. If at that time there are any remaining uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until said item or items are completed.
(Formerly: Acts 1972, P.L.44, SEC.1.)

IC 5-16-5.5-7
Suit against surety; time limitation

Sec. 7. All suits must be brought against a surety on a bond required by this chapter within one (1) year after the completion of the work or service in question.

(Formerly: Acts 1972, P.L.44, SEC.1.)

IC 5-16-5.5-8
Conflicting laws

Sec. 8. This chapter shall not be construed as conflicting with any other laws for the protection of labor, subcontractors or materialmen, but is supplemental thereto.
(Formerly: Acts 1972, P.L.44, SEC.1.)

IC 5-16-6

Chapter 6. Discrimination by Contractors and Subcontractors Prohibited

IC 5-16-6-1

Contract provisions; antidiscrimination clauses

Sec. 1. Every contract for or on behalf of the state of Indiana or any of the municipal corporations thereof, for the construction, alteration, or repair of any public building or public work in the state of Indiana shall contain provisions by which the contractor agrees:

(a) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, or subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, religion, color, sex, national origin or ancestry, discriminate against any citizen of the state of Indiana who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, religion, color, sex, national origin or ancestry;

(c) That there may be deducted from the amount payable to the contractor by the state of Indiana or by any municipal corporation thereof, under this contract, a penalty of five dollars ($5.00) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract; and

(d) That this contract may be cancelled or terminated by the state of Indiana or by any municipal corporation thereof, and all money due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract.

(Formerly: Acts 1933, c.270, s.1; Acts 1975, P.L.27, SEC.2.)

IC 5-16-6.5

Chapter 6.5. Minority Business Certification

IC 5-16-6.5-1

"Disadvantaged business enterprise" defined

Sec. 1. As used in this chapter, "disadvantaged business enterprise" means a minority business enterprise as defined in IC 4-13-16.5-1.

As added by P.L.70-1987, SEC.1.

IC 5-16-6.5-2

"Public agency" defined

Sec. 2. As used in this chapter, "public agency" includes the following:

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

(2) A municipally owned utility.

(3) A lessor corporation leasing a school building to a school corporation under IC 20-47-2 or IC 20-47-3.

(4) A lessor corporation constructing a public facility to be leased to a political subdivision.

(5) A state agency.

(6) Any entity established by the general assembly as a body corporate and politic.

As added by P.L.70-1987, SEC.1. Amended by P.L.2-2006, SEC.30.

IC 5-16-6.5-3

"Women-owned business enterprise" defined

Sec. 3. As used in this chapter, "women-owned business enterprise" means a business that is at least fifty-one percent (51%) owned and controlled (as defined in IC 4-13-16.5-1) by a woman or women.

As added by P.L.70-1987, SEC.1.

IC 5-16-6.5-4

False representations by contractor to public agency; breach of contract

Sec. 4. A contractor who, knowingly or intentionally, falsely represents to a public agency that the contractor:

(1) is a disadvantaged business enterprise or a women-owned business enterprise; or

(2) will use the services or commodities of a disadvantaged business enterprise or a women-owned business enterprise;

is in breach of contract.

As added by P.L.70-1987, SEC.1.

IC 5-16-6.5-5

Penalties for breach of contract

Sec. 5. (a) If a breach of contract occurs under section 4 of this

chapter, the public agency shall suspend all payments to the contractor under that contract unless it determines that the contractor made a good faith effort to avoid the breach but was unable to do so.

(b) If the public agency determines that the contractor did not act to avoid the breach, it may:

(1) rescind the contract and recover all amounts paid under it if the breach occurs under section 4(1) of this chapter;

(2) recover all amounts paid to the contractor under the contract that were intended for expenditure with a disadvantaged business enterprise or a women owned business enterprise if the breach occurred under section 4(2) of this chapter; or

(3) employ any legal or administrative remedies that the agency prescribes by rule or in the contract.

As added by P.L.70-1987, SEC.1. Amended by P.L.71-1989, SEC.1.

IC 5-16-6.5-6

Bidding restrictions on contractors breaching contracts

Sec. 6. If a contractor commits a breach of contract under section 4 of this chapter, the contractor is prohibited from bidding on contracts awarded by any public agency for up to thirty-six (36) months. The public agency shall determine the period of time during which the contractor is prohibited from bidding on contracts under this section.

As added by P.L.70-1987, SEC.1. Amended by P.L.71-1989, SEC.2.

IC 5-16-7
Repealed

(Repealed by P.L.252-2015, SEC.9.)

IC 5-16-7.1

Chapter 7.1. Effect of Repeal of Common Construction Wage Statute (IC 5-16-7)

IC 5-16-7.1-1

"Common construction wage statute"

Sec. 1. As used in this chapter, "common construction wage statute" refers to the following:

(1) IC 5-16-7, as in effect on June 30, 2015.

(2) Any statute, as in effect on June 30, 2015, if IC 5-16-7 is applicable.

As added by P.L.252-2015, SEC.10.

IC 5-16-7.1-2

Application and enforcement of common construction wage statute after its repeal

Sec. 2. Notwithstanding the repeal of the common construction wage statute by legislation enacted in the 2015 regular session of the general assembly, the common construction wage statute applies to a public works contract awarded before July 1, 2015, and shall be enforced as if the common construction wage statute had not been repealed.

As added by P.L.252-2015, SEC.10.

IC 5-16-7.2

Chapter 7.2. Wage Scales for Public Works Projects

IC 5-16-7.2-1

Application of chapter

Sec. 1. (a) This chapter applies to a public works contract awarded by a public agency after June 30, 2015.

(b) This chapter does not apply to contracts awarded by the Indiana department of transportation when IC 8-23-9 applies.

As added by P.L.252-2015, SEC.11.

IC 5-16-7.2-2

"Applicable public works statute"

Sec. 2. As used in this chapter, "applicable public works statute" refers to whichever of the following statutes is applicable to public works projects of the public agency:

(1) IC 4-13.6.

(2) This article.

(3) IC 36-1-12.

(4) Any other statute applicable to the public works projects of the public agency.

As added by P.L.252-2015, SEC.11.

IC 5-16-7.2-3

"Public agency"

Sec. 3. As used in this chapter, "public agency" has the meaning set forth in IC 5-30-1-11.

As added by P.L.252-2015, SEC.11.

IC 5-16-7.2-4

"Public works project"

Sec. 4. As used in this chapter, "public works project" refers to a construction project governed by an applicable public works statute.

As added by P.L.252-2015, SEC.11.

IC 5-16-7.2-5

Prohibition against public agency establishing, mandating, or requiring wage scale or schedule for public works project

Sec. 5. Unless federal or state law provides otherwise, a public agency may not:

(1) establish;

(2) mandate; or

(3) otherwise require;

a wage scale or wage schedule for a public works contract awarded by the public agency.

As added by P.L.252-2015, SEC.11.

IC 5-16-8
Chapter 8. Steel Procurement for Public Works

IC 5-16-8-1
Definitions

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Foundry products" means products cast from ferrous and nonferrous metals by foundries in the United States.

(c) "Person" means a natural person, corporation, limited liability company, partnership, or other business unit or association.

(d) "Public agency" means:

(1) the state of Indiana;

(2) a department, agency, board, commission, or institution of the state of Indiana; or

(3) a county, city, township, school or conservancy district, or other governmental unit or district;

that receives public bids for construction or other public works under Indiana law.

(e) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.

(f) "United States" refers to the United States of America. The term includes all territory, continental or insular, subject to the jurisdiction of the United States.

As added by Acts 1978, P.L.27, SEC.1. Amended by P.L.8-1993, SEC.66; P.L.6-2007, SEC.1; P.L.3-2008, SEC.30.

IC 5-16-8-2
Public agency contract provisions; rules for determining reasonable pricing

Sec. 2. (a) Each public agency shall require that every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works contain a provision that, if any steel or foundry products are to be used or supplied in the performance of the contract or subcontract, only steel or foundry products made in the United States shall be used or supplied in the performance of the contract or any of the subcontracts unless the head of the public agency determines, in writing, that the cost of steel or foundry products is considered to be unreasonable.

(b) The head of each public agency shall issue rules which provide that, for purposes of subsection (a), the bid or offered price of any steel or foundry products of domestic origin is not considered unreasonable if the price does not exceed the sum of:

(1) the bid or offered price of like steel or foundry products of

foreign origin (including any applicable duty); plus

(2) a differential of fifteen percent (15%) of the bid or offered price of the steel or foundry products of foreign origin.

However, the fifteen percent (15%) differential provided by subdivision (2) may be increased to twenty-five percent (25%), if the head of the public agency determines that use of steel or foundry products of domestic origin would benefit the local or state economy through improved job security and employment opportunity. Whenever the head of a public agency determines that the differential should be increased above fifteen percent (15%) for a particular project, the head of the agency shall file a report with the governor and the legislative services agency detailing the reasons for such determination and the probable impact on the economy of the use of domestic steel or foundry castings in the project. A report filed under this subsection with the legislative services agency must be in an electronic format under IC 5-14-6.

As added by Acts 1978, P.L.27, SEC.1. Amended by Acts 1981, P.L.59, SEC.1; P.L.28-2004, SEC.59; P.L.6-2007, SEC.2.

IC 5-16-8-3

Payment contingent upon compliance; recovery of payments made upon noncomplying contracts

Sec. 3. A public agency may not authorize or make any payments to a person under a contract containing the provision required by section 2 of this chapter unless the public agency is satisfied that such person has fully complied with that provision. Payments made to a person by a public agency which should not have been made as a result of this section shall be recoverable directly from the contractor or subcontractor who did not comply with section 2 of this chapter by the attorney general upon suit filed in the circuit court, superior court, or probate court of the county in which the contract was executed or performed.

As added by Acts 1978, P.L.27, SEC.1. Amended by P.L.84-2016, SEC.27.

IC 5-16-8-4

Nonapplicability to steel products in insufficient supply

Sec. 4. This chapter does not apply if the head of the public agency determines, in writing, that steel or foundry products are not produced in the United States in sufficient quantities to meet the requirements of the contract.

As added by Acts 1978, P.L.27, SEC.1. Amended by P.L.6-2007, SEC.3.

IC 5-16-8-5

Purpose and construction of chapter

Sec. 5. This chapter is designed to promote the general welfare of the people of this state and is supplemental to all laws concerning

public works and shall be liberally construed to fully effectuate its purposes.
As added by Acts 1978, P.L.27, SEC.1.

IC 5-16-9

Chapter 9. Parking Facilities for Persons With Physical Disabilities

IC 5-16-9-1

Definitions

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Accessible parking space" refers to a parking space that conforms with the standards of section 4 of this chapter.

(c) "Motor vehicle" has the meaning set forth in IC 9-13-2-105.

(d) "Parking facility" means any facility or combination of facilities for motor vehicle parking which contains parking spaces for the public.

(e) "Person with a physical disability" means a person who has been issued one (1) of the following:

(1) A placard under IC 9-14-5 (before its repeal).

(2) A modified Purple Heart plate under IC 9-18-19-1(b) (before its expiration) or IC 9-18.5-6-1(b).

(3) A disability registration plate under IC 9-18-22 (before its expiration).

(4) A license plate or placard issued under IC 9-18.5-8.

(f) "Public agency" means:

(1) the state of Indiana, its departments, agencies, boards, commissions, and institutions, including state educational institutions; and

(2) a county, city, town, township, school or conservancy district, other governmental unit or district, or any department, board, or other subdivision of the unit of government.

As added by Acts 1979, P.L.44, SEC.1. Amended by P.L.58-1983, SEC.1; P.L.37-1984, SEC.1; P.L.71-1987, SEC.1; P.L.2-1991, SEC.30; P.L.23-1993, SEC.11; P.L.2-1995, SEC.16; P.L.42-1996, SEC.1; P.L.2-2007, SEC.104; P.L.216-2014, SEC.1; P.L.198-2016, SEC.13.

IC 5-16-9-1.5

Application of chapter

Sec. 1.5. This chapter applies to a reserved accessible parking space in a parking facility that is located on property that is privately or publicly owned.

As added by P.L.59-1993, SEC.1. Amended by P.L.42-1996, SEC.2.

IC 5-16-9-1.6

Compliance with federal provisions

Sec. 1.6. Notwithstanding any requirement of this chapter, a person who complies with:

(1) Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181); and

(2) the Americans with Disabilities Act Guidelines adopted by the United States Department of Justice;

complies with this chapter.

As added by P.L.42-1996, SEC.3.

IC 5-16-9-2

Spaces reserved in parking facilities; requirements

Sec. 2. (a) Except as provided in subsection (d), each parking facility that provides parking spaces for self-parking by employees or visitors must have accessible parking spaces reserved according to the following schedule:

TOTAL NUMBER OF PARKING SPACES IN FACILITY	MINIMUM NUMBER OF RESERVED SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20 plus 1 for each 100 spaces over 1,000

(b) A parking facility may provide accessible parking spaces in a different location from other parking spaces if the location of the accessible spaces results in equivalent or greater access by the shortest accessible route of travel to an accessible entrance of:

(1) a building, if the parking facility serves a specific building; or

(2) the parking facility, if the parking facility does not serve a specific building.

(c) This subsection applies to a building with more than one (1) accessible entrance that has parking adjacent to the entrances. Accessible parking spaces for a building described in this subsection must be dispersed and located closest to the accessible entrances.

(d) This subsection applies to a facility that provides medical care or other services for persons with mobility impairments. A facility described in this subsection must provide accessible parking spaces according to the following schedule:

(1) An outpatient facility or unit: Ten percent (10%) of the total number of parking spaces serving the facility or unit must be accessible parking spaces.

(2) A facility or unit that specializes in treatment or services for persons with mobility impairments: Twenty percent (20%) of the total number of parking spaces serving the facility or unit

must be accessible parking spaces.

(e) The reserved space or spaces under this chapter must be reserved by posting immediately adjacent to and visible from the space or spaces a vertical sign measuring at least forty-eight (48) inches from the base of the sign, located in a manner that will not be obscured by a vehicle parked in the space, and bearing the following:

(1) The international symbol of accessibility.

(2) Letters and numbers that have a width to height ratio between 3:5 and 1:1 and a stroke width to height ratio between 1:5 and 1:10.

(3) Characters and numbers that are sized according to the distance from which the characters and numbers are read, with the minimum height measured by an uppercase "X". Lowercase characters may be used.

(f) The characters and background of a sign required under subsection (e) must be eggshell, matte, or another nonglare finish. Characters and symbols used on a sign must contrast with the background color of the sign.

As added by Acts 1979, P.L.44, SEC.1. Amended by P.L.58-1983, SEC.2; P.L.37-1984, SEC.2; P.L.55-1985, SEC.1; P.L.72-1989, SEC.1; P.L.23-1993, SEC.12; P.L.42-1996, SEC.4.

IC 5-16-9-3 Version a

Street parking spaces reserved adjacent to public agency or retail shopping mall constructed with economic development income tax derived revenue

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 3. (a) If a public agency has no parking facility under its jurisdiction or control available to private persons who desire to conduct business with the public agency, the public agency shall direct the local authority having jurisdiction over the portion of the streets which are adjacent to the facilities of the public agency to reserve parking spaces for the use of persons with physical disabilities.

(b) If a retail shopping mall is constructed in whole or in part with revenue derived from a county economic development income tax imposed under IC 6-3.5-7, the local authority having jurisdiction over the portion of the streets adjacent to the retail shopping mall shall reserve parking spaces for the use of persons with physical disabilities.

As added by Acts 1979, P.L.44, SEC.1. Amended by P.L.380-1987(ss), SEC.4; P.L.23-1993, SEC.13.

IC 5-16-9-3 Version b

Street parking spaces reserved adjacent to public agency or retail shopping mall constructed with local income revenue

Note: This version of section effective 1-1-2017. See also

preceding version of this section, effective until 1-1-2017.

Sec. 3. (a) If a public agency has no parking facility under its jurisdiction or control available to private persons who desire to conduct business with the public agency, the public agency shall direct the local authority having jurisdiction over the portion of the streets which are adjacent to the facilities of the public agency to reserve parking spaces for the use of persons with physical disabilities.

(b) If a retail shopping mall is constructed in whole or in part with revenue derived from a local income tax imposed under IC 6-3.6-6 and allocated for economic development purposes under IC 6-3.6-6-9, the local authority having jurisdiction over the portion of the streets adjacent to the retail shopping mall shall reserve parking spaces for the use of persons with physical disabilities.

As added by Acts 1979, P.L.44, SEC.1. Amended by P.L.380-1987(ss), SEC.4; P.L.23-1993, SEC.13; P.L.197-2016, SEC.4.

IC 5-16-9-4

Specifications of parking spaces and access facilities

Sec. 4. (a) Except as provided in subsection (b), the size and location of parking spaces required under this chapter must conform to the following standards:

(1) An accessible parking space must be at least ninety-six (96) inches wide.

(2) An access aisle adjacent to an accessible parking space must be at least sixty (60) inches wide and may not be restricted by a built-up curb ramp, planters, curbs, wheel stops, or any other obstructions.

(3) Two (2) adjacent accessible parking spaces may share a common access aisle.

(4) An access aisle:

(A) must be part of an accessible route to the building or facility; and

(B) must either merge with the accessible route or have a curb ramp to the accessible route that complies with the rules governing curb ramps.

(5) An accessible parking space and an access aisle must have a surface slope of not more than 1:50 (two percent (2%)) in all directions.

(6) An accessible parking space and an access aisle must be designated with blue lines.

(7) An accessible parking space and at least one (1) vehicle access route to the accessible parking space must have a minimum vertical clearance of at least ninety-eight (98) inches.

(b) A parking facility must designate at least one (1) accessible parking space of every eight (8) accessible parking spaces as a van accessible parking space. A van accessible parking space must have

an access aisle at least ninety-six (96) inches wide. Notwithstanding section 2(c) of this chapter, a parking facility may group all van accessible parking spaces in a single location.

(c) Notwithstanding subsection (b), a parking facility that:

(1) is in existence on June 30, 1996; and

(2) conforms to the specifications for the size and location of parking spaces under this section as the specifications were in effect on June 30, 1996;

is not required to conform with subsection (b) until the first time the parking facility is resurfaced or restriped after June 30, 1996.

As added by Acts 1979, P.L.44, SEC.1. Amended by P.L.245-1987, SEC.6; P.L.59-1993, SEC.2; P.L.42-1996, SEC.5.

IC 5-16-9-5

Violations; Class C infraction and Class C misdemeanor

Sec. 5. (a) Any person who parks a motor vehicle which does not have displayed a placard of a person with a physical disability or a disabled veteran, issued under IC 9-14-5 (before its repeal), IC 9-18.5-8, or under the laws of another state, or a registration plate of a person with a physical disability or a disabled veteran, issued under IC 9-18-18 (before its expiration), IC 9-18-19-1(b) (before its expiration), IC 9-18-22 (before its expiration), IC 9-18.5-5, IC 9-18.5-6, IC 9-18.5-8, or under the laws of another state, in a parking space reserved under this chapter for a vehicle of a person with a physical disability commits a Class C infraction.

(b) Any person who knowingly parks in a parking space reserved for a person with a physical disability while displaying a placard to which neither the person nor the person's passenger is entitled commits a Class C infraction.

(c) Any person who displays for use in parking in a parking space reserved for a person with a physical disability a placard or a special license plate that was not issued under IC 9-14-5 (before its repeal), IC 9-18-18 (before its expiration), IC 9-18-19-1(b) (before its expiration), IC 9-18-22 (before its expiration), IC 9-18.5-6, or IC 9-18.5-8, or under the laws of another state commits a Class C misdemeanor.

(d) A person who, in a parking space reserved for a person with a physical disability, parks a vehicle that displays a placard or special registration plate entitling a person to park in a parking space reserved for a person with a physical disability commits a Class C infraction if that person is not, at that time, in the process of transporting a person with a physical disability or disabled veteran.

(e) Notwithstanding IC 34-28-5-4(c), a civil judgment of not less than one hundred dollars ($100) must be imposed for an infraction committed in violation of this section.

As added by Acts 1979, P.L.44, SEC.1. Amended by P.L.58-1983, SEC.3; P.L.37-1984, SEC.3; P.L.55-1985, SEC.2; P.L.71-1987, SEC.2; P.L.72-1989, SEC.2; P.L.2-1991, SEC.31; P.L.23-1993,

SEC.14; P.L.2-1995, SEC.17; P.L.43-1996, SEC.1; P.L.1-1998, SEC.72; P.L.50-2013, SEC.1; P.L.216-2014, SEC.2; P.L.198-2016, SEC.14.

IC 5-16-9-7
Repealed

(Repealed by P.L.41-1987, SEC.22.)

IC 5-16-9-8
Owners or lessees of motor vehicles; violations; Class C infraction; defenses

Sec. 8. (a) As used in this section, "owner" means a person in whose name a motor vehicle is registered under:

(1) IC 9-18 (before its expiration) or IC 9-18.1;
(2) the laws of another state; or
(3) the laws of a foreign country.

(b) As used in this section, "lessee" means a person that has care, custody, or control of a motor vehicle under a written agreement for the rental or lease of the motor vehicle for less than sixty-one (61) days. The term does not include an employee of the owner of the motor vehicle.

(c) An owner or lessee of a motor vehicle commits a Class C infraction if the motor vehicle:

(1) is located in a parking space in a parking facility that is marked under section 2 of this chapter as a parking space reserved for a person with a physical disability; and
(2) does not display:
(A) an unexpired parking placard for a person with a physical disability issued under IC 9-14-5 (before its repeal) or IC 9-18.5-8;
(B) an unexpired disabled veteran's registration plate issued under IC 9-18-18 (before its expiration) or IC 9-18.5-5 or an unexpired modified Purple Heart license plate under IC 9-18-19-1(b) (before its expiration) or IC 9-18.5-6-1(b);
(C) an unexpired registration plate or decal for a person with a physical disability issued under IC 9-18-22 (before its expiration) or IC 9-18.5-8; or
(D) an unexpired parking permit for a person with a physical disability, an unexpired disabled veteran's registration plate, or an unexpired registration plate or decal for a person with a physical disability issued under the laws of another state.

(d) It is a defense that IC 9-30-11-8 applies to the violation.

(e) It is a defense that the motor vehicle was the subject of an offense described in IC 35-43-4 at the time of the violation of this section.

(f) Notwithstanding IC 34-28-5-4(c), a civil judgment of not less than one hundred dollars ($100) must be imposed for an infraction committed in violation of this section.

As added by P.L.71-1987, SEC.4. Amended by P.L.2-1991, SEC.32; P.L.23-1993, SEC.15; P.L.2-1995, SEC.18; P.L.43-1996, SEC.2; P.L.1-1998, SEC.73; P.L.50-2013, SEC.2; P.L.216-2014, SEC.3; P.L.198-2016, SEC.15.

IC 5-16-9-9
Ordinances of counties, cities, or towns

Sec. 9. (a) This chapter does not prohibit a county, city, or town from adopting and enforcing an ordinance that regulates standing or parking of motor vehicles in a space reserved for a person with a physical disability under section 2 of this chapter, IC 9-21-1-3, or IC 9-21-18-4.

(b) An ordinance described in subsection (a) may not conflict with this chapter.

(c) An ordinance described in subsection (a) may not require a person to obtain or display any permit, registration plate, or registration decal to stand or park in a space reserved for a person with a physical disability under section 2 of this chapter, except the following:

(1) A parking placard for a person with a physical disability issued under IC 9-14-5 (before its repeal) or IC 9-18.5-8.

(2) A disabled veteran's registration plate issued under IC 9-18-18 (before its expiration) or IC 9-18.5-5 or a modified Purple Heart license plate under IC 9-18-19-1(b) (before its expiration) or IC 9-18.5-6-1(b).

(3) A registration plate or decal for a person with a physical disability issued under IC 9-18-22 (before its expiration) or IC 9-18.5-8.

(d) An ordinance described in subsection (a) must permit a motor vehicle displaying:

(1) an unexpired parking permit for a person with a physical disability;

(2) an unexpired disabled veteran's registration plate; or

(3) an unexpired registration plate or decal for a person with a physical disability;

issued under the laws of another state to stand or park in a space reserved for a person with a physical disability but only when the vehicle is being used to transport a person with a physical disability.

As added by P.L.71-1987, SEC.5. Amended by P.L.5-1988, SEC.40; P.L.72-1989, SEC.3; P.L.2-1991, SEC.33; P.L.22-1991, SEC.3; P.L.23-1993, SEC.16; P.L.216-2014, SEC.4; P.L.198-2016, SEC.16.

IC 5-16-9-10
Complaints; summons; forms

Sec. 10. (a) A person enforcing this chapter may issue a complaint and summons for a violation of section 5 or 8 of this chapter or an ordinance described in section 9 of this chapter on a form other than the forms described in IC 9-30-3-6. However, the complaint must

comply with the Indiana Rules of Trial Procedure.

(b) A complaint and summons issued under subsection (a) must explain the conditions described in IC 34-28-5-14 under which a court may enter a judgment against the person named in the summons and complaint without requiring the defendant to make a personal appearance before the court.

As added by P.L.71-1987, SEC.6. Amended by P.L.1-1993, SEC.25; P.L.43-1996, SEC.3; P.L.1-1998, SEC.74.

IC 5-16-9-11

Complaints; summons; volunteers

Sec. 11. (a) A law enforcement agency authorized to enforce:

(1) section 5 or 8 of this chapter; or

(2) an ordinance described in section 9 of this chapter;

may appoint volunteers to issue complaints and summonses for violations of section 5 or 8 of this chapter or an ordinance described in section 9 of this chapter.

(b) A volunteer appointed under this section must:

(1) be at least twenty-one (21) years of age;

(2) complete a course of instruction concerning the enforcement of this chapter that is conducted by the appointing law enforcement agency;

(3) after successfully completing the course of instruction, obtain a certificate from the executive authority of the appointing law enforcement agency; and

(4) satisfy any other qualifications established by the law enforcement agency.

(c) The executive authority of a law enforcement agency that appoints volunteers under this section shall file a copy of each certificate issued under subsection (b)(3) with the prosecuting attorney having jurisdiction over the area served by the law enforcement agency.

(d) A complaint and summons issued by a volunteer appointed under this section has the same force and effect as a complaint and summons issued by a law enforcement officer for the same violation.

(e) A volunteer appointed under this section does not have powers of a law enforcement officer except those powers granted under this section.

(f) The executive authority of a law enforcement authority that appoints a volunteer under this section may, at any time, revoke the certificate issued to the volunteer under subsection (b)(3). If a certificate is revoked under this subsection:

(1) the executive authority shall notify the prosecuting attorney where the certificate was filed under subsection (c) of the revocation; and

(2) the volunteer's powers under this section terminate immediately upon the revocation.

(g) A volunteer may not issue a complaint and summons upon

private property unless the law enforcement agency first receives permission from the property owner or the property manager.

(h) A property owner is not liable for any property damage or personal injury resulting from the actions of a volunteer in issuing a complaint and summons.

As added by P.L.48-1997, SEC.1.

IC 5-16-10

Chapter 10. Employment of Construction Managers in Public Construction Projects

IC 5-16-10-1

Definitions

Sec. 1. As used in this chapter, the following terms have the following meanings:

(1) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, limited liability company manager or member, joint venturer, a corporation subject to common control with the architect, engineer or construction manager, a shareholder or corporation who controls the architect, engineer or construction manager, or a corporation controlled by the architect, engineer, or construction manager.

(2) "Architect" means the person registered under IC 25-4-1.

(3) "Construction manager" means a person designated as a construction manager by contract who provides professional management services, which contribute to the control of time and the cost and quality of a public construction project, and who performs those services concurrent with architectural and engineering services rendered during the design and construction phases of a construction project.

(4) "Engineer" means the person registered under IC 25-31-1.

(5) "Person" means a natural person, a partnership, a limited liability company, or a corporation.

(6) "Public construction project" means the construction, remodeling, rehabilitation, or repair of any building or other facility of a unit of local government, whether the building or facility is owned by the unit or leased by the unit with an option to purchase under IC 36-1-10 or any other law. However, "public construction project" does not mean highway or bridge construction.

(7) "Unit of local government" includes any county, city, town, township, and any other political subdivision, commission, or agency created under law. However, the term does not include a school corporation or lessor corporation qualifying under IC 20-47-2 or IC 20-47-3.

As added by Acts 1981, P.L.60, SEC.1. Amended by Acts 1982, P.L.41, SEC.1; P.L.8-1993, SEC.67; P.L.25-1995, SEC.10; P.L.2-2006, SEC.31.

IC 5-16-10-2

Limitations on employment of construction managers; contracts with construction managers prohibited

Sec. 2. (a) A unit of local government may not employ the architect or engineer who provided design services on a public

construction project or his affiliate, to be the construction manager on the project he designed.

(b) A unit of local government may not let a general contract, or any separate trade contract, to perform work on a public construction project to the construction manager of the project.

As added by Acts 1981, P.L.60, SEC.1.

IC 5-16-10-3

Performance of services constituting practice of architecture and engineering

Sec. 3. The limitations expressed in section 2 of this chapter should not be interpreted to permit any person who is not a registered architect under IC 25-4-1 or a registered engineer under IC 25-31-1 to do any act which constitutes the practice of architecture or engineering nor to prevent any unit of local government from employing any person who is a registered architect under IC 25-4-1 or a registered engineer under IC 25-31-1 to perform services which constitute the practice of architecture or engineering.

As added by Acts 1981, P.L.60, SEC.1.

IC 5-16-11

Chapter 11. Disclosure of Economic Interests by Consultants in Public Projects

IC 5-16-11-1

"Clerk" defined

Sec. 1. As used in this chapter, "clerk" has the meaning set forth in IC 36-1-2-4.

As added by P.L.73-1989, SEC.1.

IC 5-16-11-2

"Consultant" defined

Sec. 2. (a) As used in this chapter, "consultant" means an individual who, under a contract with the state or a political subdivision, does either of the following for the state or the political subdivision:

(1) Evaluates bids for contracts.

(2) Awards contracts.

The term does not include a public employee (as defined in IC 34-6-2-38).

(b) An individual is not required to be a party to the contract with the state or the political subdivision to be a consultant under this section.

As added by P.L.73-1989, SEC.1. Amended by P.L.52-1991, SEC.1; P.L.1-1998, SEC.75.

IC 5-16-11-3

Repealed

(Repealed by P.L.52-1991, SEC.9.)

IC 5-16-11-3.5

"Entity" defined

Sec. 3.5. As used in this chapter, "entity" refers to a person that:

(1) has submitted a bid to be evaluated by a consultant; or

(2) was awarded a contract by a consultant.

As added by P.L.52-1991, SEC.2.

IC 5-16-11-4

"Fiscal body" defined

Sec. 4. As used in this chapter, "fiscal body" has the meaning set forth in IC 36-1-2-6.

As added by P.L.73-1989, SEC.1.

IC 5-16-11-5

"Political subdivision" defined

Sec. 5. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.73-1989, SEC.1.

IC 5-16-11-5.5
Conflicts of interest; consultants

Sec. 5.5. (a) A consultant has a conflict of interest if any of the following apply:

(1) The entity has given a gift or gifts:

(A) to the consultant, the consultant's spouse, or the consultant's unemancipated children;

(B) that have a total fair market value of more than one hundred dollars ($100); and

(C) within the preceding year.

(2) The consultant, the consultant's spouse, or the consultant's unemancipated children have an equitable or a legal interest in real property the value of which:

(A) either:

(i) is at least five thousand dollars ($5,000); or

(ii) comprises at least ten percent (10%) of the net worth of the consultant, the consultant's spouse, or the consultant's unemancipated children; and

(B) has been or would be increased or decreased if a contract were awarded to the entity.

(3) The consultant or the consultant's spouse is employed by the entity.

(4) The entity is the sole proprietorship or professional practice of the consultant or the consultant's spouse.

(5) The consultant or the consultant's spouse is a partner in the entity.

(6) The consultant or the consultant's spouse is an officer or a director of the entity.

(7) The consultant, the consultant's spouse, or the consultant's unemancipated children own stock or options to purchase stock in the entity and the stock or the options to purchase stock have a fair market value of more than ten thousand dollars ($10,000). This subdivision does not apply to the following:

(A) Time deposits or demand deposits in a financial institution.

(B) An insurance policy.

As added by P.L.52-1991, SEC.3.

IC 5-16-11-6
Conflict of interest disclosure; filing

Sec. 6. (a) A consultant shall file a conflict of interest disclosure if the consultant has a conflict of interest under section 5.5 of this chapter.

(b) The disclosure required under subsection (a) must describe the conflict of interest.

(c) The consultant shall file the disclosure required under subsection (a) within ten (10) days of the earlier of the following events:

(1) The closing day for receipt of bids.
(2) The award of the contract.

As added by P.L.73-1989, SEC.1. Amended by P.L.9-1990, SEC.12; P.L.52-1991, SEC.4.

IC 5-16-11-7
Recipient of disclosure

Sec. 7. The consultant shall file the disclosure required by section 6 of this chapter with:

(1) the state ethics commission, if the consultant contracts with the state; or
(2) the clerk of a political subdivision, or the fiscal body of a political subdivision that has no clerk, if the consultant contracts with a political subdivision.

As added by P.L.73-1989, SEC.1. Amended by P.L.52-1991, SEC.5.

IC 5-16-11-8
Disclosure under oath

Sec. 8. The consultant shall make the disclosure required by section 6 of this chapter under affirmation.

As added by P.L.73-1989, SEC.1. Amended by P.L.52-1991, SEC.6.

IC 5-16-11-9
Repealed

(Repealed by P.L.52-1991, SEC.9.)

IC 5-16-11-10
Repealed

(Repealed by P.L.52-1991, SEC.9.)

IC 5-16-11-11
Offense

Sec. 11. A consultant who fails to file a disclosure required by this chapter commits a Class A infraction.

As added by P.L.73-1989, SEC.1. Amended by P.L.52-1991, SEC.7.

IC 5-16-11-12
Perjury

Sec. 12. A consultant who files a false disclosure under this chapter is subject to the penalties for perjury under IC 35-44.1-2-1.

As added by P.L.73-1989, SEC.1. Amended by P.L.52-1991, SEC.8; P.L.126-2012, SEC.25.

IC 5-16-11.1

Chapter 11.1. Procurement of Services of Architects, Engineers, and Land Surveyors

IC 5-16-11.1-1

"Firm"

Sec. 1. As used in this chapter, "firm" means an individual, partnership, limited liability company, corporation, association, joint venture, or any other form of unincorporated enterprise.

As added by P.L.24-1985, SEC.16. Amended by P.L.8-1993, SEC.68.

IC 5-16-11.1-2

"Professional services"

Sec. 2. As used in this chapter, "professional services" means those services that are:

(1) within the scope of practice specified by IC 25-4 for architecture, IC 25-31 for professional engineering, or IC 25-21.5 for surveying; or

(2) performed by any licensed architect, professional engineer, or professional surveyor in connection with the architect's, engineer's, or surveyor's professional employment or practice.

As added by P.L.24-1985, SEC.16. Amended by P.L.23-1991, SEC.2; P.L.57-2013, SEC.1.

IC 5-16-11.1-3

"Public agency"

Sec. 3. As used in this chapter, "public agency" includes a:

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

(2) municipally owned utility;

(3) lessor corporation leasing a school building to a school corporation under IC 20-47-2 or IC 20-47-3; or

(4) lessor corporation constructing a public facility to be leased to a political subdivision.

As added by P.L.24-1985, SEC.16. Amended by P.L.2-2006, SEC.32.

IC 5-16-11.1-4

Notice of requirement of professional services

Sec. 4. (a) When professional services are required for a project, a public agency may:

(1) publish notice in accordance with IC 5-3-1;

(2) provide for notice (other than notice in accordance with IC 5-3-1) as it determines is reasonably calculated to inform those performing professional services of a proposed project;

(3) provide for notice in accordance with both subdivisions (1) and (2); or

(4) determine not to provide any notice.

(b) If the public agency provides for notice under subsection (a)(1), (a)(2), or (a)(3), each notice must include:

(1) the location of the project;
(2) a general description of the project;
(3) the general criteria to be used in selecting professional services firms for the project;
(4) the place where any additional project description or specifications are on file;
(5) the hours of business of the public agency; and
(6) the last date for accepting statements of qualifications from interested parties.

As added by P.L.24-1985, SEC.16. Amended by P.L.51-1988, SEC.1.

IC 5-16-11.1-5
Basis for contracts; compensation

Sec. 5. A public agency may make all contracts for professional services on the basis of competence and qualifications for the type of services to be performed and negotiate compensation that the public agency determines to be reasonable.

As added by P.L.24-1985, SEC.16.

IC 5-16-12.2

Chapter 12.2. Use of Energy Efficient Technology

IC 5-16-12.2-1

"Contracting agency"

Sec. 1. As used in this chapter, "contracting agency" refers to the agency, board, commission, officer, or trustee that enters into a public works contract covered by this article.

As added by P.L.159-2003, SEC.2.

IC 5-16-12.2-2

"Energy efficient technology"

Sec. 2. As used in this chapter, "energy efficient technology" refers to any of the following:

(1) Geothermal heating and cooling.
(2) Geothermal hot water generation.
(3) Solar hot water generation.
(4) Photovoltaic power generation.
(5) Wind power generation.
(6) Combined heat and power.
(7) Heat recovery chillers.
(8) Condensing boilers and low temperature heat.
(9) Air to air energy recovery devices.
(10) Autoclaved aerated concrete.
(11) Automated meter readers.
(12) Any other energy technology that has long term environmental value, energy efficiency, and cost effectiveness.

As added by P.L.159-2003, SEC.2.

IC 5-16-12.2-3

Contracting agency to consider energy efficient technologies

Sec. 3. The contracting agency shall examine and consider energy efficient technologies for a public works project using a life cycle analysis.

As added by P.L.159-2003, SEC.2.

IC 5-16-12.2-4

Use of energy efficient technologies

Sec. 4. To the extent technically and economically feasible, the contracting agency shall consider the use of energy efficient technology in the plans and specifications for the public works project.

As added by P.L.159-2003, SEC.2.

IC 5-16-12.2-5

Repealed

(As added by P.L.159-2003, SEC.2. Repealed by P.L.233-2015, SEC.12.)

IC 5-16-13

Chapter 13. Requirements for Contractors on Public Works Projects

IC 5-16-13-1

Application of chapter; construction with other statutes; inconsistent provisions void

Sec. 1. (a) This chapter applies only to a public works contract awarded after June 30, 2015.

(b) The requirements described in this chapter are in addition to requirements for contractors stated in the applicable public works statute. The provisions of an applicable public works statute shall be construed consistently with this chapter, but to the extent an applicable public works statute is inconsistent with this chapter, the provisions of this chapter govern.

(c) A provision of an invitation for bids, request for proposals, or a public works contract inconsistent with this chapter is void.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-2

"Applicable public works statute"

Sec. 2. (a) Except as provided in subsection (b), as used in this chapter, "applicable public works statute" refers to whichever of the following statutes is applicable to public works projects of the public agency:

(1) IC 4-13.6.

(2) This article.

(3) IC 36-1-12.

(4) Any other statute applicable to the public works projects of the public agency.

(b) This definition does not include the following statutes:

(1) IC 5-23-4 (build, operate, transfer, and public-private agreements).

(2) IC 5-30 (design-build).

(3) IC 5-32 (employment of construction manager as constructor).

As added by P.L.252-2015, SEC.12.

IC 5-16-13-3

"Contractor"

Sec. 3. As used in this chapter, "contractor" refers generally to a contractor in any contractor tier.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-4

"Contractor tier"

Sec. 4. As used in this chapter, "contractor tier" refers collectively to the following classes of contractors on a public works project:

(1) "Tier 1 contractor" includes each person that has a contract with the public agency to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "prime contractor" or a "general contractor".
(2) "Tier 2 contractor" includes each person that has a contract with a tier 1 contractor to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "subcontractor".
(3) "Tier 3 contractor" includes each person that has a contract with a tier 2 contractor to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "sub-subcontractor".
(4) "Lower tier contractor" includes each person that has a contract with a tier 3 contractor or lower tier contractor to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "lower tier subcontractor".

As added by P.L.252-2015, SEC.12.

IC 5-16-13-5
"Public agency"

Sec. 5. As used in this chapter, "public agency" has the meaning set forth in IC 5-30-1-11.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-6
"Public works project"

Sec. 6. As used in this chapter, "public works project" refers to a construction project governed by an applicable statute.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-7
Provisions stated or incorporated into public works contracts

Sec. 7. The substance of the provisions of this chapter must be stated or incorporated by reference in each public works contract.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-8
Contractor tier structure required for public works projects

Sec. 8. A public works project may not be structured other than in the contractor tier structure.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-9

Tier 1 contractor required work, materials, or services contribution to public works contract

Sec. 9. Each tier 1 contractor must contribute in:

(1) work performed by the tier 1 contractor's employees;

(2) materials supplied directly by the tier 1 contractor;

(3) services supplied directly by the tier 1 contractor's employees; or

(4) any combination of subdivisions (1) through (3);

at least fifteen percent (15%) of the tier 1 contractor's total contract price as determined at the time the contract is awarded.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-10

Contractor required liability insurance and qualification

Sec. 10. (a) This section applies to each contractor in any contractor tier of a public works project.

(b) A contractor must maintain general liability insurance in at least the following amounts:

(1) For each occurrence limit, one million dollars ($1,000,000).

(2) For the general aggregate limit, two million dollars ($2,000,000).

(c) This subsection applies to a public works contract awarded after June 30, 2016. A contractor must be qualified under either of the following before doing any work on a public works project:

(1) IC 4-13.6-4.

(2) IC 8-23-10.

As added by P.L.252-2015, SEC.12. Amended by P.L.213-2015, SEC.66.

IC 5-16-13-11

Contractor compliance with certain statutes; additional requirements for contractors

Sec. 11. Except as provided in this section, the following apply to each contractor in any contractor tier of a public works project:

(1) IC 22-5-1.7. A contractor shall submit to the public agency letting the contract for a public works project, before an individual who is required to be verified under IC 22-5-1.7 begins work on the public works project, the E-Verify case verification number for the individual. An individual who is required to be verified under IC 22-5-1.7 whose final case result is final nonconfirmation may not be employed on the public works project.

(2) A contractor may not pay cash to any individual employed by the contractor for work done by the individual on the public works project.

(3) A contractor must be in compliance with the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209) and IC 22-2-2-1 through IC 22-2-2-8.

(4) A contractor must be in compliance with IC 22-3-5-1 and IC 22-3-7-34.

(5) A contractor must be in compliance with IC 22-4-1 through IC 22-4-39.5.

(6) A contractor must be in compliance with IC 4-13-18-1 through IC 4-13-18-7.

(7) A contractor must comply with section 12 of this chapter, if applicable.

As added by P.L.252-2015, SEC.12. Amended by P.L.213-2015, SEC.67.

IC 5-16-13-12

Training provided by contractor; journeyman training; requirement for certain contractors to participate in an apprenticeship or training program

Sec. 12. (a) This section applies after June 30, 2016, only to a contractor that employs ten (10) or more employees.

(b) A contractor must provide access to a training program applicable to the tasks to be performed in the normal course of the employee's employment with the contractor.

(c) A contractor may comply with this section through any of the following:

(1) An apprenticeship program.

(2) A program offered by Ivy Tech Community College of Indiana.

(3) A program offered by Vincennes University.

(4) A program established by or for the contractor.

(5) A program offered by an entity sponsored by the United States Department of Labor, Bureau of Apprenticeship and Training.

(6) A program that results in the award of an industry recognized portable certification.

(7) A program approved by the United States Department of Transportation, Federal Highway Administration.

(8) A program approved by the Indiana department of transportation.

(d) This subsection applies after June 30, 2016, to a tier 1 or tier 2 contractor that employs fifty (50) or more journeymen. The contractor shall participate in an apprenticeship or training program that meets the standards established by or has been approved by any of the following:

(1) The United States Department of Labor, Bureau of Apprenticeship and Training.

(2) The Indiana department of labor.

(3) The United States Department of Transportation, Federal Highway Administration.

(4) The Indiana department of transportation.

As added by P.L.252-2015, SEC.12. Amended by P.L.213-2015,

SEC.68.

IC 5-16-13-13
Records retention and confidentiality

Sec. 13. (a) This section applies to a public works contract awarded after June 30, 2016. The payroll and related records of a contractor in any contractor tier must be:

(1) preserved by the contractor for a period of three (3) years after completion of the project work; and

(2) open to inspection by the department of workforce development.

(b) The department of workforce development shall maintain the confidentiality of all records inspected under this section in accordance with the confidentiality provisions of IC 22-4-19-6.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-14
Investigation of suspected worker misclassification

Sec. 14. (a) This section applies to a public works contract awarded after June 30, 2016.

(b) As used in this section, "department" refers to the department of workforce development established under IC 22-4.1-2-1.

(c) A public agency that is the owner of a public works project and suspects a misclassification of one (1) or more workers by a contractor in any contractor tier working on the public agency's public works project may request in writing that the department investigate the suspected worker misclassification. The public agency shall provide to the department any information or records that the public agency has concerning the misclassification.

(d) The department may investigate a request described in subsection (c). If the department finds information or records that support a finding that worker misclassification has occurred, the department may refer the matter to the appropriate agency or official for further action.

As added by P.L.252-2015, SEC.12.

IC 5-16-13-15
Violations; finding contractor not responsible; use of finding by another public agency

Sec. 15. (a) This section applies to a contractor in any contractor tier of a public works project.

(b) A public agency that reasonably suspects a contractor has violated a provision of this chapter shall do one (1) of the following:

(1) If the suspected violation concerns or is related to any of the following provisions, the public agency shall refer the matter to the appropriate agency as follows:

(A) For a suspected violation of section 11(1) of this chapter (E-Verify), the Indiana department of labor.

(B) For a suspected violation of section 11(3) of this chapter (the federal FLSA or state minimum wage law), the Indiana department of labor.

(C) For a suspected violation of section 11(4) of this chapter (worker's compensation or occupational diseases), the worker's compensation board of Indiana.

(D) For a suspected violation of section 11(5) of this chapter (unemployment insurance), the department of workforce development.

(2) If the suspected violation concerns a provision of this chapter other than a provision listed in subdivision (1), the public agency shall require the contractor to remedy the violation not later than thirty (30) days after the public agency notifies the contractor of the violation. The notification to the contractor must be signed by the chief executive officer of the public agency and sent by a method that enables the public agency to verify receipt of the notice by the contractor. During the thirty (30) day period, the contractor may continue to work on the public works project. If the contractor fails to remedy the violation within the thirty (30) day period, the public agency shall find the contractor not responsible and determine the length of time the contractor is considered not responsible by the public agency.

(c) In making the determination of the length of time a contractor is not responsible under subsection (b)(2), the public agency shall consider the severity of the violation. The period during which a contractor is considered not responsible:

(1) may not exceed forty-eight (48) months; and

(2) begins on the date of substantial completion of the public works project.

(d) A finding by a public agency under subsection (b)(2) that a contractor is not responsible may not be used by another public agency in making a determination as to whether the contractor is responsible for purposes of that public agency's award of a public works contract to that contractor.

As added by P.L.252-2015, SEC.12.

IC 5-16-14

Chapter 14. Determination That a Contractor for a Public Works Project Is Not Responsible

IC 5-16-14-1

Application of chapter; construction with other statutes; inconsistent provisions void

Sec. 1. (a) This chapter applies only to a public works contract awarded after June 30, 2015.

(b) The provisions of an applicable public works statute shall be construed consistently with this chapter, but to the extent an applicable public works statute is inconsistent with this chapter, the provisions of this chapter govern.

(c) A provision of an invitation for bids, request for proposals, or public works contract inconsistent with this chapter is void.

As added by P.L.252-2015, SEC.13.

IC 5-16-14-2

IC 5-16-13 definitions apply

Sec. 2. The definitions in IC 5-16-13 apply throughout this chapter.

As added by P.L.252-2015, SEC.13.

IC 5-16-14-3

Review of determination contractor not responsible

Sec. 3. A determination that a contractor is not responsible is final and conclusive, and subject to judicial review under IC 34-13-5.

As added by P.L.252-2015, SEC.13.

IC 5-17

ARTICLE 17. PUBLIC PURCHASES

IC 5-17-1

Chapter 1. Purchases and Leases of Personal Property by State Agencies

IC 5-17-1-0.3

Legalization of certain actions

Sec. 0.3. Any action taken before February 21, 1986, that would be valid if taken under this chapter, as amended by P.L.53-1986, is legalized and validated.

As added by P.L.220-2011, SEC.99.

IC 5-17-1-1

Compliance with requirements of chapter; limits; exemptions

Sec. 1. (a) This chapter applies to leases of equipment whether or not title passes from the lessor to the lessee. The term "purchaser" as used in this chapter includes persons who make leases for equipment.

(b) Any person, officer, board, commissioner, department, commission, or purchasing agent (designated as purchaser in this chapter) duly authorized and empowered by law or delegated and entrusted with authority to make purchases of material or materials, equipment, goods, and supplies, except current utility bills, or leases of equipment, for any unit of the state shall comply with the requirements of this chapter whenever the total amount of any purchase exceeds ten thousand dollars ($10,000) or total annual rental payment under any lease exceeds five thousand dollars ($5,000).

(c) In all cases of purchase of materials and supplies where the total amount of any such purchase does not exceed the sum of ten thousand dollars ($10,000), and in all cases of the lease of equipment where the annual rental payment does not exceed five thousand dollars ($5,000), the purchaser or lessee may buy or lease in the open market without the giving of notice or the receiving of bids.

(d) All purchases of similar materials, equipment, goods, and supplies by any government unit from a person during a six (6) month period under subsection (c) may not exceed ten thousand dollars ($10,000), and the total annual rental payments to a person under all leases for equipment under subsection (c) may not exceed five thousand dollars ($5,000).

(e) Materials, equipment, goods, and supplies may be purchased, or such equipment may be leased, from the United States government or any agency, division, or instrumentality thereof, without the giving of notice or the receiving of bids.

(Formerly: Acts 1945, c.99, s.1; Acts 1953, c.32, s.1; Acts 1963, c.328, s.1; Acts 1969, c.483, s.1.) As amended by Acts 1977, P.L.61, SEC.1; Acts 1979, P.L.45, SEC.1; Acts 1981, P.L.57, SEC.13;

P.L.53-1986, SEC.1.

IC 5-17-1-2

Advertising for purchase of materials, etc., and lease of equipment; specifications; notice of time and place for receiving bids; procedures; open market; submission of certified check or bond by bidder; rejection

Sec. 2. (a) In all cases of advertising for the purchase of materials, equipment, goods and supplies, and the lease of equipment, the purchaser shall prepare specifications describing with reasonable particularity the kind, quantity and quality of all materials, equipment, goods, and supplies which may be needed for any designated period. It may be provided in such specifications that bids will be received and contracts let, separately, for each line or class of materials, equipment, or supplies, or the specifications may provide that bids will be received and contracts let for the purchase or lease of an unspecified number of items at a fixed price per unit.

(b) Notice of the time and place for receiving of bids for the purchase or lease shall be given in accordance with IC 5-3-1.

(c) If the cost of the materials, equipment, goods, and supplies to be purchased does not exceed ten thousand dollars ($10,000) or the equipment to be leased does not exceed five thousand dollars ($5,000), the purchaser may invite bids from not less than three (3) persons, firms, limited liability companies, or corporations, known to deal in the particular class or classes of materials, equipment, goods, or supplies described in the specifications, by mailing to each person, firm, limited liability company, or corporation a copy of such specifications not less than three (3) days before the time fixed for receiving bids. Said purchaser or purchasers shall, after a satisfactory bid is received, award a contract to the lowest and best bidder for each class of supplies, equipment, goods, or materials required, except that if less than three (3) bids are received, to the best bid so received.

(d) If any purchaser invites or advertises for bids for any material, materials, equipment, goods or supplies, pursuant to the provisions of this chapter, and does not receive a valid bid therefor or for any item thereof, in that event any such item or items of material, materials, equipment, goods or supplies so sought or advertised for may be purchased or equipment may be leased on the open market without further advertisement for bids.

(e) Any bidder may submit with his bid a certified check or the bond of a surety company admitted to do business in this state in the amount determined and specified by the purchasing agent in the notice of the letting.

(f) The purchaser may reject any and all bids and ask for new bids.

(Formerly: Acts 1945, c.99, s.2; Acts 1969, c.483, s.2.) As amended by Acts 1977, P.L.61, SEC.2; Acts 1979, P.L.45, SEC.2; Acts 1981,

P.L.57, SEC.14; P.L.38-1984, SEC.1; P.L.8-1993, SEC.69.

IC 5-17-1-2.5
Road or street work contracts; open price; material price adjustments; limitation

Sec. 2.5. (a) Notwithstanding sections 2 and 3 of this chapter and IC 8-23-9, the Indiana department of transportation may award a public works contract for road or street work subject to the open price provisions of IC 26-1-2-305.

(b) Such a contract may provide that prices for construction materials, including but not limited to liquid asphalts, are subject to price of materials adjustment. When price adjustments are part of the contract, the method of price adjustment shall be specified in the contract.

(c) Nothing in this section authorizes the expenditure of money over and above the total amount of money appropriated by the state for road and street contracts.

As added by Acts 1980, P.L.34, SEC.1. Amended by Acts 1981, P.L.57, SEC.15; P.L.18-1990, SEC.15.

IC 5-17-1-3
Prescribed forms for trust bids, offers, proposals, estimates, or contracts

Sec. 3. (a) A purchaser may not make any purchase or contract for the purchase of any material, equipment, goods, or supplies or the lease of equipment unless the bid, offer, proposal, estimate, or contract of any person, firm, limited liability company, or corporation offering any and all such articles for sale or equipment for lease is executed upon the forms prescribed by the state board of accounts setting forth the quantity, quality, and purchase or lease price of every article and thing proposed for sale or lease.

(b) A bid, offer, proposal, estimate, or contract 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.

(Formerly: Acts 1945, c.99, s.3.) As amended by Acts 1977, P.L.61, SEC.3; P.L.336-1989(ss), SEC.16; P.L.8-1993, SEC.70.

IC 5-17-1-4
Delivery of original purchase order or lease; filing copies

Sec. 4. Within thirty (30) days after the acceptance of any bid, offer, proposal, estimate, or contract for purchase of materials, equipment, goods, and supplies, or lease of equipment, the purchaser or purchasers shall:

(1) deliver in person or mail to the seller or lessor the original of each purchase order or lease;

(2) retain a copy for his own records; and

(3) when any purchase or lease is made for the state or any

agency or instrumentality thereof, file a copy of the purchase order or lease with the disbursing officer for the unit.

(Formerly: Acts 1945, c.99, s.4.) As amended by Acts 1977, P.L.61, SEC.4; Acts 1980, P.L.74, SEC.13; Acts 1981, P.L.57, SEC.16; P.L.53-1986, SEC.2.

IC 5-17-1-5
Repealed

(Formerly: Acts 1945, c.99, s.5. As amended by Acts 1977, P.L.61, SEC.5; Acts 1978, P.L.2, SEC.520. Repealed by P.L.126-2012, SEC.26.)

IC 5-17-1-6
Repealed

(Formerly: Acts 1945, c.99, s.6. As amended by Acts 1977, P.L.61, SEC.7. Repealed by P.L.126-2012, SEC.27.)

IC 5-17-1-7
Liability of purchasers for wrongful performance

Sec. 7. Where in this chapter a duty is imposed upon the purchasers, such duty shall be performed by the person, officer, clerk, or employee whose duty or employment require that they act for any board, commission, department, or unit of government making any such purchase, and any such person, officer, clerk, or employee shall be liable on his bond for any loss or damage resulting from a wrongful performance of such duty or from any violation of any of the provisions of this chapter.

(Formerly: Acts 1945, c.99, s.7.) As amended by P.L.25-1986, SEC.94.

IC 5-17-1-8
Repealed

(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 5-17-1-8.1
Chapter to be supplemental to all laws; limitations

Sec. 8.1. (a) This chapter is supplemental to all laws concerning the purchase of material, equipment, goods, and supplies and the lease of equipment by the state. However, this chapter does not preclude the extension beyond the contractual time period of contracts let pursuant to the provision of this chapter as an alternative to advertising for new bids.

(b) This chapter does not apply to:

(1) purchases or leases made by the Indiana department of transportation;

(2) purchases made under IC 5-22;

(3) state educational institutions;

(4) the legislative department of state government; or

(5) the judicial department of state government;
except that copies of purchase orders or leases shall be kept on file and be open to public inspection.
As added by Acts 1981, P.L.57, SEC.17. Amended by P.L.53-1986, SEC.3; P.L.18-1990, SEC.16; P.L.49-1997, SEC.31; P.L.2-2007, SEC.105.

IC 5-17-1-9
Repealed
(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 5-17-1-10
Procurement preferences
Sec. 10. A purchase under this chapter is subject to procurement preferences provided under IC 5-22-15.
As added by P.L.19-1990, SEC.4. Amended by P.L.49-1997, SEC.32.

IC 5-17-1-11
Payment of gross retail tax condition of doing business
Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of personal property made after June 30, 2003, by an agency (as defined in IC 4-13-2-1) or a state educational institution to the same extent as if the lease or purchase were subject to IC 5-22.
As added by P.L.254-2003, SEC.2. Amended by P.L.2-2007, SEC.106.

IC 5-17-2
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 5-17-3
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 5-17-4
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 5-17-5

Chapter 5. Prompt Payment

IC 5-17-5-1

Penalty for late payments of amounts due on public contracts

Sec. 1. (a) Except as provided in section 2 of this chapter, every state agency and political subdivision shall pay a late payment penalty at a rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel whenever the state agency or political subdivision fails to make timely payment.

(b) Except as provided in subsection (c), for the purposes of this section, payment is timely if:

(1) a check or warrant is mailed or delivered on the date specified for the amount specified in the applicable contract documents, or, if no date is specified, within thirty-five (35) days of:

(A) receipt of goods and services; or

(B) receipt of a properly completed claim.

(2) for any amount required to be withheld under state or federal law, a check or warrant is mailed or delivered in the proper amount on the date the amount may be released under the applicable law.

(c) For the purposes of this section, payment by a political subdivision is timely if:

(1) a date for payment is not specified in an applicable contract;

(2) a claim:

(A) for payment for goods or services; and

(B) that must be approved by a local legislative body or board;

is submitted to the body or board; and

(3) the political subdivision pays the claim within thirty-five (35) days following the first regularly scheduled meeting of the body or board that is held at least ten (10) days after the body or board receives the claim.

As added by P.L.59-1983, SEC.1. Amended by P.L.52-1988, SEC.1; P.L.44-1996, SEC.1; P.L.260-1997(ss), SEC.47.

IC 5-17-5-2

Exemption; "good faith dispute" defined

Sec. 2. (a) Section 1 of this chapter does not apply to the following:

(1) Interagency or intergovernmental transactions.

(2) Amounts payable to employees or prospective employees of state agencies or political subdivisions as reimbursement for expenses.

(3) Claims subject to a good faith dispute, if before the date of timely payment notice of the dispute is:

(A) sent by certified mail;
(B) personally delivered; or
(C) sent in accordance with the procedure in the contract.
(4) Contracts entered into before September 1, 1983.
(5) Contracts related to highway or road construction, reconstruction, or maintenance, if:
(A) the Indiana department of transportation authorizes partial progress payments under IC 8-23-9-14; and
(B) each progress payment does not exceed five hundred dollars ($500).
(6) Claims, contracts, or projects that are to be paid for exclusively with federal funds.
(b) As used in subsection (a)(3), "good faith dispute" means:
(1) a contention by the state or political subdivision that goods delivered or services rendered were:
(A) of less quantity or quality than ordered or specified by contract;
(B) faulty; or
(C) installed improperly; or
(2) any other reason giving cause for the withholding of payment by the state or political subdivision until such dispute is settled.
As added by P.L.59-1983, SEC.1. Amended by P.L.52-1988, SEC.2; P.L.18-1990, SEC.17.

IC 5-17-5-3
Funds for late payment penalties; accrual of late payment penalty; defective claims

Sec. 3. (a) The auditor of state shall pay a late payment penalty on behalf of any state agency required to pay late payment penalties under this chapter. The auditor of state shall pay the penalties from funds designated for administrative costs of the agency receiving the public works, personal services, goods and services, equipment, or travel. The penalties may not be paid from other funds of the state.

(b) Any late payment penalty that remains unpaid at the end of any thirty (30) day period shall be added to the principal amount of the debt and, thereafter, penalties shall accrue on that amount.

(c) In instances where a claim is filled out incorrectly, or where there is any defect or impropriety in a claim submitted, the auditor of state, any division of the Indiana department of administration that accepts claims for payment, or a political subdivision, as appropriate, shall contact the vendor within ten (10) days. An error on the vendor's claim, if corrected within five (5) business days of being so contacted, may not result in the vendor being paid late.
As added by P.L.59-1983, SEC.1. Amended by P.L.44-1996, SEC.2.

IC 5-17-5-4
Late payment penalties to subcontractors; accrual of interest

Sec. 4. (a) This section applies to contractors receiving late payment penalties under section 1 of this chapter.

(b) A contractor who is unable to make timely payments to a subcontractor because of a state agency or political subdivision's failure to make timely payments to the contractor shall pay interest to the subcontractor at the rate of one percent (1%) per month on the amount due the subcontractor after the contractor receives payment and any penalty paid under this chapter.

(c) Any interest that remains unpaid to the subcontractor at the end of any thirty (30) day period shall be added to the principal amount of the debt. After that time, interest accrues on the aggregate of the principal and unpaid interest.

As added by P.L.52-1988, SEC.3. Amended by P.L.44-1996, SEC.3.

IC 5-17-5-5

List of agencies paying late payment penalties

Sec. 5. (a) The auditor of state shall prepare a list that:

(1) identifies each state agency that has paid, or on whose behalf the auditor of state has paid, a late payment penalty under this chapter; and

(2) states the sum paid by the agency or by the auditor of state on behalf of the agency during the preceding year.

(b) The auditor of state shall submit the list prepared under subsection (a) to:

(1) the governor; and

(2) the budget agency;

before August 1 of each year.

As added by P.L.52-1988, SEC.4. Amended by P.L.44-1996, SEC.4.

IC 5-17-6
Repealed

(Repealed by P.L.49-1997, SEC.86.)

IC 5-18

ARTICLE 18. REPEALED

(Repealed by P.L.7-1993, SEC.15.)

IC 5-19

ARTICLE 19. FEDERAL AID

IC 5-19-1

Chapter 1. Cooperation With Federal Government to Receive Benefits

IC 5-19-1-1

Cooperation with federal government

Sec. 1. The state, or any political subdivision thereof, are each hereby authorized and empowered to the full extent authorized by the Constitution of Indiana and not prohibited by law, to accept the provisions of any law of the Congress of the United States of America, or any rule, regulation, order or finding made pursuant thereto, now or hereafter in force, which, upon acceptance, authorizes the state, or any political subdivision thereof, to cooperate with the federal government, or to receive benefits for itself or any of its citizens; and the state, or any political subdivision thereof, is hereby authorized and empowered to do any and all acts, and to make any rule, regulation, order, or finding, that may be necessary to cooperate with the federal government or to effectuate the purposes of any such federal law.

(Formerly: Acts 1947, c.178, s.1.)

IC 5-19-1-2

Acceptance by state

Sec. 2. The acceptance by the state shall be made by the officer, board, bureau, commission, department, or division having authority by law to do the acts to effectuate the purposes of any such federal law, by, and with the consent of the governor.

If there is no officer, board, bureau, commission, department or division having authority by law to do the acts to cooperate with the federal government or to effectuate the purposes of such federal law, and it is a matter which the state has power or authority to do, then the governor may designate or appoint an officer or agency to administer, cooperate with, and effectuate the purposes of such federal law, and such officers or agency so designated or appointed with the approval of the governor shall administer the same.

(Formerly: Acts 1947, c.178, s.2.)

IC 5-19-1-3

Acceptance by political subdivisions

Sec. 3. The acceptance by any political subdivision shall be made by the governing authority of such political subdivision by and with the consent of the appropriating authority of such political subdivision, if expenditures of any public funds of such political subdivision be required. No fund of any said political subdivision shall be expended without due appropriation as provided by law, but

said political subdivision may make regular appropriations for the purposes authorized by this chapter or may make them as emergency appropriations are made.
(Formerly: Acts 1947, c.178, s.3.) As amended by P.L.25-1986, SEC.101.

IC 5-19-1-3.5
Federal funds; appropriation

Sec. 3.5. If any federal funds be received by the state pursuant to the provisions of any such federal law, the same are hereby appropriated for the uses and purposes provided by said federal law, if such appropriation be required.
(Formerly: Acts 1972, P.L.8, SEC.1.)

IC 5-19-1-4
Definitions

Sec. 4. The following words and phrases, as used in this chapter, shall, for the purposes of this chapter, unless a different meaning appears from the context, have the following meanings:

(a) The singular shall include the plural and the plural shall include the singular as requisite.

(b) The term "state" shall mean and include the state of Indiana, the governor of the state of Indiana, any agency of the state of Indiana designated by the governor to receive federal aid, and any officer, board, bureau, commission, division, or department. The term "governor" shall mean the governor of the state of Indiana.

(c) The term "political subdivision" shall mean and include any county of Indiana, any civil township of Indiana, any civil incorporated city or town of Indiana, any school corporation of any township, city, or town of Indiana, or any other territorial subdivision of the state recognized or designated in any law, any public utility entity not privately owned, any public sewage disposal entity, any public flood control or levee district or entity, any public drainage district or entity, any public sanitary district or entity, and any public improvement district authority or entity authorized to levy taxes or assessments.
(Formerly: Acts 1947, c.178, s.5.) As amended by P.L.25-1986, SEC.102.

IC 5-19-1.5

Chapter 1.5. Grant Anticipation Notes

IC 5-19-1.5-1

Definitions

Sec. 1. As used in this chapter:

(a) The term "borrower" means any county, any incorporated city or town, any special taxing district, any regional sewer or water district, all other political units now existing or hereafter created, and any not-for-profit corporation eligible for federal or state grants.

(b) The term "governing body" means the legislative body of the borrower.

(c) The term "grant" means any moneys to be received from the United States government or any of its agencies, or the state of Indiana, or any of its agencies, intended to be used for the construction of facilities for any waterworks systems or facilities for sewage works system, or the construction or improvement of any other public works which the borrower may lawfully undertake as to which a grant has been made by the granting agency.

(d) The term "person" means any person, firm, corporation, limited liability company, governmental agency, or lending institution.

(e) The term "project" means the facilities, public works or undertaking for which the grant is made applicable.

As added by Acts 1981, P.L.61, SEC.1. Amended by P.L.8-1993, SEC.71.

IC 5-19-1.5-2

Authorization; terms

Sec. 2. Any borrower to which a grant has been allocated, pending the receipt thereof, but within the limitation set forth in this chapter, may borrow from any person and evidence the debt so incurred by a note, or a series of notes of equal or unequal amounts, executed by at least two (2) officers or one (1) officer and one (1) employee as authorized by the governing body of the borrower and containing such terms and provisions as may be prescribed by the governing body of the borrower. Any note shall mature not more than three (3) years from the date of issuance and may pledge for the payment of the principal and interest therefor, the proceeds of the grant and any revenue which may be derived from the facility being constructed or improved by the proceeds of the note or notes. However, no amounts may be borrowed in anticipation of a grant until a written contract is received from the grantor indicating that the grant is forthcoming.

As added by Acts 1981, P.L.61, SEC.1.

IC 5-19-1.5-3

Maximum amounts; prepayment upon receipt of grants

Sec. 3. The maximum amount of any loan made pursuant to this

chapter shall not exceed eighty percent (80%) of the estimated amount of the grant in anticipation of which the loan is made. Further, the borrower shall make prepayments on the outstanding balance of its note, or retire one (1) or more of its series of outstanding notes, promptly upon partial receipt of grant funds so that the outstanding amount of any loan made pursuant to the provisions of this chapter shall not exceed the balance of the grant funds yet to be received.
As added by Acts 1981, P.L.61, SEC.1.

IC 5-19-1.5-4
Sale
Sec. 4. The governing body may arrange the issuance and sale of grant anticipation notes either at a public or a private negotiated sale.
As added by Acts 1981, P.L.61, SEC.1.

IC 5-19-1.5-5
Application of proceeds
Sec. 5. It shall be the duty of the governing body to apply the proceeds of any obligations issued pursuant to this chapter to those items of cost for which the grant has been allocated by the granting agencies, or as to revenue sharing funds, by the governing body. The purchaser of any obligations shall not be liable for the proper application of the proceeds, or to insure that the maximum amount of the loan stays within the maximum limits as grant funds are from time to time received by the borrower.
As added by Acts 1981, P.L.61, SEC.1.

IC 5-19-1.5-6
Tax exemption
Sec. 6. All obligations issued pursuant to this chapter and all interest to accrue thereon shall have the tax exempt status prescribed by IC 6-8-5.
As added by Acts 1981, P.L.61, SEC.1.

IC 5-19-1.5-7
Indiana economic development corporation; authorization to make grant anticipation loans
Sec. 7. Notwithstanding anything to the contrary in IC 5-28-8, the Indiana economic development corporation may make grant anticipation loans as authorized by this chapter from the fund established by IC 5-28-8-5.
As added by Acts 1981, P.L.61, SEC.1. Amended by P.L.4-2005, SEC.30.

IC 5-19-1.5-8
Advertisements for bids; inclusion of notice of financing under chapter

Sec. 8. A borrower may not finance a project with loans authorized by this chapter unless that fact is included in all advertisements for bids for construction work on that project.
As added by Acts 1981, P.L.61, SEC.1.

IC 5-20

ARTICLE 20. HOUSING

IC 5-20-1

Chapter 1. Indiana Housing and Community Development Authority

IC 5-20-1-1

Legislative findings and declaration of public policy

Sec. 1. Legislative Findings and Declaration of Public Policy. It is hereby declared:

(1) that there exists in the state of Indiana a need for safe and sanitary residential housing within the financial means of low and moderate income persons and families, a need which unmet is a threat to the health, safety, morals and welfare of Indiana residents and which will require an excessive expenditure of public funds for the social problems thus created;

(2) that private enterprise and investment will more adequately be able to produce the needed construction of decent, safe and sanitary residential housing at prices or rentals which persons and families of low and moderate income can afford, or to achieve the urgently needed rehabilitation of much of the present low and moderate income housing; that it is imperative that the supply of residential housing for persons and families of low and moderate income displaced by public actions or natural disaster be increased; and that private enterprise and investment be encouraged to sponsor, build and rehabilitate residential housing for such persons and families;

(3) that the provision of decent, safe and sanitary housing for persons and families of low and moderate income who would otherwise be unable to obtain adequate housing at costs they could afford is a valid public purpose for which public money may be spent;

(4) that there exists a need in Indiana to stimulate the residential housing industry; that public employees have unmet needs with regard to residential housing; that state retirement plans need additional, safe avenues for investment; and that the provision of money for mortgage loans through the issuance of mortgage-backed bonds or notes will in part meet these needs; and

(5) that the necessity in the public interest and welfare for the provisions of this chapter is hereby declared a matter of legislative determination.

As added by Acts 1978, P.L.28, SEC.1. Amended by Acts 1982, P.L.35, SEC.2.

IC 5-20-1-2

Definitions

Sec. 2. As used in this chapter:

"Assisted" means, with respect to a loan:

(1) the payment by the United States or any duly authorized agency of the United States of assistance payments, interest payments, or mortgage reduction payments with respect to such loan; or

(2) the provision of insurance, guaranty, security, collateral, subsidies, or other forms of assistance or aid acceptable to the authority for the making, holding, or selling of a loan from the United States, any duly authorized agency of the United States, or any entity or corporation acceptable to the authority, other than the sponsor.

"Authority" means the Indiana housing and community development authority created by section 3 of this chapter.

"Bonds" or "notes" means the bonds or notes authorized to be issued by the authority under this chapter.

"Community based residential programs" refers to programs developed by the division of mental health and addiction under IC 12-22-2-3.5.

"Development costs" means the costs approved by the authority as appropriate expenditures and credits which may be incurred by sponsors, builders, and developers of residential housing prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage, including but not limited to:

(1) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the authority, payments for the purchase of such properties;

(2) legal, organizational, and marketing expenses, including payments of attorney's fees, project manager, clerical, and other incidental expenses;

(3) payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

(4) expenses for surveys as to need and market analyses;

(5) necessary application and other fees;

(6) credits allowed by the authority to recognize the value of service provided at no cost by the sponsors, builders, or developers; and

(7) such other expenses as the authority deems appropriate for the purposes of this chapter.

"Governmental agency" means any department, division, public agency, political subdivision, or other public instrumentality of the state of Indiana, the federal government, any other state or public agency, or any two (2) or more thereof.

"Construction loan" means a loan to provide interim financing for the acquisition or construction of single family residential housing, including land development.

"Mortgage" or "mortgage loan" means a loan to provide

permanent financing for:

(1) the rehabilitation, acquisition, or construction of single family residential housing, including land development; or

(2) the weatherization of single family residences.

"Mortgage lender" means a bank, trust company, savings bank, savings association, credit union, national banking association, federal savings association or federal credit union maintaining an office in this state, a public utility (as defined in IC 8-1-2-1), a gas utility system organized under IC 8-1-11.1, an insurance company authorized to do business in this state, or any mortgage banking firm or mortgagee authorized to do business in this state and approved by either the authority or the Department of Housing and Urban Development.

"Land development" means the process of acquiring land primarily for residential housing construction for persons and families of low and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the authority deems necessary or desirable to prepare such land primarily for residential housing construction.

"Obligations" means any bonds or notes authorized to be issued by the authority under this chapter.

"Persons and families of low and moderate income" means persons and families of insufficient personal or family income to afford adequate housing as determined by the standards established by the authority, and in determining such standards the authority shall take into account the following:

(1) The amount of total income of such persons and families available for housing needs.

(2) The size of the family.

(3) The cost and condition of housing facilities available in the different geographic areas of the state.

(4) The ability of such persons and families to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

The standards shall, however, comply with the applicable limitations of section 4(b) of this chapter.

"Residential facility for children" means a facility:

(1) that provides residential services to individuals who are:

(A) under twenty-one (21) years of age; and

(B) adjudicated to be children in need of services under IC 31-34 (or IC 31-6-4 before its repeal) or delinquent children under IC 31-37 (or IC 31-6-4 before its repeal); and

(2) that is:

(A) a child caring institution that is or will be licensed under IC 31-27;

(B) a residential facility that is or will be licensed under IC 12-28-5; or

(C) a facility that is or will be certified by the division of mental health and addiction under IC 12-23.

"Residential facility for persons with a developmental disability" means a facility that is approved for use in a community residential program for the developmentally disabled under IC 12-11-1.1.

"Residential housing" means a specific work or improvement undertaken primarily to provide single or multiple family housing for rental or sale to persons and families of low and moderate income, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements to the housing, and such other nonhousing facilities as may be incidental or appurtenant to the housing.

"Sponsors", "builders", or "developers" means corporations, associations, partnerships, limited liability companies, or other entities and consumer housing cooperatives organized pursuant to law for the primary purpose of providing housing to low and moderate income persons and families.

"State" means the state of Indiana.

"Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(1) Counseling on household management, housekeeping, budgeting, and money management.

(2) Child care and similar matters.

(3) Access to available community services related to job training and placement, education, health, welfare, and other community services.

(4) Guard and other matters related to the physical security of the housing residents.

(5) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management, and maintenance.

(6) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations.

(7) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs.

(8) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices either in general or in relation to an individual or family.

As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.60-1983, SEC.1; P.L.39-1984, SEC.1; P.L.40-1984, SEC.1; P.L.28-1985, SEC.3; P.L.2-1992, SEC.54; P.L.81-1992, SEC.3; P.L.1-1993, SEC.26; P.L.8-1993, SEC.72; P.L.61-1993, SEC.1; P.L.62-1993,

SEC.1; P.L.1-1994, SEC.22; P.L.1-1997, SEC.36; P.L.79-1998, SEC.10; P.L.272-1999, SEC.4; P.L.215-2001, SEC.8; P.L.1-2006, SEC.105; P.L.145-2006, SEC.11; P.L.181-2006, SEC.17; P.L.99-2007, SEC.19; P.L.143-2011, SEC.1.

IC 5-20-1-3

Authority creation; membership; terms; expenses; references to Indiana housing finance authority

Sec. 3. (a) There is created a public body corporate and politic of the state of Indiana to be known as the "Indiana housing and community development authority". The authority shall consist of the following seven (7) members:

(1) The lieutenant governor or the lieutenant governor's designee.

(2) The treasurer of state, or the treasurer of state's designee.

(3) The public finance director of the Indiana finance authority, or the public finance director's designee.

(4) Four (4) members appointed by the governor.

Not more than three (3) of the members of the authority appointed under subdivision (4) shall be members of the same political party. Members of the authority appointed by the governor shall serve for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. However, any appointed member of the authority shall be removable at the pleasure of the governor, with or without cause. A member of the authority shall receive no compensation for the member's services but shall be entitled to reimbursement for the necessary expenses, including traveling expenses, incurred in the discharge of the member's duties. Each member shall hold office until the member's successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointments of the member.

(b) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or outside the state.

(c) The governor shall appoint a chairman and vice-chairman from the members of the authority. The governor shall appoint an executive director for the authority, who shall serve at the pleasure of the governor and receive compensation as fixed by the authority. The authority shall employ legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and

compensation. The authority may also engage independent legal counsel to assist it. The authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

(d) The authority may also contract with any entity, including the Indiana finance authority, to provide staff or services, including the functions of the executive director and employees of the authority, under such terms as the authority determines.

(e) After May 14, 2005, a reference to the Indiana housing finance authority in a statute, rule, or other document is considered a reference to the authority as the successor agency.

As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.235-2005, SEC.86; P.L.20-2010, SEC.5.

IC 5-20-1-3.5

Surety bonds

Sec. 3.5. Before the issuance of any bonds under this chapter:

(1) the executive director of the authority;

(2) each member of the authority; and

(3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

As added by P.L.235-2005, SEC.87.

IC 5-20-1-4

Powers of the authority

Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans for multiple family residential housing under terms that are approved by the authority;

(2) to make or participate in the making of mortgage loans for multiple family residential housing under terms that are approved by the authority;

(3) to purchase or participate in the purchase from mortgage

lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the

obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;
(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;
(15) to encourage community organizations to participate in residential housing development;
(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;
(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
(18) to sue and be sued in its own name, plead and be impleaded;
(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;
(20) to adopt an official seal and alter the same at pleasure;
(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;
(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;
(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:
(A) the authority's money, funds, and accounts;
(B) any money, funds, and accounts in the authority's custody; and
(C) proceeds of bonds or notes;
in the manner provided by an investment policy established by resolution of the authority;
(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited

liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals and families, including individuals or families facing or experiencing homelessness;

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to prescribe, in accordance with IC 32-30-10.5-10(i), a list of documents that must be included under IC 32-30-10.5 as part of a debtor's loss mitigation package in a foreclosure action filed after June 30, 2011;

(34) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(35) to administer any program or money designated by the

state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall ensure that a mortgage loan acquired by the authority under subsection (a)(3) or made by a mortgage lender with funds provided by the authority under subsection (a)(4) is not knowingly made to a person whose adjusted family income, as determined by the authority, exceeds one hundred twenty-five percent (125%) of the median income for the geographic area involved. However, if the authority determines that additional encouragement is needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any program conducted under subsection (a)(3) or (a)(4), the authority shall consider:

(1) the appropriate geographic area in which to measure income levels; and

(2) the appropriate method of calculating low income, moderate income, or median income levels including:

(A) sources of;

(B) exclusions from; and

(C) adjustments to;

income.

(c) The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

(d) The authority shall identify, promote, assist, and fund:

(1) home ownership education programs; and

(2) mortgage foreclosure counseling and education programs under IC 5-20-6;

conducted throughout Indiana by nonprofit counseling agencies that the authority has certified, or by any other public, private, or nonprofit entity in partnership with a nonprofit agency that the authority has certified, using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

(e) The authority shall:

(1) oversee and encourage a regional homeless delivery system that:

(A) considers the need for housing and support services;

(B) implements strategies to respond to gaps in the delivery system; and

(C) ensures individuals and families are matched with optimal housing solutions;

(2) facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and

(3) each year, estimate and reasonably determine the number of the following:

(A) Individuals in Indiana who are homeless.

(B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.

(C) Individuals in Indiana who are homeless and not residents of Indiana.

As added by Acts 1978, P.L.28, SEC.1. Amended by Acts 1982, P.L.35, SEC.3; P.L.60-1983, SEC.2; P.L.39-1984, SEC.2; P.L.3-1989, SEC.30; P.L.69-1989, SEC.2; P.L.14-1991, SEC.3; P.L.2-1992, SEC.55; P.L.8-1993, SEC.73; P.L.27-1993, SEC.16; P.L.1-1994, SEC.23; P.L.235-2005, SEC.88; P.L.145-2006, SEC.12; P.L.181-2006, SEC.18; P.L.99-2007, SEC.20; P.L.133-2008, SEC.1; P.L.145-2008, SEC.3; P.L.1-2009, SEC.23; P.L.105-2009, SEC.1; P.L.170-2011, SEC.2; P.L.6-2012, SEC.36.

IC 5-20-1-4.1
Repealed

(As added by P.L.5-1996, SEC.7. Repealed by P.L.177-2011, SEC.5.)

IC 5-20-1-4.5
Housing for special needs populations; allocation of federal low income housing credits

Sec. 4.5. (a) As used in this section, "special needs populations" includes the following:

(1) Persons with physical or developmental disabilities.

(2) Persons with mental impairments.

(3) Single parent households.

(4) Victims of domestic violence.

(5) Abused children.

(6) Persons with chemical addictions.

(7) Homeless persons.

(8) The elderly.

(b) As used in this section, "qualified building" means a building:

(1) that is used or will be used to provide residential housing for

special needs populations; and

(2) for which a taxpayer is eligible to claim a low income housing credit under 26 U.S.C. 42.

(c) Subject to subsection (d), the authority shall allocate to qualified buildings at least ten percent (10%) of the total dollar amount of federal low income housing credits allocated to the authority under 26 U.S.C. 42. The authority shall allocate credits under this section based on the proportionate amount of a qualified building that is used to provide residential housing for special needs populations, as determined by the authority.

(d) The authority shall hold available the allocation made under subsection (c) for qualified buildings through October 31 of each calendar year. Beginning November 1 of each calendar year, any part of the allocation that remains unassigned shall be available for any appropriate use under 26 U.S.C. 42.

As added by P.L.74-1989, SEC.1. Amended by P.L.2-1993, SEC.52; P.L.23-1993, SEC.17; P.L.272-1999, SEC.5; P.L.145-2008, SEC.4.

IC 5-20-1-5
Repealed

(As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.39-1984, SEC.3. Repealed by P.L.145-2008, SEC.34.)

IC 5-20-1-6
Repealed

(As added by Acts 1978, P.L.28, SEC.1. Repealed by P.L.145-2008, SEC.34.)

IC 5-20-1-7
State not liable for obligations of the Indiana housing and community development authority

Sec. 7. (a) Obligations issued under the provisions of this chapter do not constitute a debt, liability, or obligation of the state of Indiana or a pledge of the faith and credit of the state of Indiana, but shall be payable solely from the revenues or assets of the authority. Under any circumstances, general fund revenues of the state of Indiana may not be used to pay all or part of the obligations of the authority, and there is no moral obligation of the state of Indiana to pay all or part of the obligations of the authority. Each obligation issued under this chapter shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the state of Indiana is pledged to the payment of the principal of or the interest on such obligation.

(b) Expenses incurred by the authority in carrying out the provisions of this chapter may be made payable from funds provided pursuant to this chapter, and no liability shall be incurred by the

authority under this chapter beyond the extent to which moneys shall have been so provided.

As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.1-2006, SEC.106 and P.L.181-2006, SEC.19.

IC 5-20-1-8

Authorization to use revenue bond financing; approval of public finance director required

Sec. 8. (a) Subject to the approval of the public finance director appointed under IC 4-4-11-9, the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may 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 determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority

and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions and subject to the approval of the public finance director appointed under IC 4-4-11-9, 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 or notes which shall become mutilated or shall be destroyed or lost.

(d) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.

As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.235-2005, SEC.89; P.L.145-2008, SEC.5.

IC 5-20-1-9

Trust agreements to secure authority obligations

Sec. 9. Trust Agreement to Secure Authority Obligations. In the discretion of the authority, any obligations 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 outside the state of Indiana. Such trust agreement or the resolution providing for the issuance of such obligations, whether or not secured, may pledge or assign all or any part of the revenues or assets of the authority, including, without limitation, mortgage loans, mortgage loan commitments, construction loans, loans to lenders, contracts, agreements and other security or investment obligations, the fees or charges made or received by the authority, the moneys received in payment of loans and interest thereon, and any other moneys received or to be received by the authority. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such obligations as may be reasonable and proper and not in violation of law, including convenants setting forth the duties of the authority in relation to the purposes to which obligation proceeds may be applied, the disposition or pledging of the revenues or assets of the authority, the terms and conditions for the issuance of additional obligations, and the custody, safeguarding and application of all moneys. 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 obligations, revenues, or other money to furnish such indemnifying bonds or to pledge such securities as may be required by the

authority. Any such trust agreement or resolution may set forth the rights and remedies of the holders of any obligations and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the holders of any obligations. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on obligations, or from any other funds available to the authority.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-10
Pledge of authority assets to obligations of the authority

Sec. 10. Pledge of Authority Assets to Obligations of the Authority. The pledge of any assets or revenues of the authority to the payment of the principal of, premium, if any, and interest on any obligations of the authority shall be valid and binding from the time when the pledge is made, and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-11
Receipts as trust funds; investment

Sec. 11. All Moneys Received Are Trust Funds and May Be Temporarily Invested. Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this chapter are trust funds to be held and applied solely as provided in this chapter. The resolution authorizing any obligations, or the trust agreement securing the same, may provide that any of such moneys may be temporarily invested pending the disbursement thereof, and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall 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.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-12
Enforcement of authority duties; rights of holders of authority obligations

Sec. 12. Holders of Authority Obligations Granted Legal Rights to Enforce Duties of the Authority. Any holder of obligations issued

under the provisions of this chapter or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, except to the extent the rights given in this chapter may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state, or granted in this chapter, or under such trust agreement or resolution, or under any other contract executed by the authority pursuant to this chapter, 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 authority or by any officer thereof.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-13
Declaration of negotiability of authority obligations

Sec. 13. Declaration of Negotiability of Obligations of the Authority. Notwithstanding any of the provisions of this chapter or any recitals in any obligations issued by the authority under the provisions of this chapter, all such obligations and interest coupons appertaining thereto are negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-14
Authority obligations as authorized investments

Sec. 14. Obligations of Authority Are Authorized Investments. Obligations issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the state of Indiana and its political subdivisions, all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are securities which may properly and legally be 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, notes or obligations of the state is authorized by law.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-15
Authorization for issuance of refunding obligations

Sec. 15. Authorization for Issuance of Refunding Obligations. (a) The authority is authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations 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 obligations, and for any corporate purpose of the authority. The issuance of such obligations, 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 which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations (together with any other available funds) to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, or if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds shall be invested in: (1) direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America and agencies of the United States of America; or (2) general obligations of the state, which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-16

Capital reserve fund

Sec. 16. Capital Reserve Fund. (a) The authority may create and establish one (1) or more special funds, herein referred to as capital reserve funds, to secure the notes and bonds. The authority shall pay into each such capital reserve fund: (1) any moneys appropriated and made available by the state for the purposes of such fund; (2) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof; and (3) any other moneys which may be made available to the authority for the purpose of such fund from any other source or sources.

(b) All moneys held in any capital reserve fund, except as otherwise specifically provided, shall be used, as required, solely: (1) for the payment of the principal of bonds of the authority secured in whole or in part by such fund; (2) for payment of the sinking fund payments mentioned in this section with respect to such bonds; (3) for the purchase or redemption of such bonds; (4) for the payment of interest on such bonds; or (5) for the payment of any redemption premium required to be paid when such bonds are redeemed prior to

maturity. However, if moneys in such fund at any time are less than the capital reserve fund requirement established for such fund as provided in this section, the authority shall not use such moneys for any optional purchase or optional redemption of such bonds. Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the authority to other funds or accounts of the authority to the extent such transfer does not reduce the amount of such capital reserve fund below the capital reserve fund requirement for such fund.

(c) The authority shall not at any time issue bonds secured in whole or in part by a capital reserve fund, if, upon the issuance of such bonds, the amount in such capital reserve fund will be less than the capital reserve fund requirement of such fund, unless the authority, at the time of issuance of such bonds, deposits in such fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the capital reserve fund requirement for such fund. For purposes of this section, "capital reserve fund requirement" means, as of any particular date of computation, an amount of money, as provided in the resolutions of the authority authorizing the bonds with respect to which such fund is established, which amount shall not exceed the average of the annual debt service on the bonds of the authority for that calendar year and succeeding calendar years secured in whole or in part by such fund. The annual debt service for any calendar year is the amount of money equal to the aggregate of (1) all interest payable during such calendar year on all bonds secured in whole or in part by such fund outstanding on the date of computation, plus (2) the principal amount of all such bonds outstanding on said date of computation which mature during such calendar year, plus (3) all amounts specified as payable during such calendar year as a sinking fund payment with respect to any of such bonds which mature after such calendar year. This calculation shall embody the assumption that such bonds will, after such date of computation, cease to be outstanding by reason, but only by reason, of (1) the payment of bonds when due, and (2) the payment when due of all such sinking fund payments payable at or after such date of computation. However, in computing the annual debt service for any calendar year, bonds deemed to have been paid in accordance with the defeasance provisions of the resolution of the authority authorizing the issuance thereof shall not be included in bonds outstanding on such date of computation.

(d) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this chapter, the authority shall accumulate in each capital reserve fund an amount equal to the capital reserve fund requirement for such fund.

(e) In computing the amount of any capital reserve fund for the purposes of this section, securities in which all or a portion of such capital reserve fund is invested shall be valued at par, or if purchased

at less than par, at their cost to the authority.

(f) Notwithstanding subsections (a) through (e), the authority, subject to such agreements with noteholders or bondholders as may then exist, may elect not to secure any particular issue of its bonds with a capital reserve fund. Such election shall be made in the resolution authorizing such issue. In this event, subsections (b) and (c) shall not apply to the bonds of such issue in that they shall not be entitled to payment out of, or be eligible for purchase by, any such fund, nor shall they be taken into account in computing or applying any capital reserve fund requirement.

As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.42-2011, SEC.4.

IC 5-20-1-17

State power to alter authority; pledge against impairment of authority contracts

Sec. 17. State Power to Alter Authority; Pledge Against Impairment of Authority Contracts. The state may at any time, or from time to time, alter or change the structure, organization programs, activities or powers of the authority and may, at its sole discretion, terminate the existence of the authority. However, the state pledges and agrees with the holders of any obligations issued pursuant to this chapter that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the right and remedy of the holders until the notes or bonds, together with the interest thereon, 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 such holders are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-18

Annual report; annual audit

Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the public finance director appointed under IC 4-4-11-9, 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. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.28-2004, SEC.60; P.L.235-2005, SEC.90; P.L.145-2008, SEC.6.

IC 5-20-1-19
Limitation of liability; authority members or officers

Sec. 19. Limitation of Liability for Authority Members or Officers. No member or other officer of the authority shall be subject to any personal liability or accountability by reason of his execution of any obligations or the issuance thereof.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-20
Authority to accept and expend funds

Sec. 20. Authority to Accept and Expend Funds. The authority is authorized to accept and expend such moneys as may be received from any source, including income from the authority's operations, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation, and the establishment of a reserve or contingency fund to be available for the payment of the principal of and the interest on any bonds or notes of the authority.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-21
Tax exempt status

Sec. 21. Tax Exempt Status. The authority shall not be required to pay any taxes and assessments to the state, or any county, municipality or other governmental subdivision of the state, upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this chapter, or upon any moneys, funds, revenues or other income held or received by the authority, and the notes and bonds of the authority and the income therefrom shall at all times be exempt from taxation imposed by the state, except for death and gift taxes and taxes on transfers. Real property owned by the authority shall be exempt from all property taxation and special assessments of the state or political subdivisions thereof, but the authority may agree to pay, in lieu of such taxes, such amounts as the authority finds consistent with the cost to the state or political subdivision of supplying municipal services for such real property and any housing development constructed thereon, which payments such bodies are authorized to accept.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-22
Disclosure of conflicts of interest

Sec. 22. Disclosure of Conflicts of Interest. If any member, officer or employee of the authority shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership

interest in any firm or corporation interested directly or indirectly in any contract with the authority, including the making of any loan to any sponsor, builder or developer, such interest shall be disclosed to the authority and it shall be set forth in the minutes of the authority. The member, officer or employee having such interest shall not participate on behalf of the authority in the authorization of any such contract with the authority.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-23
Authority assets; disposition upon termination or dissolution

Sec. 23. Authority Assets; Disposition upon Termination or Dissolution. The authority shall fund its operating costs from the net revenues derived from the operation of the programs under section 4 of this chapter. No part of the revenues or assets of the authority shall inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter shall inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority shall pass to and be vested in the state, subject to the rights of lienholders and other creditors.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-24
Chapter as supplemental to other laws

Sec. 24. Provisions of this Chapter Deemed to Be Supplemental Powers to Other Laws. This chapter shall be deemed to provide an additional and alternative method for the performance of the activities authorized by this chapter, 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 now existing. However, the issuance of bonds or notes under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-25
Liberal construction

Sec. 25. Liberal Construction. This chapter, being necessary for the prosperity of the state and its inhabitants, shall be liberally construed to effect its purposes.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-26
Chapter controlling

Sec. 26. Chapter Controlling. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special

laws, or parts thereof, the provisions of this chapter shall be controlling.
As added by Acts 1978, P.L.28, SEC.1.

IC 5-20-1-27
Home ownership education account established

Sec. 27. (a) The home ownership education account within the state general fund is established to support:

(1) home ownership education programs established under section 4(d) of this chapter;

(2) mortgage foreclosure counseling and education programs established under IC 5-20-6-2; and

(3) programs conducted by one (1) or a combination of the following to facilitate settlement conferences in residential foreclosure actions under IC 32-30-10.5:

(A) The judiciary.

(B) Pro bono legal services agencies.

(C) Mortgage foreclosure counselors (as defined in IC 32-30-10.5-6).

(D) Other nonprofit entities certified by the authority under section 4(d) of this chapter.

The account is administered by the authority.

(b) The home ownership education account consists of:

(1) court fees collected under IC 33-37-5-33 (before its expiration on July 1, 2017);

(2) civil penalties imposed and collected under:

(A) IC 6-1.1-12-43(g)(2)(B); or

(B) IC 27-7-3-15.5(f); and

(3) any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(c) The expenses of administering the home ownership education account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.
As added by P.L.235-2005, SEC.91. Amended by P.L.181-2006, SEC.20; P.L.145-2008, SEC.7; P.L.105-2009, SEC.2; P.L.170-2011, SEC.3; P.L.231-2013, SEC.2; P.L.247-2015, SEC.1; P.L.72-2016, SEC.5.

IC 5-20-2

Chapter 2. Financing of Housing

IC 5-20-2-1

Legislative findings; declaration of purpose

Sec. 1. Legislative Findings and Declaration of Purpose. It is hereby found and declared that in this state there is a shortage of decent, safe and sanitary housing that most people can afford; that the shortage of such housing is a threat to the health, safety, morals and welfare of Indiana residents and is not transitory and self-curing; that the cost of financing such housing is a major and substantial factor affecting the supply and cost of decent, safe and sanitary housing built by private enterprise; that the purpose of this chapter is to provide a means of lowering the cost of financing ownership by Indiana residents of decent, safe and sanitary housing; that such financing of residential ownership will (a) provide for and promote the public health, safety, morals, and welfare, (b) stimulate construction of new housing and remodeling and improvement of existing housing, thereby relieving conditions of unemployment and encouraging the increase of industry and commercial activity and economic development so as to reduce the evils attendant upon unemployment, (c) assist low and moderate income people in acquiring and owning decent, safe and sanitary housing which they can afford, (d) promote the integration of families of varying economic means, and (e) preserve and increase the ad valorem property tax base in this state; that the foregoing are public purposes; and that the necessity for the provisions of this chapter is a matter of legislative determination.

As added by Acts 1979, P.L.47, SEC.1.

IC 5-20-2-2

Definitions

Sec. 2. As used in this chapter, each of the following shall have the meaning indicated unless a different meaning clearly appears from the context:

(1) "Bonds" means the revenue bonds authorized to be issued under this chapter and includes notes and any and all other limited obligations of a county or municipality payable as provided in this chapter.

(2) "Executive officer" of a county, city, or town has the meaning set forth in IC 36-1-2-5.

(3) "Governing body" of a county, city, or town has the meaning set forth in IC 36-1-2-9.

(4) "Home" means real property and improvements thereon constructed for human habitation, located within the county or municipality, consisting of not more than four (4) units, and owned by one (1) mortgagor who occupies or intends to occupy one (1) of such units.

(5) "Home mortgage" means an interest bearing loan for not to exceed thirty (30) years to a mortgagor for the purpose of purchasing or improving a home, evidenced by a promissory note and secured by a mortgage on this home, but shall not include a loan primarily for the purpose of refinancing an existing loan.

(6) "Lending institution" means any bank, trust company, savings bank, national banking association, savings association, mortgage banker, or other financing institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single family residential housing or multifamily residential housing, which institution, for a county, is located in that county, and for a municipality is located in the county in which the municipality is located, or any holding company for any of the foregoing.

(7) "Mortgagor" means an individual, or two (2) or more individuals acting together, who have received a home mortgage under this chapter.

(8) "Recording officer" means the clerk or clerk-treasurer of a county or municipality.

(9) "Municipality" means a city or town.

(10) "Authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.1; P.L.8-1989, SEC.23; P.L.79-1998, SEC.11; P.L.181-2006, SEC.21.

IC 5-20-2-3
Application

Sec. 3. Application. This chapter applies to counties, cities, towns, and consolidated cities.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.2.

IC 5-20-2-4
Income limits

Sec. 4. Income Limits. (a) The governing body shall establish by ordinance an aggregate acceptable income amount for the year immediately preceding the calendar year in which a mortgage is requested, for the mortgagor and all individuals, except minor children of the mortgagor, who intend to reside with the mortgagor in one (1) dwelling unit. The purpose of this aggregate acceptable income amount is to limit the assistance provided by this chapter to individuals of low and moderate income.

(b) The governing body may consider the following factors before it adopts the ordinance provided in subsection (a) of this section:

(1) the portion of total income of a person that is available to meet housing needs;

(2) the number of persons that may share a residential dwelling unit;

(3) the cost and condition of available housing; and

(4) the amount of income required to obtain and pay for decent, safe, and sanitary housing in the regular private housing market.

(c) Mortgage loans under this chapter are limited to persons having adjusted gross income for Indiana individual income tax purposes of law and moderate income. However, at least ninety percent (90%) of the value of home mortgages made from any issue of bonds will be made with respect to mortgagors whose adjusted family income does not exceed one hundred percent (100%) of the median income of all families residing within the metropolitan area of the county or municipality as determined by the governing body. For the purpose of determining the income of a person who was not a resident of the state of Indiana for the prior taxable year, the person's adjusted gross income shall be computed as if he were a resident of the state of Indiana for the prior taxable year.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.3.

IC 5-20-2-5

Other limitations

Sec. 5. (a) Bonds shall not be issued by a county, city, town, or consolidated city for home mortgages under this chapter if at the time of issuance and delivery there remains unexpended or uncommitted more than five percent (5%) of the net proceeds of a prior bond issued by that county, city, town, or consolidated city under this chapter.

(b) Bonds shall not be issued under this chapter for home mortgages in an amount in excess of twenty-five percent (25%) of the average annual amount of mortgage lending in the county or municipality in the most recent three (3) year period for which the governing body shall by ordinance determine from the Home Mortgage Disclosure Act, Public Law 94-200.

(c) No issue shall be approved by the authority if the amount of the issue exceeds the total amount of bond issues permissible under this chapter in the calendar year during which the proposed bonds will be issued. The total amount of bonds permissible under this chapter in any calendar year shall be fifty dollars ($50) multiplied by the population of the state of Indiana as determined by the most recent federal decennial census.

(d) There is a five percent (5%) down payment requirement. An issue meets this requirement only if seventy-five percent (75%) or more of the owner-occupied financing provided by the issue is ninety-five percent (95%) financing. For purposes of this subsection, financing of a residence is ninety-five percent (95%) financing if such financing is ninety-five percent (95%) or more of the acquisition cost of such residence. A larger down payment is

permitted in the case of alternative mortgage instruments as provided by law.

(e) No mortgage shall be made under this chapter the amount of which exceeds two and one-half (2 1/2) times the amount of the annual income of the prospective mortgagor. In addition, no financing shall be provided under this chapter to a prospective mortgagor who is already a mortgagor with respect to an existing mortgage financed under this chapter.

(f) The effective rate of interest on mortgages provided from a particular bond issue under this chapter may not exceed the yield on the issue by more than one (1) percentage point. For purposes of this subsection, the effective rate of mortgage interest and the bond yield shall be determined in accordance with reasonable procedures adopted by the authority. However, the authority may waive the restriction in this subsection if it determines that:

(1) waiver of the restriction with respect to a proposed issue is in the best interests of the citizens of the issuing jurisdiction and the state of Indiana; and

(2) the proposed issue is not marketable without waiver of the restriction.

(g) An issue meets the requirements of this section only if a preliminary official statement of such issue has been submitted to the authority, and:

(1) such authority has, within thirty (30) days after the date of such submission, issued an opinion that such issue meets the requirements of this section and section 4 of this chapter; or

(2) thirty (30) days have elapsed since such submission and during this thirty (30) day period the authority has not issued an opinion that the issue does not meet the requirements of this section and section 4 of this chapter.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.4; P.L.1-2006, SEC.107; P.L.181-2006, SEC.22; P.L.1-2007, SEC.30.

IC 5-20-2-6
Administration

Sec. 6. Administration. In cities, the mayor shall designate a trustee institution to administer the proceeds of bond issues under this chapter; in counties and towns, the designation shall be made by the governing body. All lending institutions may participate under this chapter. The proceeds of each bond issue shall be apportioned as provided in this section by the trustee institution among all lending institutions that choose to participate. Those institutions that choose to participate shall furnish the trustee with copies of their submission under the Home Mortgage Disclosure Act during the preceding three (3) years.

(1) For the most recent calendar year for which this information is available, the trustee institution shall compute the percentage

that each participating lending institution's total amount of mortgages for homes located in the county bears to that same total amount for all participating lending institutions; this percentage figure is the participating lending institution's percentage share of the proceeds of bonds to be apportioned to it by the trustees institution.

(2) The participating institutions must certify to the trustee that the proceeds will be used as required by the chapter, and that the institution will attempt to maintain the same proportion of dollar volume of all mortgage loans within the county or municipality during the calendar year in which the proceeds are distributed as in the preceding year. The trustee institution may, in its discretion, reapportion any unused bond proceeds among the participating lending institutions either:

(A) six (6) months after funds are first apportioned to participating lending institutions for mortgage lending purposes; or

(B) after seventy-five percent (75%) of the bond proceeds designated for mortgage acquisition have been used.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.5.

IC 5-20-2-7
Powers

Sec. 7. Powers. A county or municipality to which this chapter applies has all powers necessary to accomplish the purposes of this chapter including, but not limited to, the power:

(1) to purchase, contract and enter into advance commitments to purchase, home mortgages owned by lending institutions at such prices and upon such other terms and conditions as shall be determined by the county or municipality, to make and execute contracts with one (1) or more lending institutions for the origination and servicing of home mortgages, and to pay the reasonable value of services rendered under those contracts;

(2) to make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the county or municipality, shall require the lending institutions to use substantially all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount substantially equal to the amount of such net proceeds;

(3) to establish, by rules or regulations, in any ordinance relating to the issuance of bonds or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of home mortgages from or the making of loans to lending institutions as the county or municipality deems necessary or desirable, including but not limited to:

(A) the time within which lending institutions must make commitments and disbursements for home mortgages;
(B) the location and other characteristics of homes to be financed by home mortgages;
(C) the terms and conditions of home mortgages to be acquired;
(D) the amounts and types of insurance coverage required on homes, home mortgages and bonds;
(E) the representations and warranties of lending institutions confirming compliance with such standards and requirements;
(F) restrictions as to interest rates and other terms of home mortgages or the return realized therefrom by lending institutions;
(G) the type and amount of collateral security to be provided to assure repayment of any loans from the county or municipality and to assure repayment of bonds; and
(H) any other matters relating to the purchase of home mortgages or the making of loans to lending institutions as shall be deemed relevant by the county or municipality; however, no lending institution shall charge and retain an origination fee in excess of three percent (3%) of the principal amount of any such home mortgage;
(4) to require from each lending institution from which home mortgages are purchased or to which loans are made the submission, at the time of the purchase or loan, of evidence satisfactory to the county or municipality of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the county or municipality for making disbursements for home mortgages, of evidence satisfactory to the county or municipality of the making of home mortgages and of compliance with any standards and requirements established by the county or municipality;
(5) to issue bonds to defray, in whole or in part:
(A) the costs of purchasing, or funding the making of home mortgages;
(B) the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting, and marketing services incurred in connection with the issuance and sale of bonds, including bonds and interest reserve accounts and trustee, custodian and rating agency fees; and
(C) those other costs that are reasonably related to (A) and (B);
(6) to sell or otherwise dispose of any home mortgages, in whole or in part, or to loan sufficient funds to any person to defray, in whole or in part, the costs of purchasing home mortgages, so that the revenues and receipts to be derived with respect to the home mortgages, together with any insurance proceeds, reserve accounts and earnings thereon shall be designed to produce revenues and receipts at least sufficient to

provide for the prompt payment at maturity of principal, interest and redemption premiums, if any, upon all bonds issued to finance these costs;

(7) to pledge any revenues and receipts to be received from any home mortgages or other sources provided in this chapter to the punctual payment of bonds authorized under this chapter, and the interest and redemption premiums, if any, thereon;

(8) to mortgage, pledge or grant security interests in any home mortgages, notes or other property in favor of the holder or holders of bonds issued therefor;

(9) to sell and convey any home mortgages for those prices and at those times that the governing body determines;

(10) to issue its bonds to refund in whole or in part at any time bonds previously issued under this chapter, including, without limitation, interest to maturity or earlier redemption date, redemption premiums and costs of the type enumerated in clause (5) of this section; and

(11) to make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted in this chapter.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.6.

IC 5-20-2-8
Bonds

Sec. 8. (a) Bonds shall not be issued under this chapter unless these bonds are rated "A" or better by one (1) of the nationally recognized rating agencies or unless these bonds are sold in a transaction not involving any public offering within the meaning of Section 4(2) of the Securities Act of 1933, as amended, and rules and regulations thereunder.

(b) The exercise of any or all powers or the issue of bonds under this chapter shall be authorized by ordinance of the governing body. Notwithstanding any law to the contrary, this ordinance may be adopted at the same meeting at which it is introduced and it shall take effect immediately upon adoption. Any ordinance authorizing bonds shall be adopted only after the governing body has held a public hearing on the proposed financing after giving not less than five (5) days notice by publication in at least one (1) newspaper of general circulation in the county or municipality. This ordinance shall also set forth a legislative finding and declaration of the public purpose of the bond issue and that the ordinance is being enacted pursuant to the powers granted by this chapter. No action to contest the validity of any bonds may commence more than thirty (30) days following the adoption of the ordinance approving the bonds. However, if authorized by ordinance, any officer of the county or municipality may bring an action under IC 34-13-5 or file a petition under IC 36-4-4-5 within this thirty (30) day period to determine the

validity of any bonds or any agreements in connection with them. In this proceeding, no bond need be filed by the petitioner or plaintiff unless requested by the county or municipality, and any judgment shall be final unless appealed within thirty (30) days after entry of the judgment.

(c) The bonds shall bear interest at the rate or rates, may be payable at the times, may be in one (1) or more series, may bear the date or dates, may mature at the time or times not exceeding forty (40) years from their respective dates, may be payable in the medium of payment at the place or places, may carry the registration privileges, may be subject to the terms of redemption at the premiums, may be executed in the manner, may contain the terms, covenants, and conditions, may be in the form either coupon or registered, and may bear the name that the ordinance or trust indenture securing the bonds provides. The bonds may be sold at public or private sale in a manner and upon the terms provided in the ordinance. Pending the preparation of definitive bonds, interim receipts, or certificates in the form and with the provisions as provided in the ordinance may be issued to the purchaser of bonds sold pursuant to this chapter.

(d) The bonds and interim receipts or certificates are negotiable instruments under the laws of this state. Bonds and receipts and the authorization, issuance, sale, and delivery thereof are not subject to any general law concerning bonds of municipalities.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.7; P.L.3-1990, SEC.22; P.L.1-1998, SEC.76.

IC 5-20-2-9

Covenants in bonds

Sec. 9. Covenants in Bonds. (a) Any ordinance authorizing the issuance of bonds or related trust indenture may contain covenants as to:

(1) the use and disposition of the revenues and receipts from any home mortgages for which the bonds are to be issued, including the creation and maintenance of reserves;

(2) the insurance to be carried on any home, home mortgage, or bonds and the use and disposition of insurance moneys;

(3) the appointment of one (1) or more banks or trust companies within or outside the state of Indiana, having the necessary trust powers, as trustee or custodian for the benefit of the bondholders, paying agent or bond registrar;

(4) the investment of any funds held by this trustee or custodian;

(5) the maximum interest rate payable on any home mortgage; and

(6) the terms and conditions upon which the holders of the bonds or any portion thereof, or any trustees therefor, are entitled to the appointment of a receiver by a court of competent

jurisdiction, and these terms and conditions may provide that the receiver may enter and take possession of the home mortgages, or any part thereof, and maintain, sell or otherwise dispose of such mortgages, prescribe other payments and collect, receive and apply all income and revenues thereafter arising therefrom.

(b) Any ordinance authorizing the issuance of bonds or related trust indenture may provide that the principal of, premium, if any, and interest on any such bonds shall be secured by a mortgage, pledge, security interest, insurance agreement or indenture of trust covering such home mortgages for which the bonds are issued. Such mortgage, pledge, security interest, insurance agreement or indenture of trust may contain such covenants and agreements to safeguard the bonds as is provided for in the ordinance authorizing the bonds and shall be executed in the manner as may be provided for in the ordinance.

(c) The provisions of this chapter and any ordinance and any mortgage, pledge, security interest or indenture of trust shall constitute a contract with the holder of the bonds and continues in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid or provision made therefor. The duties of this county or municipality and its governing body and officers under this chapter, any ordinance, and any mortgage, pledge, security interest or indenture of trust shall be enforceable as provided in it by any bondholder by mandamus, foreclosure, or other appropriate suit, action or proceeding in any court of competent jurisdiction. However, the ordinance or any mortgage, pledge, security interest or indenture of trust under which the bonds are issued may provide that all remedies and rights to enforcement may be vested in a trustee (with full power of appointment) for the benefit of all the bondholders which trustee shall be subject to the control of a specified number of holders or owners of any outstanding bonds.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.8.

IC 5-20-2-10

Signatures of officers on bonds; validity of bonds

Sec. 10. Signatures of Officers on Bonds–Validity of Bonds. The bonds and any coupons shall bear the manual or facsimile signatures of the executive officer and the recording officer of the county or municipality and any coupons shall bear the facsimile signature of one (1) or more of these officers. These signatures shall be the valid and binding signatures of these officers, notwithstanding that before delivery and payment, any or all of the individuals whose signatures appear have ceased to be officers of the county or municipality issuing the bonds. The validity of the bonds is not dependent on nor affected by the validity or regularity of any proceedings relating to

the home mortgages for which the bonds are issued. The ordinance authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.
As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.9.

IC 5-20-2-11
Lien of bonds

Sec. 11. Lien of Bonds. Bonds issued under this chapter and the interest on them may be secured by a pledge of or lien upon the revenues and receipts derived from or in connection with the home mortgages or from any notes or other obligations of lending institutions with respect to which the bonds have been issued. The governing body may provide in the ordinance authorizing the bonds for the issuance of additional bonds to be equally and ratably secured by a lien upon these revenues and receipts.
As added by Acts 1979, P.L.47, SEC.1.

IC 5-20-2-12
Liability for bonds

Sec. 12. Liability for Bonds. All bonds issued under this chapter and the interest on them are limited obligations of the county or municipality payable solely from the revenues and receipts derived from or in connection with the home mortgages, from any notes or other obligations of lending institutions with respect to which these bonds are issued, or from the proceeds of these bonds or refunding bonds and the investment income from them. No holder of any bonds issued under this chapter has the right to compel any exercise of the taxing power of the county or municipality to pay the bonds or the interest or redemption premium, if any, thereon. The bonds are not an indebtedness of the county or municipality or a loan of its credit within the meaning of any constitutional or statutory limitation. Nor shall the bonds be construed to create any moral obligation on the part of the county or municipality with respect to their payment. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this chapter and that it does not constitute an indebtedness of the county or municipality or a loan of its credit within the meaning of any constitutional or statutory limitation.
As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.10.

IC 5-20-2-13
Exemption from contract and bidding requirements; real property bid submitted by trust

Sec. 13. (a) A requirement of competitive bidding or restriction imposed on the procedure for award of contracts for the sale or other

disposition of property of the county or municipality is not applicable to any action taken under this chapter.

(b) This subsection applies if a county or municipality sells or disposes of real property under this chapter 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 Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.11; P.L.336-1989(ss), SEC.17.

IC 5-20-2-14

Tax exemption for bonds

Sec. 14. All bonds and interim receipts or certificates, proceeds received by a holder from the sale of them to the extent of the holder's cost of acquisition, proceeds received upon redemption prior to maturity, proceeds received at maturity, and interest thereon, are 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.

As added by Acts 1979, P.L.47, SEC.1. Amended by P.L.21-1990, SEC.8; P.L.254-1997(ss), SEC.7.

IC 5-20-2-15

Tax exemption

Sec. 15. Tax Exemption. All home mortgages and notes or other obligations of lending institutions executed pursuant to this chapter and the revenues and receipts derived by a county or municipality therefrom are exempt from all taxation in the state of Indiana.

As added by Acts 1979, P.L.47, SEC.1. Amended by Acts 1981, P.L.62, SEC.12.

IC 5-20-2-16

Securities exemption

Sec. 16. All bonds and interim receipts or certificates authorized pursuant to this chapter are exempt from the provisions of IC 23-19 or other securities registration laws.

As added by Acts 1979, P.L.47, SEC.1. Amended by P.L.27-2007, SEC.5.

IC 5-20-2-17

Antitrust exemption

Sec. 17. Antitrust Exemption. Transactions under this chapter are exempt from the provisions of IC 24-1 or any other antitrust law, present or future, of the state.

As added by Acts 1979, P.L.47, SEC.1.

IC 5-20-2-18

Powers conferred as additional and supplemental; limitations imposed; effect

Sec. 18. Powers Conferred as Additional and Supplemental; Limitations Imposed-Effect. The powers conferred by this chapter are in addition and supplemental to, and the limitations imposed by this chapter shall not affect, the powers conferred by any other law of this state. Mortgages may be acquired, purchased and financed, and bonds may be issued under this chapter, notwithstanding that any other law may provide for the acquisition, purchase and financing of like home mortgages, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in any other law.

As added by Acts 1979, P.L.47, SEC.1.

IC 5-20-3

Chapter 3. Mutual Housing Associations

IC 5-20-3-1

"Families of low and moderate income" defined

Sec. 1. As used in this chapter, "families of low and moderate income" has the meaning set forth in IC 5-20-1-2.

As added by P.L.69-1989, SEC.3.

IC 5-20-3-2

"Housing project" defined

Sec. 2. (a) As used in this chapter, "housing project" means any work or undertaking to provide decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for families of low and moderate income, including:

(1) buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, recreational, commercial, or welfare purposes; and

(2) the acquisition and rehabilitation of existing dwelling units or structures to be used for moderate or low rental units.

(b) The term includes the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other connected work. The term includes the reconstruction, rehabilitation, alteration, or major repair of existing buildings or improvements.

As added by P.L.69-1989, SEC.3.

IC 5-20-3-3

"Mutual housing association" defined

Sec. 3. As used in this chapter, "mutual housing association" refers to a corporation established under section 4 of this chapter.

As added by P.L.69-1989, SEC.3.

IC 5-20-3-4

Establishment of mutual housing association; articles of incorporation

Sec. 4. (a) A mutual housing association may be established as a nonprofit corporation incorporated under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to prevent and eliminate neighborhood deterioration and to preserve neighborhood stability by:

(1) providing high quality, long term housing for families of low and moderate income; and

(2) affording community and residential involvement in the provision of that housing.

(b) The articles of incorporation of a mutual housing association must be approved by the authority.

(c) The articles of incorporation of a mutual housing association must include a provision that provides that if the mutual housing association dissolves, is involved in a bankruptcy proceeding, or otherwise disposes of its physical properties, the association may only transfer the assets to another entity that provides high quality long term housing for families of low and moderate income.

As added by P.L.69-1989, SEC.3. Amended by P.L.179-1991, SEC.8; P.L.1-1992, SEC.12; P.L.1-2006, SEC.108 and P.L.181-2006, SEC.23; P.L.145-2008, SEC.8.

IC 5-20-3-5

Articles of incorporation of mutual housing association; purposes

Sec. 5. A mutual housing association must have as one (1) of its purposes in its articles of incorporation the construction, rehabilitation, development, ownership, or operation (including the management and maintenance of housing) of high quality long term housing for families of low and moderate income.

As added by P.L.69-1989, SEC.3.

IC 5-20-3-6

Contracts for state financial assistance; mutual housing associations; grants and loans

Sec. 6. The Indiana housing and community development authority may enter into a contract with a mutual housing association to provide financial assistance for the construction, rehabilitation, ownership, or operation of housing for families of low and moderate income. State financial assistance may be in the form of grants, loans, or a combination of grants and loans and may be used for the acquisition or development of housing sites and for the costs incurred in the development of the housing. Grants may not exceed the development cost of the housing project.

As added by P.L.69-1989, SEC.3. Amended by P.L.1-2006, SEC.109 and P.L.181-2006, SEC.24.

IC 5-20-3-7

Contracts for state financial assistance; mutual housing associations; provisions

Sec. 7. A contract for state financial assistance with a mutual housing association under section 6 of this chapter must include (for each housing site) the following provisions:

(1) Each housing site must be managed in an efficient manner to permit the fixing of the rentals at the lowest possible rates consistent with providing decent, safe, and sanitary dwelling accommodations.

(2) A mutual housing association may not construct or operate a housing site for profit.

(3) Rental rates may not be fixed a level higher than necessary to produce revenue that, together with other revenue, will be sufficient to pay, as it becomes due, the principal and interest on the loans made to the mutual housing authority, the maintenance and operating expenses of a housing project (including insurance and administrative costs), and an allowance for a reasonable return on equity capital contributed to a housing project through membership fees or nonstate grants. The rentals must be within the financial reach of families of low income. The return on equity capital must be used by the mutual housing association to develop additional dwelling units.

(4) The mutual housing association, subject to the approval of the Indiana housing and community development authority, shall fix the maximum income limits for the admission and continued occupancy of families in the housing. The association shall define the income of a family to provide the basis for determining eligibility for the admission, rent, and continued occupancy of families under the maximum income limits. In defining family income, the authority may provide for the exclusion of any part of the income of family members that the authority believes generally available to meet the cost of basic living needs of the family.

(5) The mutual housing association may not refuse to rent a dwelling accommodation to an otherwise qualified applicant because one (1) or more of the proposed occupants are children born out of wedlock.

(6) The mutual housing association shall provide each applicant for admission to the housing project a receipt stating the time and date of application and shall maintain a list of the applications that must be available for public inspection. The Indiana housing and community development authority shall adopt rules governing the form and procedure for maintaining the list.

(7) The mutual housing association may require the payment of a membership fee as a condition of eligibility of occupancy for a dwelling unit. The fee must be refunded to a resident member, with nominal interest, when the member vacates the dwelling unit.

(8) The Indiana housing and community development authority shall require and must approve an operation management plan for each housing project from the mutual housing association. The plan must provide for an income adequate to pay debt service, administrative costs (including a state service charge), operating costs, and adequate reserves for repairs, maintenance, replacements, and vacancy and collection losses. In addition, the mutual housing association shall adopt a plan for the administration of a housing project that must be approved by

the tenants and the Indiana housing and community development authority. The association shall provide copies of the plan to each adult tenant and to the Indiana housing and community development authority.

(9) The Indiana housing and community development authority may inspect any housing during the period of the loan or, in the case of a grant, during the period when a housing project is used to house families of low and moderate income.

(10) The mutual housing association shall semiannually submit a report to the Indiana housing and community development authority with information on operating costs, tenant information, rentals, and any other information that the Indiana housing and community development authority requires by rule.

(11) The mutual housing association may request permission of the Indiana housing and community development authority to allow the continued occupancy of dwelling units by tenants whose annual income exceeds maximum limits or the rental of vacant units to tenants whose income exceeds maximum limits if the vacancies would result in the inability to pay debt service, administrative costs (including state service charges), operating costs, and reserve for repairs, maintenance, replacements, and collection costs. The continued occupancy or rental must be for a period of one (1) year, subject to subsequent one (1) year renewals. The mutual housing association may, subject to the approval of the Indiana housing and community development authority, fix rent at a higher level for tenants described in this subdivision.

(12) The difference between the increased rent and the normal rent described in subdivision (11) must be used by the mutual housing association to develop additional dwelling units or credited against the rent owed by another low or moderate income resident member of the association.

(13) The cost of options on housing sites, engineering and architectural services, and preliminary construction expenses may, subject to the approval of the Indiana housing and community development authority, be included as part of the cost of a project to be financed by a loan or grant.

(14) The mutual housing association may provide for variable rents based on family income.

As added by P.L.69-1989, SEC.3. Amended by P.L.1-2006, SEC.110 and P.L.181-2006, SEC.25.

IC 5-20-3-8

Service charges; mutual housing associations; loans and grants

Sec. 8. The Indiana housing and community development authority may assess a mutual housing association a service charge for each loan or grant provided to the association.

As added by P.L.69-1989, SEC.3. Amended by P.L.1-2006, SEC.111

and P.L.181-2006, SEC.26.

IC 5-20-3-9
Mutual housing association; resident requirements

Sec. 9. A resident of a mutual housing association:

(1) must participate in the ongoing operation and management of the housing;

(2) must have a right to continue residing in the housing as long as the resident complies with the terms of the occupancy agreement; and

(3) may not possess an equity or ownership interest in the housing.

As added by P.L.69-1989, SEC.3.

IC 5-20-3-10
Rules

Sec. 10. The Indiana housing and community development authority shall adopt rules under IC 4-22-2 to carry out this chapter.
As added by P.L.69-1989, SEC.3. Amended by P.L.1-2006, SEC.112 and P.L.181-2006, SEC.27.

IC 5-20-4

Chapter 4. Affordable Housing and Community Development Fund

IC 5-20-4-1

Repealed

(As added by P.L.69-1989, SEC.4. Amended by P.L.181-2006, SEC.28. Repealed by P.L.133-2012, SEC.33.)

IC 5-20-4-2

"Families"

Sec. 2. As used in this chapter, "families" has the meaning set forth in 42 U.S.C. 1437a(b)(3).

As added by P.L.69-1989, SEC.4.

IC 5-20-4-3

"Housing and community development authority"

Sec. 3. As used in this chapter, "authority" refers to the Indiana housing and community development authority established under IC 5-20-1.

As added by P.L.69-1989, SEC.4. Amended by P.L.1-2006, SEC.113; P.L.181-2006, SEC.29; P.L.1-2007, SEC.31.

IC 5-20-4-4

"Fund"

Sec. 4. As used in this chapter, unless the context requires otherwise, "fund" refers to the affordable housing and community development fund established by section 7 of this chapter.

As added by P.L.69-1989, SEC.4. Amended by P.L.181-2006, SEC.30.

IC 5-20-4-5

"Lower income families"

Sec. 5. As used in this chapter, "lower income families" means families whose income does not exceed eighty percent (80%) of the median income for the area.

As added by P.L.69-1989, SEC.4.

IC 5-20-4-6

"Very low income families"

Sec. 6. As used in this chapter, "very low income families" means families whose income does not exceed fifty percent (50%) of the median for the area.

As added by P.L.69-1989, SEC.4.

IC 5-20-4-7

Establishment of fund; administration; resources; investments; disposition of remaining money; interest

Sec. 7. (a) There is established the affordable housing and community development fund. The fund shall be administered by the authority under the direction of the authority's board.

(b) The fund consists of the following resources:

(1) Appropriations from the general assembly.

(2) Gifts, grants, and donations of any tangible or intangible property from public or private sources.

(3) Investment income earned on the fund's assets.

(4) Repayments of loans from the fund.

(5) Funds borrowed from the board for depositories insurance fund (IC 5-13-12-7).

(6) Money deposited in the fund under IC 6-7-2-17 and IC 36-2-7-10.

(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 funds may be invested.

(d) The money remaining in the fund at the end of a fiscal year does not revert to the state general fund.

(e) Interest earned on the fund may be used by the authority to pay expenses incurred in the administration of the fund.

As added by P.L.69-1989, SEC.4. Amended by P.L.27-1993, SEC.17; P.L.1-2006, SEC.114; P.L.181-2006, SEC.31; P.L.1-2007, SEC.32; P.L.211-2007, SEC.1; P.L.234-2007, SEC.200; P.L.3-2008, SEC.31.

IC 5-20-4-8

Financial assistance; form; allocation

Sec. 8. (a) The money in the fund shall be used to provide financial assistance in the form of:

(1) grants;

(2) loans; and

(3) loan guarantees.

In addition, money from the fund may be used to provide technical assistance to nonprofit developers of low income housing.

(b) The financial assistance described in subsection (a) shall be used for:

(1) the acquisition, construction, rehabilitation, development, operation, and insurance of, and education concerning, affordable housing and community economic development; or

(2) other programs considered appropriate to meet the affordable housing and community development needs of lower income families and very low income families, including lower income elderly, persons with disabilities, and homeless individuals.

(c) At least fifty percent (50%) of the dollars allocated must be used to serve very low income households.

As added by P.L.69-1989, SEC.4. Amended by P.L.23-1993, SEC.18; P.L.27-1993, SEC.18; P.L.181-2006, SEC.32; P.L.211-2007, SEC.2.

IC 5-20-4-9
Terms of loans from board for depositories insurance fund

Sec. 9. The board for depositories shall determine the terms of the loan from the board for depositories insurance fund under section 8 of this chapter that must include the following:

(1) That the duration of the loan may not exceed twenty (20) years from the date of the execution of the agreement between the authority and the public deposit insurance fund operated by the board for depositories.

(2) The repayment schedule of the loan that:

(A) shall not require repayment of any principal; and

(B) must allow any principal to be repaid by the fund at any time;

before the end of the term for the loan.

(3) That no interest may be charged.

(4) The amount of the loan, which may not exceed five million dollars ($5,000,000).

As added by P.L.69-1989, SEC.4. Amended by P.L.27-1993, SEC.19; P.L.1-2006, SEC.115; P.L.181-2006, SEC.33; P.L.1-2007, SEC.33.

IC 5-20-4-10
Repealed

(Repealed by P.L.27-1993, SEC.26.)

IC 5-20-4-10.1
Repayment of loans; procedures

Sec. 10.1. The authority and the board for depositories shall establish procedures to insure repayment of the loan principal at the end of the loan term. The procedures may include purchase of a zero coupon bond to insure the loan principal, a requirement that a percentage of the loans issued by the authority be made through a linked deposit program in certificates of deposit, or other procedures that the authority and the board for depositories may determine appropriate.

As added by P.L.27-1993, SEC.20. Amended by P.L.1-2006, SEC.116; P.L.181-2006, SEC.34; P.L.1-2007, SEC.34.

IC 5-20-4-11
Allocation of fund resources

Sec. 11. (a) At least fifty percent (50%) of the resources of the fund shall be allocated to recognized nonprofit corporations under Section 501(c) of the Internal Revenue Code.

(b) The resources of the fund that are not allocated under subsection (a) may be allocated to private developers of housing and private development entities as determined by the authority.

As added by P.L.69-1989, SEC.4. Amended by P.L.179-1991, SEC.9; P.L.1-1992, SEC.13; P.L.27-1993, SEC.21; P.L.1-2006, SEC.117; P.L.181-2006, SEC.35; P.L.1-2007, SEC.35.

IC 5-20-4-12
Occupancy of housing developed with fund resources

Sec. 12. Rental housing that is developed with money from the fund shall be made available for occupancy to low income families or very low income families for at least fifteen (15) years. In the event of foreclosure or equivalent action, the remaining affordability period may be waived by the authority.

As added by P.L.69-1989, SEC.4. Amended by P.L.27-1993, SEC.22; P.L.1-2006, SEC.118; P.L.181-2006, SEC.36; P.L.1-2007, SEC.36.

IC 5-20-4-13
Developer certification of compliance with federal requirements

Sec. 13. A developer that uses funds from the fund shall certify to the authority that the developer will comply with the following:

(1) The federal Civil Rights Act of 1968 (P.L. 90-284).

(2) The federal Fair Housing Amendments of 1988 (P.L. 100-430).

(3) The Indiana Civil Rights Law (IC 22-9-1).

As added by P.L.69-1989, SEC.4. Amended by P.L.1-2006, SEC.119; P.L.181-2006, SEC.37; P.L.1-2007, SEC.37.

IC 5-20-4-14
Policies and procedures for implementation of chapter

Sec. 14. The authority shall establish written policies and procedures to implement this chapter. These policies and procedures shall include the following:

(1) The development of an application process for requesting financial assistance under this chapter.

(2) The establishment of a procedure for disbursing financial assistance under this chapter.

(3) The establishment of a rate of interest for a loan under this chapter.

(4) The establishment of loan underwriting criteria to protect the assets of the fund. The authority shall require a lien or other security when appropriate and in the amounts the authority determines appropriate.

(5) A requirement that a financial institution holding an obligation that is guaranteed under this chapter must adequately secure the obligation.

(6) Standards requiring a local match for any assistance under this chapter and establishing the level of local match required.

(7) The establishment of a cap on the amount of financial assistance that any recipient may receive.

(8) The establishment of procedures to do the following:

(A) Ensure that an equitable part of all funds are distributed to rural areas of Indiana.

(B) Enable the authority to use the fund to provide matching funds to local housing trust funds in Indiana.

(C) Promote community economic development.

As added by P.L.69-1989, SEC.4. Amended by P.L.27-1993, SEC.23; P.L.1-2006, SEC.120; P.L.181-2006, SEC.38; P.L.1-2007, SEC.38.

IC 5-20-4-15
Repealed

(As added by P.L.69-1989, SEC.4. Amended by P.L.2-1992, SEC.56; P.L.23-1993, SEC.19; P.L.4-1993, SEC.8; P.L.5-1993, SEC.19; P.L.215-2001, SEC.9; P.L.181-1006, SEC.29. Repealed by P.L.133-2012, SEC.34.)

IC 5-20-4-16
Repealed

(As added by P.L.69-1989, SEC.4. Repealed by P.L.133-2012, SEC.35.)

IC 5-20-5

Chapter 5. Indiana Affordable Housing Fund

IC 5-20-5-1

"Agency" defined

Sec. 1. As used in this chapter, "agency" means the agency or other entity that administers the affordable housing program under this chapter.

As added by P.L.115-2000, SEC.1.

IC 5-20-5-2

"Authority" defined

Sec. 2. As used in this chapter, "authority" means the Indiana housing and community development authority created by IC 5-20-1-3.

As added by P.L.115-2000, SEC.1. Amended by P.L.1-2006, SEC.122; P.L.181-2006, SEC.40.

IC 5-20-5-3

"Eligible entity" defined

Sec. 3. As used in this chapter, "eligible entity" refers to a city, town, or county.

As added by P.L.115-2000, SEC.1.

IC 5-20-5-4

"Families" defined

Sec. 4. As used in this chapter, "families" has the meaning set forth in 42 U.S.C. 1437a(b)(3)(B).

As added by P.L.115-2000, SEC.1.

IC 5-20-5-5

Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-6

"Lower income families" defined

Sec. 6. As used in this chapter, "lower income families" has the meaning set forth in IC 5-20-4-5.

As added by P.L.115-2000, SEC.1.

IC 5-20-5-7

Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-8

Authority may provide grants and loans

Sec. 8. The authority may provide grants and loans to eligible entities for programs that do any of the following:

(1) Provide financial assistance to lower income families for the purchase of affordable housing in the form of grants, loans, and loan guarantees.

(2) Provide rent and rent supplements to lower income families.

(3) Provide loans or grants for the acquisition, construction, rehabilitation, development, operation, and insurance of affordable housing for lower income families.

As added by P.L.115-2000, SEC.1. Amended by P.L.181-2006, SEC.41.

IC 5-20-5-9
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-10
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-11
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-12
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-13
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-14
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-15
Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-5-15.5 Version a

Eligible entities; use; investments

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 15.5. (a) The governing body of an eligible entity that receives a grant under this chapter shall, by resolution, establish an affordable housing fund to be administered, subject to the terms of the resolution, by a department, a division, or an agency designated by the governing body.

(b) The affordable housing fund consists of:

(1) payments in lieu of taxes deposited in the fund under IC 36-1-8-14.2;

(2) gifts and grants to the fund;

(3) investment income earned on the fund's assets;

(4) money deposited in the fund under IC 36-2-7-10; and

(5) other funds from sources approved by the commission.

(c) The governing body shall, by resolution, establish uses for the affordable housing fund. However, the uses must be limited to:

(1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;

(2) paying expenses of administering the fund;

(3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and

(4) providing technical assistance to nonprofit developers of affordable housing.

(d) The county treasurer 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.186-2001, SEC.1. Amended by P.L.211-2007, SEC.3.

IC 5-20-5-15.5 Version b

Eligible entities; use; investments

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 15.5. (a) The governing body of an eligible entity that receives a grant under this chapter shall, by resolution, establish an affordable housing fund to be administered, subject to the terms of the resolution, by a department, a division, or an agency designated by the governing body.

(b) The affordable housing fund consists of:

(1) payments in lieu of taxes deposited in the fund under

IC 36-1-8-14.2 (before its expiration);
(2) gifts and grants to the fund;
(3) investment income earned on the fund's assets;
(4) money deposited in the fund under IC 36-2-7-10; and
(5) other funds from sources approved by the commission.

(c) The governing body shall, by resolution, establish uses for the affordable housing fund. However, the uses must be limited to:

(1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;
(2) paying expenses of administering the fund;
(3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and
(4) providing technical assistance to nonprofit developers of affordable housing.

(d) The county treasurer 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.186-2001, SEC.1. Amended by P.L.211-2007, SEC.3; P.L.181-2016, SEC.1.

IC 5-20-5-16
Allocation for very low income households

Sec. 16. An eligible entity must allocate at least fifty percent (50%) of the money received for the production, rehabilitation, or purchase of housing to the production, rehabilitation, or purchase of housing units to be occupied by very low income households.

As added by P.L.115-2000, SEC.1.

IC 5-20-5-17
Allocation for nonprofit corporation, public housing authority, or unit of government

Sec. 17. An eligible entity must allocate at least fifty percent (50%) of the money received in program grants to a nonprofit corporation (as defined under Section 501(c) of the Internal Revenue Code), to a public housing authority (as defined in IC 36-7-18) or to a unit of government (as defined in IC 36-1-2-23). Money received in program grants that is not allocated to a nonprofit corporation, a public housing authority, or a unit of government may be allocated to private developers of housing and other private development entities as determined by the eligible entity.

As added by P.L.115-2000, SEC.1.

IC 5-20-5-18

Affordable housing fund advisory committees

Sec. 18. (a) An eligible entity shall establish an affordable housing fund advisory committee consisting of the following eleven (11) members:

(1) One (1) member appointed by the executive of the eligible entity to represent the interests of low income families.

(2) One (1) member appointed by the executive of the eligible entity to represent the interests of owners of subsidized, multifamily housing communities.

(3) One (1) member appointed by the executive of the eligible entity to represent the interests of banks and other financial institutions.

(4) One (1) member appointed by the executive of the eligible entity to represent the interests of the eligible entity.

(5) One (1) member appointed by the executive of the eligible entity to represent real estate brokers. The member appointed under this subdivision must be nominated to the executive by the local realtors' association.

(6) One (1) member appointed by the executive of the eligible entity to represent construction trades. The member appointed under this subdivision must be nominated to the executive by the local building trades council.

(7) Five (5) members appointed by the legislative body of the eligible entity to represent the community at large. Members appointed under this subdivision must be nominated to the legislative body after a general call for nominations from township trustees, community development corporations, neighborhood associations, community based organizations, and other social services agencies.

(b) Members of the affordable housing fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority that appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority that appointed the committee member.

(c) The affordable housing fund advisory committee shall make recommendations to the eligible entity regarding:

(1) the development of policies and procedures for the uses of the affordable housing fund; and

(2) long term sources of capital for the affordable housing fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations, or income in any other form from a:

(i) government program;

(ii) foundation; or

(iii) corporation.

As added by P.L.115-2000, SEC.1. Amended by P.L.127-2012, SEC.1.

IC 5-20-5-19

Repealed

(As added by P.L.115-2000, SEC.1. Repealed by P.L.181-2006, SEC.62.)

IC 5-20-6

Chapter 6. Foreclosure Prevention Counseling and Assistance

IC 5-20-6-1

"Authority" defined

Sec. 1. As used in this chapter, "authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.

As added by P.L.176-2007, SEC.1.

IC 5-20-6-2

Mortgage counseling and education program

Sec. 2. (a) The authority may establish a program to provide free mortgage foreclosure counseling and education to homeowners who have defaulted on or are in danger of defaulting on the mortgages on their homes.

(b) The authority may enter into an agreement with any public, private, or nonprofit entity to carry out any part of the mortgage foreclosure counseling and education program.

(c) The program may include a central toll free telephone number that homeowners may call to receive mortgage foreclosure counseling and education.

(d) The authority may award grants for the training of counselors who will provide mortgage foreclosure counseling and education.

(e) The authority may establish standards for the certification of counselors who will provide mortgage foreclosure counseling and education.

(f) The authority may expend money for the purpose of advertising the mortgage foreclosure counseling and education program and the central toll free telephone number included in the program under subsection (c).

As added by P.L.176-2007, SEC.1.

IC 5-20-6-3

Program funding; court fees; civil penalties; solicitation of contributions and grants

Sec. 3. In addition to using money provided for the program from:

(1) court fees under IC 33-37-5-33 (before its expiration on July 1, 2017);

(2) civil penalties imposed and collected under:

(A) IC 6-1.1-12-43(g)(2)(B); or

(B) IC 27-7-3-15.5(f); and

(3) any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5;

the authority may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the purposes of this chapter.

As added by P.L.176-2007, SEC.1. Amended by P.L.105-2009, SEC.3; P.L.170-2011, SEC.4; P.L.231-2013, SEC.3; P.L.247-2015, SEC.2; P.L.72-2016, SEC.6.

IC 5-20-6-4

Program report to the legislative council

Sec. 4. (a) The authority shall annually submit a report to the legislative council concerning the following:

(1) The operation of the mortgage foreclosure counseling and education program, if the program is conducted by the authority during the reporting period.

(2) A summary of mortgage foreclosure rates and trends in Indiana and the United States.

(b) The report submitted under this section must be in an electronic format under IC 5-14-6.

As added by P.L.176-2007, SEC.1.

IC 5-20-7

Chapter 7. Microenterprise Partnership Program Fund

IC 5-20-7-1
"Authority"

Sec. 1. As used in this chapter, "authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.

As added by P.L.87-2011, SEC.1.

IC 5-20-7-2
"Fund"

Sec. 2. As used in this chapter, "fund" refers to the microenterprise partnership program fund established by section 3 of this chapter.

As added by P.L.87-2011, SEC.1.

IC 5-20-7-3
Fund established; purpose

Sec. 3. The microenterprise partnership program fund is established within the state treasury. The purpose of the fund is to carry out the microenterprise partnership program under IC 5-20-8.

As added by P.L.87-2011, SEC.1.

IC 5-20-7-4
Sources of money

Sec. 4. The fund consists of:

(1) appropriations from the general assembly;
(2) federal grants; and
(3) gifts.

As added by P.L.87-2011, SEC.1.

IC 5-20-7-5
Administration

Sec. 5. The authority shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.
(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter and IC 5-20-8.

As added by P.L.87-2011, SEC.1.

IC 5-20-7-6
Investment of fund assets

Sec. 6. 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.

As added by P.L.87-2011, SEC.1.

IC 5-20-7-7
Nonreverting

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.87-2011, SEC.1.

IC 5-20-7-8
Audit

Sec. 8. The fund is subject to an audit by the state board of accounts. The full costs of the audit shall be paid from money in the fund.

As added by P.L.87-2011, SEC.1. Amended by P.L.181-2015, SEC.21.

IC 5-20-8

Chapter 8. Microenterprise Partnership Program

IC 5-20-8-1

"Authority"

Sec. 1. As used in this chapter, "authority" refers to the Indiana housing and community development authority created by IC 5-20-1-3.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-2

"Microenterprise"

Sec. 2. As used in this chapter, "microenterprise" means a business having not more than five (5) employees. The term includes startup, home based, and self-employed businesses.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-3

"Microloan"

Sec. 3. As used in this chapter, "microloan" means a business loan of not more than twenty-five thousand dollars ($25,000).

As added by P.L.87-2011, SEC.2.

IC 5-20-8-4

"Microloan delivery organization"

Sec. 4. As used in this chapter, "microloan delivery organization" means a community based or nonprofit program that:

(1) has developed a viable plan for providing training, access to financing, and technical assistance to microenterprises; and

(2) meets the criteria and qualifications set forth in this chapter.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-5

"Operating costs"

Sec. 5. As used in this chapter, "operating costs" refers to the costs associated with administering a loan or a loan guaranty, administering a revolving loan program, or providing business training and technical assistance to a microloan recipient.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-6

"Program"

Sec. 6. As used in this chapter, "program" refers to the microenterprise partnership program established under section 7 of this chapter.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-7

Establishment of program; grant limit

Sec. 7. (a) The authority shall establish the microenterprise partnership program to provide grants to microloan delivery organizations.

(b) A grant provided under subsection (a) may not exceed twenty-five thousand dollars ($25,000).

(c) A microloan delivery organization receiving a grant under this section must use the grant for the purposes set forth in this chapter.
As added by P.L.87-2011, SEC.2.

IC 5-20-8-8
Criteria for grants

Sec. 8. To establish the criteria for making a grant to a microloan delivery organization, the authority shall consider the following:

(1) The microloan delivery organization's plan for providing business development services and microloans to microenterprises.

(2) The scope of services provided by the microloan delivery organization.

(3) The microloan delivery organization's plan for coordinating the services and loans provided under this chapter with those provided by commercial lending institutions.

(4) The geographic representation of all regions of Indiana, including both urban and rural communities and neighborhoods.

(5) The microloan delivery organization's emphasis on supporting female and minority entrepreneurs.

(6) The ability of the microloan delivery organization to provide business training and technical assistance to microenterprises.

(7) The ability of the microloan delivery organization to monitor and provide financial oversight of recipients of microloans.

(8) The sources and sufficiency of the microloan delivery organization's operating funds.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-9
Permitted uses of grants

Sec. 9. A grant received by a microloan delivery organization may be used for the following purposes:

(1) To satisfy matching fund requirements for federal or private grants.

(2) To establish a revolving loan fund from which the microloan delivery organization may make loans to microenterprises.

(3) To establish a guaranty fund from which the microloan delivery organization may guarantee loans made by commercial lending institutions to microenterprises.

(4) To pay the operating costs of the microloan delivery organization. However, not more than ten percent (10%) of a

grant may be used for this purpose.
As added by P.L.87-2011, SEC.2.

IC 5-20-8-10
Matching of appropriations

Sec. 10. Money appropriated to the program must be matched by at least an equal amount of money derived from any of the following nonstate sources:

(1) Private foundations.
(2) Federal sources.
(3) Local government sources.
(4) Quasi-governmental entities.
(5) Commercial lending institutions.
(6) Any other source whose funds do not include money appropriated by the general assembly.

As added by P.L.87-2011, SEC.2.

IC 5-20-8-11
Disbursal of microloan money

Sec. 11. At least fifty percent (50%) of the microloan money disbursed by a microloan delivery organization must be disbursed in microloans that do not exceed ten thousand dollars ($10,000).
As added by P.L.87-2011, SEC.2.

IC 5-20-8-12
Standards, procedures, and guidelines

Sec. 12. The authority may prescribe standards, procedures, and other guidelines to implement this chapter.
As added by P.L.87-2011, SEC.2.

IC 5-20-8-13
Use of microenterprise partnership program fund and other funds

Sec. 13. The authority may use money in the microenterprise partnership program fund established by IC 5-20-7-3 or any other money available to the authority to carry out this chapter.
As added by P.L.87-2011, SEC.2.

IC 5-20-8-14
Reporting requirements

Sec. 14. Before August 1 of each year, the authority shall submit to the budget committee a supplemental report on a longitudinal study:

(1) describing the economic development outcomes resulting from microloans made under this chapter; and
(2) evaluating the effectiveness of the microloan delivery organizations and the microloans made under this chapter in:
    (A) expanding employment and self-employment opportunities in Indiana; and

(B) increasing the incomes of persons employed by microenterprises.

As added by P.L.87-2011, SEC.2.

ARTICLE 21. REPEALED

(Repealed by P.L.198-2007, SEC.6.)

IC 5-22 Version a

ARTICLE 22. PUBLIC PURCHASING

Note: This version of IC 5-22 added by P.L.49-1997, SEC.1. A different version of IC 5-22, as added by P.L.19-1997, SEC.7, was repealed by P.L.253-1997(ss), SEC.39, and re-enacted at IC 5-24 by P.L.253-1997(ss), SEC.40.

IC 5-22-1

Chapter 1. Application

IC 5-22-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 3 of this chapter in the 2005 regular session of the general assembly apply only to a contract entered into or renewed after May 6, 2005.

As added by P.L.220-2011, SEC.100. Amended by P.L.13-2013, SEC.10.

IC 5-22-1-1

Applicability of article

Sec. 1. Except as provided in this chapter, this article applies to every expenditure of public funds by a governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-1-2

Nonapplicability of article

Sec. 2. Except as provided in this article, this article does not apply to the following:

(1) The commission for higher education.

(2) A state educational institution. However, IC 5-22-5-9 and IC 5-22-15 apply to a state educational institution.

(3) Military officers and military and armory boards of the state.

(4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.

(5) A local hospital authority under IC 5-1-4.

(6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.

(7) Hospitals established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.

(8) A library board under IC 36-12-3-16(b).

(9) A local housing authority under IC 36-7-18.

(10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(11) A person paying for a purchase or lease with funds other than public funds.

(12) A person that has entered into an agreement with a governmental body under IC 5-23.

(13) A municipality for the operation of municipal facilities

used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

(14) The department of financial institutions established by IC 28-11-1-1.

(15) The insurance commissioner in retaining an examiner for purposes of IC 27-1-3.1-9.

(16) The department of natural resources for the procurement of supplies purchased for resale at properties owned or managed by the department of natural resources.

As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.82; P.L.184-2005, SEC.2; P.L.19-2007, SEC.1; P.L.213-2007, SEC.3; P.L.217-2007, SEC.3; P.L.11-2011, SEC.2; P.L.155-2015, SEC.3.

IC 5-22-1-3

Excluded items; exceptions

Sec. 3. (a) Except as provided in subsection (b), this article does not apply to the following types of activities:

(1) A contract between governmental bodies except for a contract authorized under this article.

(2) A public works project.

(3) A collective bargaining agreement between a governmental body and its employees.

(4) The employment relationship between a governmental body and an employee of the governmental body.

(5) An investment of public funds.

(6) A contract between a governmental body and a body corporate and politic.

(7) A contract for social services.

(8) A contract with a body corporate and politic.

(b) IC 5-22-3-7 applies to any:

(1) contract;

(2) project;

(3) agreement;

(4) employment relationship; or

(5) investment;

described in subsection (a).

As added by P.L.49-1997, SEC.1. Amended by P.L.165-2005, SEC.1 and P.L.222-2005, SEC.24.

IC 5-22-2
Chapter 2. Definitions

IC 5-22-2-0.1
Application of certain amendments to chapter
Sec. 0.1. The amendments made to section 1 of this chapter in the 2005 regular session of the general assembly apply only to a contract entered into or renewed after May 6, 2005.
As added by P.L.220-2011, SEC.101. Amended by P.L.13-2013, SEC.11.

IC 5-22-2-1
Applicability of definitions
Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.
As added by P.L.49-1997, SEC.1. Amended by P.L.165-2005, SEC.2 and P.L.222-2005, SEC.25.

IC 5-22-2-1.3
"Affiliate"
Sec. 1.3. "Affiliate" means a business entity that effectively controls or is controlled by a contractor or is associated with a contractor under common ownership or control, whether by shareholdings or other means, including a subsidiary, parent, or sibling of a contractor.
As added by P.L.165-2005, SEC.3 and P.L.222-2005, SEC.26. Amended by P.L.1-2006, SEC.123.

IC 5-22-2-2
"Change order"
Sec. 2. "Change order" means a written order that:
(1) is signed by the purchasing agent; and
(2) directs the contractor to make changes that the contract authorizes the purchasing agent to order without the consent of the contractor.
As added by P.L.49-1997, SEC.1.

IC 5-22-2-2.5
"Consolidated purchase"
Sec. 2.5. "Consolidated purchase" means the purchase of multiple supplies or services from one (1) vendor.
As added by P.L.46-2007, SEC.1.

IC 5-22-2-2.7
"Committee"
Sec. 2.7. "Committee" refers to the committee for the purchase of products and services established under IC 16-32-2-2.
As added by P.L.46-2007, SEC.2.

IC 5-22-2-3
"Contract modification"

Sec. 3. "Contract modification" means a written alteration:

(1) in a specification, delivery point, rate of delivery, period of performance, price, quantity, or another provision of a contract; and

(2) accomplished by mutual action of the parties to the contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-4
"Contractor"

Sec. 4. "Contractor" refers to a person who has a contract with a governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-5
"Cost reimbursement contract"

Sec. 5. "Cost reimbursement contract" means a contract that entitles a contractor to receive:

(1) reimbursement for costs that are allowable and allocable in accordance with the contract terms and the provisions of this article; and

(2) a fee, if any.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-6
"Data"

Sec. 6. "Data" means recorded information, regardless of its form or characteristics.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-7
Repealed

(As added by P.L.49-1997, SEC.1. Repealed by P.L.177-2005, SEC.47.)

IC 5-22-2-8
"Designee"

Sec. 8. "Designee" means an authorized representative.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-9
"Established catalog price"

Sec. 9. "Established catalog price" refers to the price included in a catalog, price list, schedule, or other form that:

(1) is regularly maintained by the manufacturer or contractor;

(2) is either published or otherwise available for inspection by customers; and

(3) states prices at which sales are currently or were last made to a significant number of any category of buyers, or buyers constituting the general buying public, for the supplies or services involved.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-10
"Executive branch"

Sec. 10. "Executive branch" refers to the department of state government provided in Articles 5 and 6 of the Constitution of the State of Indiana.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-11
"Fiscal body"

Sec. 11. "Fiscal body" means the following:

(1) For a state agency, the term refers to the budget agency.

(2) For a political subdivision, the term has the meaning set forth in IC 36-1-2-6.

(3) For a governmental body not described in subdivision (1) or (2), the term means the person that has primary responsibility for the fiscal affairs of the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-12
"Gift"

Sec. 12. "Gift" includes a bequest, cooperative agreement, and grant.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-13
"Governmental body"

Sec. 13. "Governmental body" means an agency, a board, a branch, a bureau, a commission, a council, a department, an institution, an office, or another establishment of any of the following:

(1) The executive branch.

(2) The judicial branch.

(3) The legislative branch.

(4) A political subdivision.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-13.2
"Office of technology"

Sec. 13.2. "Office of technology" refers to the office of technology established by IC 4-13.1-2-1.

As added by P.L.177-2005, SEC.21.

IC 5-22-2-13.5
"Internet"

Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

As added by P.L.93-2004, SEC.4.

IC 5-22-2-13.7
"Internet purchasing site"

Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.

As added by P.L.93-2004, SEC.5.

IC 5-22-2-13.9
Repealed

(As added by P.L.31-2002, SEC.1. Repealed by P.L.177-2005, SEC.47.)

IC 5-22-2-14
"Invitation for bids"

Sec. 14. "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-15
"Judicial branch"

Sec. 15. "Judicial branch" refers to the department of state government provided in Article 7 of the Constitution of the State of Indiana.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-16
"Legislative branch"

Sec. 16. "Legislative branch" refers to the department of state government provided in Article 4 of the Constitution of the State of Indiana.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-17
"Offer"

Sec. 17. (a) "Offer" means a response to a solicitation.

(b) The term includes a bid, proposal, and quote.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-18

"Offeror"

Sec. 18. "Offeror" means a person that submits an offer to a governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-19

"Operating agreement"

Sec. 19. "Operating agreement" has the meaning set forth in IC 5-23-2-7.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-20

"Person"

Sec. 20. "Person" includes an association, a business, a committee, a corporation, a fiduciary, an individual, a joint stock company, a joint venture, a limited liability company, a partnership, a sole proprietorship, a trust, or another legal entity, organization, or group of individuals.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-21

"Policy"

Sec. 21. "Policy" refers to a governmental body's or purchasing agency's written statement of:

(1) purchasing procedure; or

(2) substantive purchasing purposes;

that does not have the force and effect of law.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-22

"Political subdivision"

Sec. 22. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-23

"Public funds"

Sec. 23. (a) "Public funds" means money:

(1) derived from the revenue sources of the governmental body; and

(2) deposited into the general or a special fund of the governmental body.

(b) The term does not include either of the following:

(1) Money received by any person managing or operating a public facility under an authorized operating agreement under IC 5-23.

(2) Proceeds of bonds payable exclusively by a private entity.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-24
"Purchase"

Sec. 24. (a) "Purchase" includes buy, procure, rent, lease, or otherwise acquire.

(b) The term includes the following activities:

(1) Description of requirements.
(2) Solicitation or selection of sources.
(3) Preparation and award of contract.
(4) All phases of contract administration.
(5) All functions that pertain to purchasing.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-25
"Purchasing agency"

Sec. 25. "Purchasing agency" means a governmental body that is authorized to enter into contracts by this article, rules adopted under this article, or by another law.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-26
"Purchasing agent"

Sec. 26. "Purchasing agent" means an individual authorized by a purchasing agency to act as an agent for the purchasing agency in the administration of the duties of the purchasing agency.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-27
"Purchase description"

Sec. 27. (a) "Purchase description" means the words used in a solicitation to describe the supplies or services to be purchased.

(b) The term includes specifications attached to, or made a part of, the solicitation.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-28
"Request for proposals" or "RFP"

Sec. 28. "Request for proposals" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-28.5
"Reverse auction"

Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet.

As added by P.L.93-2004, SEC.6.

IC 5-22-2-29
"Rule"

Sec. 29. "Rule" refers to the following:

(1) With respect to an agency of the executive branch, a rule adopted under IC 4-22-2.

(2) With respect to a governmental body not described in subdivision (1), an order, an ordinance, a resolution, or another procedure by which the governmental body is authorized by law to adopt a policy that has the force and effect of law.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-30
"Services"

Sec. 30. "Services" means the furnishing of labor, time, or effort by a person, not involving the delivery of specific supplies other than printed documents or other items that are merely incidental to the required performance.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-31
"Social services"

Sec. 31. "Social services" means services obtained from funds covered by IC 31-25-2-8.

As added by P.L.49-1997, SEC.1. Amended by P.L.128-2012, SEC.3.

IC 5-22-2-32
"Solicitation"

Sec. 32. (a) "Solicitation" means the procedure by which a governmental body invites persons to submit an offer to enter into a contract with the governmental body for the purchase or sale of supplies by the governmental body.

(b) The term includes an invitation for bids, a request for proposals, and a request for quotes.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-33
"Special fund"

Sec. 33. "Special fund", as used with respect to the state, means a dedicated fund.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-34
"Special purchase"

Sec. 34. "Special purchase" refers to a purchase authorized under IC 5-22-10.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-35

"Specification"

Sec. 35. (a) "Specification" means a description of the physical or functional characteristics of a supply or service or the nature of a supply or service.

(b) The term includes a description of any requirements for inspecting, testing, or preparing a supply or service for delivery.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-36

"State agency"

Sec. 36. "State agency" has the meaning set forth in IC 4-13-1-1.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-37

Repealed

(As added by P.L.49-1997, SEC.1. Repealed by P.L.2-2007, SEC.390.)

IC 5-22-2-38

"Supplies"

Sec. 38. (a) "Supplies" means any property.

(b) The term includes equipment, goods, and materials. The term does not include an interest in real property.

As added by P.L.49-1997, SEC.1.

IC 5-22-2-39

"Using agency"

Sec. 39. "Using agency" means a governmental body that uses supplies or services purchased under this article.

As added by P.L.49-1997, SEC.1.

IC 5-22-3

Chapter 3. General Provisions

IC 5-22-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The addition of section 7 of this chapter in the 2005 regular session of the general assembly applies only to a contract entered into or renewed after May 6, 2005.

As added by P.L.220-2011, SEC.102. Amended by P.L.13-2013, SEC.12.

IC 5-22-3-1

Good faith requirement

Sec. 1. All parties involved in the negotiation, performance, or administration of contracts under this article shall act in good faith.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-2

Compliance with terms and conditions of gift

Sec. 2. Notwithstanding this article, a governmental body may comply with the terms and conditions of a gift if noncompliance with those terms and conditions would invalidate the gift.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-3

Rules; written policies

Sec. 3. (a) A governmental body may adopt rules to regulate purchases of the governmental body. A rule adopted under this subsection may:

(1) supplement this article; and

(2) not be inconsistent with this article.

(b) The purchasing agency of a governmental body may establish written policies for purchases made by the purchasing agency. The written policies may apply to all purchases generally or to a specific purchase as stated in the solicitation for the purchase. A written policy established under this subsection may:

(1) supplement this article or a rule adopted by the purchasing agency's governmental body; and

(2) not be inconsistent with this article or a rule adopted by the purchasing agency's governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-4

Electronic transmission of notice or other materials

Sec. 4. (a) Whenever this article requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:

(1) Rules adopted by the governmental body.

(2) Written policies of the purchasing agency.
(3) A solicitation.

(b) Rules, written policies, and solicitation statements described in subsection (a):

(1) are subject to this article; and
(2) must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

(c) A governmental body may receive electronic offers if both of the following apply:

(1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.
(2) The governmental body receives the offer on a fax machine, by electronic mail, or by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

(d) A governmental body conducting a reverse auction must receive electronic offers for supplies through an Internet purchasing site.

As added by P.L.49-1997, SEC.1. Amended by P.L.31-2002, SEC.2; P.L.1-2003, SEC.19; P.L.93-2004, SEC.7.

IC 5-22-3-5
Offers submitted by trusts

Sec. 5. (a) This section applies whenever a trust submits an offer to a governmental body to do either of the following:

(1) Enter into a contract with the governmental body.
(2) Purchase surplus property from the governmental body under this article.

(b) As used in this section, "trust" has the meaning set forth in IC 30-4-1-1(a).

(c) An offer submitted by a trust must identify all of the following:

(1) Each beneficiary of the trust.
(2) Each settlor empowered to revoke or modify the trust.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-6
Property interest in award of contract

Sec. 6. An offeror does not gain a property interest in the award of a contract by a governmental body unless:

(1) the offeror is awarded the contract; and
(2) the contract is completely executed.

As added by P.L.49-1997, SEC.1.

IC 5-22-3-7
Prospective contractors required to make certifications concerning deceptive acts and telephone privacy; sanctions

Sec. 7. (a) This section applies to every use of funds by a governmental body. However, this section does not apply to a contract in which one (1) party is a political subdivision, including a body corporate and politic created by or authorized by a political subdivision.

(b) A prospective contractor may not contract with a governmental body unless the prospective contractor includes the following certifications as terms of the contract with the governmental body:

(1) The contractor and any principals of the contractor certify that:

(A) the contractor, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC 24-4.7;

(ii) IC 24-5-12; or

(iii) IC 24-5-14;

in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) the contractor will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

(2) The contractor and any principals of the contractor certify that an affiliate or principal of the contractor and any agent acting on behalf of the contractor or on behalf of an affiliate or principal of the contractor:

(A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC 24-4.7 for the duration of the contract, even if IC 24-4.7 is preempted by federal law.

(c) If a certification in subsection (b) concerning compliance with IC 24-4.7, IC 24-5-12, or IC 24-5-14 is materially false or if the contractor, an affiliate or a principal of the contractor, or an agent acting on behalf of the contractor or an affiliate or a principal of the contractor violates the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law, the attorney general may bring a civil action in the circuit or superior court of Marion County to:

(1) void a contract under this section, subject to subsection (d); and

(2) obtain other proper relief.

However, a contractor is not liable under this section if the contractor or an affiliate of the contractor acquires another business entity that violated the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14 within the preceding three hundred sixty-five (365) days before the date of the acquisition if the acquired business entity ceases violating IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal

law, as of the date of the acquisition.

(d) If:

(1) the attorney general notifies the contractor, department of administration, and budget agency in writing of the intention of the attorney general to void a contract; and

(2) the attorney general does not receive a written objection from the department of administration or budget agency, sent to both the attorney general and the contractor, within thirty (30) days of the notice;

a contract between a contractor and a governmental body is voidable at the election of the attorney general in a civil action brought under subsection (c). If an objection of the department of administration or the budget agency is submitted under subdivision (2), the contract that is the subject of the objection is not voidable at the election of the attorney general unless the objection is rescinded or withdrawn by the department of administration or the budget agency.

(e) If the attorney general establishes in a civil action that a contractor is knowingly, intentionally, or recklessly liable under subsection (c), the contractor is prohibited from entering into a contract with a governmental body for three hundred sixty-five (365) days after the date on which the contractor exhausts appellate remedies.

(f) In addition to any remedy obtained in a civil action brought under this section, the attorney general may obtain the following:

(1) All money the contractor obtained through each telephone call made in violation of the terms of IC 24-4.7, IC 24-5-12, or IC 24-5-14, even if IC 24-4.7 is preempted by federal law.

(2) The attorney general's reasonable expenses incurred in:

(A) investigation; and

(B) maintaining the civil action.

As added by P.L.165-2005, SEC.4 and P.L.222-2005, SEC.27.

IC 5-22-4
Chapter 4. Purchasing Organizations

IC 5-22-4-1
Purchasing agencies for agencies of executive branch

Sec. 1. (a) Except as provided in this chapter, the Indiana department of administration created by IC 4-13-1-2 is the purchasing agency for all agencies of the executive branch.

(b) Except as provided in this chapter, the individuals designated by the commissioner of the Indiana department of administration are the purchasing agents for all agencies of the executive branch.

As added by P.L.49-1997, SEC.1.

IC 5-22-4-2
Purchasing agencies for Indiana department of transportation

Sec. 2. (a) Except as provided in subsection (c), the Indiana department of transportation is the purchasing agency for the Indiana department of transportation.

(b) Except as provided in subsection (c), the individuals designated by the commissioner of the Indiana department of transportation are the purchasing agents for the Indiana department of transportation.

(c) Notwithstanding subsections (a) and (b), the Indiana department of transportation may request the Indiana department of administration to make purchases for the Indiana department of transportation. If the Indiana department of transportation makes a request under this subsection, section 1 of this chapter applies to those purchases.

As added by P.L.49-1997, SEC.1.

IC 5-22-4-3
Purchasing agencies for courts

Sec. 3. (a) Except as provided in subsections (c) and (d), a court in the judicial branch is the purchasing agency for that court.

(b) The individuals designated by a court are the purchasing agents for that court.

(c) Notwithstanding subsections (a) and (b), if a county has established a purchasing agency for the county, both of the following apply:

(1) The purchasing agency established by the county is the purchasing agency for a circuit or superior court of the county.

(2) Section 5 of this chapter applies to the purchases of a circuit or superior court of the county.

(d) Notwithstanding subsections (a) and (b), a court may request either of the following to be the purchasing agency for the court:

(1) A purchasing agency of the executive branch.

(2) A purchasing agency of a political subdivision.

If a court requests a purchasing agency described in this subsection

to be the purchasing agency for the court, the section of this chapter applicable to that purchasing agency applies to purchases made for the court.
As added by P.L.49-1997, SEC.1. Amended by P.L.201-2011, SEC.8.

IC 5-22-4-4
Purchasing agencies for house of representatives, senate, and agencies under jurisdiction of legislative council

Sec. 4. (a) Except as provided in subsection (e), the house of representatives is the purchasing agency for the house of representatives. The individuals designated by the speaker of the house of representatives are the purchasing agents for the house of representatives.

(b) Except as provided in subsection (e), the senate is the purchasing agency for the senate. The individuals designated by the president pro tempore of the senate are the purchasing agents for the senate.

(c) Except as provided in subsection (e), the legislative services agency is the purchasing agency for an agency under the jurisdiction of the legislative council. The individuals designated by the executive director of the legislative council are the purchasing agents for an agency under the jurisdiction of the legislative council.

(d) Except as provided in subsection (e), an agency of the legislative branch not described in subsections (a) through (c) is the purchasing agency for the agency. The individuals designated by the head of the agency are the purchasing agents for the agency.

(e) Notwithstanding subsections (a) through (d), an agency described in subsections (a) through (d) may request either of the following to be the purchasing agency for the agency making the request:

(1) Another agency described in this section.
(2) A purchasing agency of the executive branch.

If an agency makes a request under this subsection, the section of this chapter applicable to the purchasing agency to which the request was made applies to purchases made for the requesting agency.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-5
Purchasing agencies for political subdivision

Sec. 5. (a) The purchasing agency for a political subdivision is the person designated by law or by rule of the governmental body.

(b) The individuals designated by the purchasing agency are the purchasing agents for the governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-6
Number of purchasing agents

Sec. 6. A purchasing agency may have more than one (1)

purchasing agent.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-7
Cooperative purchasing organizations

Sec. 7. (a) A governmental body may enter into an agreement with other governmental bodies under IC 36-1-7 to form a cooperative purchasing organization.

(b) This article applies to the purchases made by a cooperative purchasing organization.

(c) A cooperative purchasing organization is the purchasing agency for a governmental body with respect to the purchases made for the governmental body by the cooperative purchasing organization. An individual designated by the cooperative purchasing organization is a purchasing agent for the governmental body with respect to the purchases made for the governmental body by the cooperative purchasing organization.
As added by P.L.49-1997, SEC.1.

IC 5-22-4-8
Purchases by school; purchasing agents

Sec. 8. (a) As used in this section, "board" refers to either of the following:

(1) With respect to the Indiana School for the Blind and Visually Impaired, the board established by IC 20-21-3-1.

(2) With respect to the Indiana School for the Deaf, the board established by IC 20-22-3-1.

(b) As used in this section, "school" refers to either of the following:

(1) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.

(2) The Indiana School for the Deaf established by IC 20-22-2-1.

(c) As used in this section, "superintendent" refers to the chief executive officer of the school.

(d) Except as provided in subsection (f), the school is the purchasing agency for the school.

(e) Except as provided in subsection (f), the superintendent is the purchasing agent for the school for purchases with a value of not more than twenty-five thousand dollars ($25,000).

(f) The Indiana department of administration and the board shall develop and implement a written policy for purchases by the school with a value of more than twenty-five thousand dollars ($25,000).
As added by P.L.69-1999, SEC.2. Amended by P.L.1-2005, SEC.83; P.L.218-2005, SEC.3.

IC 5-22-4-9
Repealed

(As added by P.L.234-2005, SEC.2. Amended by P.L.145-2006, SEC.14. Repealed by P.L.146-2008, SEC.806.)

IC 5-22-5

Chapter 5. Specifications

IC 5-22-5-1

Rules; policies

Sec. 1. (a) A governmental body may adopt rules or establish policies for the preparation, maintenance, and content of specifications.

(b) Rules or policies may include a description of requirements for inspecting, testing, or preparing an item for delivery.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-2

Duties of purchasing agents

Sec. 2. A purchasing agent shall prepare, issue, revise, maintain, and monitor the use of specifications.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-3

Purposes of specifications

Sec. 3. A specification must do the following:

(1) Promote overall economy for the purposes intended.

(2) Encourage competition in satisfying the governmental body's needs.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-4

Indexed file of specifications

Sec. 4. The purchasing agency shall maintain an indexed file of specifications prepared by or under the authority of its purchasing agents.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-5

Request for specifications

Sec. 5. (a) The procedure described in this section may be used by a purchasing agent when both of the following are satisfied:

(1) The purchasing agent makes a written determination that the development of specifications by the governmental body is not feasible.

(2) The executive of the governmental body approves of the use of this section.

(b) The purchasing agent may issue a request for specifications that must include the following:

(1) The factors or criteria that will be used in evaluating the specifications.

(2) A statement concerning the relative importance of evaluation factors.

(3) A statement concerning whether discussions may be conducted with persons proposing specifications to clarify the specification requirements.

(c) The purchasing agent shall give notice of the request for specifications under IC 5-3-1.

(d) As provided in the request for specifications, the purchasing agent may discuss proposed specifications with persons proposing specifications to clarify specification requirements.

(e) Persons proposing specifications must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposed specifications.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-6

Purchase of degradable and disposable plastic products

Sec. 6. (a) This section does not apply to a political subdivision.

(b) As used in this section, "biodegradation" means the conversion of all constituents of a plastic into miscellaneous component parts by the microbial action of fungi and bacteria upon natural materials such as cornstarch.

(c) As used in this section, "chemical degradation" means the conversion of all constituents of a plastic into miscellaneous component parts through the chemical reactions of additives such as auto-oxidants and the environment with the plastic.

(d) As used in this section, "degradable" means capable of being broken down by one (1) or more of the following degradation processes:

(1) Biodegradation.

(2) Photodegradation.

(3) Chemical degradation.

(e) As used in this section, "photodegradation" means the conversion of all constituents of a plastic product into miscellaneous component parts through the physical breakdown of the plastic product upon sufficient exposure to ultraviolet radiation.

(f) As used in this section, "plastic" includes a hybrid material containing plastic as a major component.

(g) As used in this section, "refuse bag" means a disposable plastic bag that is designed to hold garbage, grass clippings, fallen leaves, or other refuse. The term includes a disposable plastic bag that is designed to be placed inside and to catch the refuse deposited in a rigid refuse receptacle.

(h) When purchasing disposable plastic products, including refuse bags, a governmental body shall purchase disposable plastic products that are degradable if all the following apply:

(1) Degradable products are available at the time of the purchase.

(2) It is economically feasible to purchase degradable products.

(3) The purchase of degradable products is not inappropriate

because of:

(A) federal regulations or policy in matters involving the federal government; or

(B) the special requirements of scientific uses.

(4) The degradable product to be purchased is economically and functionally the equivalent of disposable plastic products that:

(A) meet applicable specifications; and

(B) are not degradable.

(5) The degradable product to be purchased is, in the determination of the purchasing agent, a type of product for which the use of degradable materials is appropriate based upon:

(A) the functional use of the product; and

(B) whether the product will probably be recycled or disposed of in a final disposal facility.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-7

Purchase of recycled paper products

Sec. 7. (a) This section does not apply to a political subdivision.

(b) A governmental body purchasing paper products shall purchase recycled paper products if all of the following apply:

(1) Recycled paper products are available at the time of a purchase.

(2) It is economically feasible to purchase recycled paper products.

(3) The purchase of recycled paper products is not inappropriate because of:

(A) federal regulations or policy in matters involving the federal government; or

(B) the special requirements of scientific uses.

As added by P.L.49-1997, SEC.1.

IC 5-22-5-8

Purchase of mid-level blend fuel, E85, and blended biodiesel fuel by governmental bodies; exemptions

Sec. 8. (a) This section does not apply to a political subdivision, except a school corporation (as defined in IC 20-18-2-16(a)).

(b) As used in this section, "blended biodiesel" refers to a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater). The term does not include biodiesel (B100).

(c) As used in this section, "diesel fueled vehicle" refers to a vehicle that is capable of using diesel to fuel its primary motor.

(d) As used in this section, "ethanol" means agriculturally derived ethyl alcohol.

(e) As used in this section, "E85" has the meaning set forth in IC 6-6-1.1-103.

(f) As used in this section, "gasoline fueled vehicle" refers to a vehicle that is capable of using gasoline to fuel its primary motor.

(g) As used in this section "mid-level blend fuel" means a fuel blend consisting of:

(1) at least twenty percent (20%) but not more than seventy-three percent (73%) ethanol; and

(2) gasoline as the balance.

(h) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(i) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase mid-level blend fuel or E85 to fuel the gasoline fueled vehicles owned or operated by the governmental body.

(j) Except as provided by subsections (k) and (l), a governmental body shall whenever possible purchase blended biodiesel fuel to fuel the diesel fueled vehicles owned or operated by the governmental body.

(k) The following vehicles are exempt from the requirements of subsections (i) and (j):

(1) A vehicle that is leased by the governmental body for thirty (30) days or less.

(2) A vehicle that:

(A) is primarily powered by an electric motor; or

(B) can use only propane, compressed or liquified natural gas, or methanol as its fuel source.

(l) The following vehicles are exempt from the requirements of subsection (i) or (j), whichever is appropriate:

(1) A gasoline fueled vehicle in which the use of mid-level blend fuel or E85 has not been approved by the manufacturer.

(2) A diesel fueled vehicle in which the use of blended biodiesel fuel has not been approved by the manufacturer.

(3) A gasoline fueled vehicle in which the use of mid-level blend fuel is prohibited by the federal Clean Air Act (42 U.S.C. 7401 et seq.).

As added by P.L.274-2001, SEC.1. Amended by P.L.6-2005, SEC.1; P.L.148-2009, SEC.1; P.L.190-2014, SEC.10.

IC 5-22-5-8.5

State entities required to purchase or lease clean energy vehicles; exceptions; rules; reports

Sec. 8.5. (a) As used in this section, "clean energy vehicle" means any of the following:

(1) A vehicle that operates on one (1) or more of the following energy sources:

(A) A rechargeable energy storage system.

(B) Hydrogen.

(C) Compressed air.
(D) Compressed or liquid natural gas.
(E) Solar energy.
(F) Liquefied petroleum gas.
(G) Any other alternative fuel (as defined in IC 6-3.1-31.9-1).

(2) A vehicle that operates on gasoline and one (1) or more of the energy sources listed in subdivision (1).

(3) A vehicle that operates on diesel fuel and one (1) or more of the energy sources listed in subdivision (1).

(b) As used in this section, "state entity" means the following:

(1) A state agency.

(2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive (including the administrative), legislative, or judicial department of state government.

The term includes a state elected official's office and excludes a state educational institution.

(c) As used in this section, "vehicle" includes the following:

(1) An automobile.

(2) A truck.

(3) A tractor.

(d) Except as provided in subsection (e), if a state entity purchases or leases a vehicle, it must purchase or lease a clean energy vehicle unless the Indiana department of administration determines that the purchase or lease of a clean energy vehicle:

(1) is inappropriate because of the purposes for which the vehicle will be used; or

(2) would cost at least twenty percent (20%) more than the purchase or lease of a vehicle that:

(A) is not a clean energy vehicle; and

(B) is designed and equipped comparably to the clean energy vehicle.

(e) The requirements of subsection (d) do not apply to the:

(1) purchase or lease of vehicles by or for the state police department; and

(2) short term or temporary lease of vehicles.

(f) The Indiana department of administration shall adopt rules or guidelines to provide a preference for the purchase or lease by state entities of clean energy vehicles manufactured wholly or partially in Indiana or containing parts manufactured in Indiana.

(g) Before August 1, each state entity shall annually submit to the Indiana department of administration information regarding the use of clean energy vehicles by the state entity. The information must specify the following for the preceding state fiscal year:

(1) The amount of alternative fuels purchased by the state entity.

(2) The amount of conventional fuels purchased by the state

entity.

(3) The average price per gallon paid by the state entity for each type of fuel purchased by the state entity.

(4) The total number of vehicles purchased or leased by the state agency that were clean energy vehicles and the total number of vehicles purchased or leased by the state agency that were not clean energy vehicles.

(5) Any other information required by the Indiana department of administration.

(h) Before September 1, the Indiana department of administration shall annually submit to the general assembly in an electronic format under IC 5-14-6 and to the governor a report that lists the information required under subsection (g) for each state entity and for all state agencies in the aggregate.

As added by P.L.151-2009, SEC.3. Amended by P.L.277-2013, SEC.3.

IC 5-22-5-9

Purchases of biobased products

Sec. 9. (a) This section applies to a purchase of supplies by any of the following:

(1) A governmental body.

(2) A state educational institution.

(b) As used in this section, "biobased product" refers to an item designated by the United States Department of Agriculture as a biobased product for federal procurement under Section 9002 of the federal Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102).

(c) A governmental body or a state educational institution shall, whenever possible, purchase biobased products if all of the following apply:

(1) Biobased products are available at the time of the purchase.

(2) It is economically feasible to purchase biobased products.

(3) The purchase of biobased products is not inappropriate because of:

(A) federal regulations or policy in matters involving the federal government; or

(B) the special requirements of scientific uses.

As added by P.L.19-2007, SEC.2.

IC 5-22-6

Chapter 6. Purchase of Services

IC 5-22-6-1

Procedures

Sec. 1. The purchasing agency of a governmental body may purchase services using any procedure the governmental body or the purchasing agency of the governmental body considers appropriate.

As added by P.L.49-1997, SEC.1.

IC 5-22-6-2

Rules; policies

Sec. 2. (a) A governmental body may adopt rules governing the purchase of services for the governmental body.

(b) The purchasing agency of a governmental body may establish policies regarding the purchase of services for the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-6.5

Chapter 6.5. Contracts for Collection Services

IC 5-22-6.5-1

"Person" defined

Sec. 1. As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, the state, a unit of local government, an agency of the state or a unit of local government, or a group of such persons acting in concert.

As added by P.L.22-1997, SEC.9.

IC 5-22-6.5-2

"Service" defined

Sec. 2. As used in this chapter, "service" means an action or actions to be performed under authority of the state, a state agency, a body corporate and politic, a state university, a unit of local government, or an agency of a unit of local government permitted by law to be done by its chief officer or governing or legislative body for the convenience or necessity of its citizens, but not including any action that constitutes the exercise of its discretionary powers, an exercise of state sovereignty, or the taking of legislative, quasi-legislative, judicial, or quasi-judicial action.

As added by P.L.22-1997, SEC.9.

IC 5-22-6.5-3

Authorization

Sec. 3. (a) The state, a unit of local government, a state agency, an agency of a unit of local government, a body corporate and politic, or a state university may let a contract with a public or private person for the performance of any ministerial service that it must or may have done under its direction that is necessary or desirable in the public interest.

(b) Notwithstanding IC 4-6-2-6, the state, a state agency, a body corporate and politic, a state university, a unit of local government, or an agency of a unit of local government may:

(1) contract with a collection agency to collect any amount owed to the state, state agency, body corporate and politic, state university, or unit of local government; and

(2) authorize a collection agency in a contract for collection services to collect from the debtor a collection fee.

As added by P.L.22-1997, SEC.9.

IC 5-22-6.5-4

Procedure for awarding contract

Sec. 4. (a) The state, a state agency, and a governmental body described in IC 5-22-2-13(1) through IC 5-22-2-13(4) shall award a contract for collection services using any procedure authorized by statute.

(b) A unit of local government or an agency of a unit of local government may award a contract for collection services using any procedure authorized by statute.

As added by P.L.22-1997, SEC.9. Amended by P.L.1-2009, SEC.24.

IC 5-22-7

Chapter 7. Competitive Bidding

IC 5-22-7-1

Compliance with chapter required

Sec. 1. A purchasing agent shall follow the procedure described in this chapter in awarding a contract for supplies, unless another purchasing method is required or authorized by this article.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-2

Invitation for bids

Sec. 2. (a) A purchasing agent shall issue an invitation for bids.

(b) An invitation for bids must include the following:

(1) A purchase description.

(2) All contractual terms and conditions that apply to the purchase.

(3) A statement of the evaluation criteria that will be used, including any of the following:

(A) Inspection.

(B) Testing.

(C) Quality.

(D) Workmanship.

(E) Delivery.

(F) Suitability for a particular purpose.

(G) The requirement imposed under IC 5-22-3-5.

(4) The time and place for opening the bids.

(5) A statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility that may be imposed in accordance with rules or policies of the governmental body.

(6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-3

Objective measurement of evaluation criteria

Sec. 3. Evaluation criteria that will:

(1) affect the bid price; and

(2) be considered in the evaluation for an award;

must be objectively measurable.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-4

Criteria for bid evaluation

Sec. 4. Only criteria specified in the invitation for bids may be used in bid evaluation.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-5
Notice of invitation for bids

Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the computer gateway administered by the office of technology.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

(1) the computer gateway administered by the office of technology; or

(2) any other electronic means available to the political subdivision.

As added by P.L.49-1997, SEC.1. Amended by P.L.251-1999, SEC.5; P.L.31-2002, SEC.3; P.L.93-2004, SEC.8; P.L.177-2005, SEC.22.

IC 5-22-7-6
Public opening of bids

Sec. 6. The purchasing agency shall open bids publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-7
Bids; acceptance; evaluation

Sec. 7. Bids must be:

(1) unconditionally accepted without alteration or correction, except as provided in sections 11 through 13 of this chapter; and

(2) evaluated based on the requirements provided in the invitation for bids.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-8
Awarding of contract

Sec. 8. A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-9
Maintenance of information by purchasing agency

Sec. 9. (a) The purchasing agency shall maintain the following information:

(1) The name of each bidder.

(2) The amount of each bid.

(3) Other information required by this article and rules adopted

under this article.

(b) The information described in subsection (a) is subject to public inspection after each contract award.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-10

Rules; policies

Sec. 10. (a) The governmental body may adopt rules or establish policies to allow any of the following:

(1) Correction or withdrawal of inadvertently erroneous bids before or after award.

(2) Cancellation of awards or contracts based on a mistake described in subdivision (1).

(b) Except as provided in a rule or policy, a purchasing agency must make a written decision to:

(1) permit the correction or withdrawal of a bid; or

(2) cancel awards or contracts based on bid mistakes.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-11

Prohibited changes after bid opening

Sec. 11. A purchasing agency may not permit changes in:

(1) bid prices; or

(2) other provisions of bids prejudicial to the interest of the governmental body or fair competition;

after bid opening.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-12

Proposed additions to contract

Sec. 12. If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:

(1) Declare the bidder nonresponsive.

(2) Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids.

(3) Accept any of the proposed additions to the contract, subject to section 13 of this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-7-13

Acceptance of proposed additions to contract; permitted changes to requirements of invitation for bids

Sec. 13. (a) The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition.

(b) A decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency.
As added by P.L.49-1997, SEC.1.

IC 5-22-7.3

Chapter 7.3. Negotiated Bidding

IC 5-22-7.3-1

Applicability

Sec. 1. (a) This chapter applies only to a purchasing agency in the executive branch.

(b) Subject to the policies of the purchasing agency, a purchasing agent may follow the procedure described in this chapter in awarding a contract for supplies instead of awarding a contract under IC 5-22-7.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-2

Invitations for bids; requirements

Sec. 2. (a) A purchasing agent may issue an invitation for bids.

(b) An invitation for bids must include the following:

(1) A purchase description.

(2) All contractual terms and conditions that apply to the purchase.

(3) A statement of which, if any, of the following will be used to evaluate bids:

(A) Inspection.

(B) Testing.

(C) Quality.

(D) Workmanship.

(E) Delivery.

(F) Suitability for a particular purpose.

(G) The requirement imposed under IC 5-22-3-5.

(H) Any other evaluation criteria stated in the invitation for bids.

(4) The procedure for opening the bids, including the date, time, and place for opening the bids.

(5) A statement concerning whether a bid must be accompanied by a certified check or other evidence of financial responsibility that may be required in accordance with policies of the purchasing agency.

(6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2.

(7) A statement concerning whether, and the procedures under which, discussions may be conducted with bidders before a contract is awarded. The procedures for conducting discussions with bidders must be consistent with fair competition among all bidders.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-3

Evaluation criteria

Sec. 3. Evaluation criteria that will:

(1) affect the bid price; and

(2) be considered in the evaluation for an award;

must be objectively measurable.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-4

Criteria used in bid evaluation

Sec. 4. Only criteria specified in the invitation for bids may be used in bid evaluation.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-5

Invitation for bids; notice

Sec. 5. (a) The purchasing agency shall:

(1) give notice of the invitation for bids in the manner required by IC 5-3-1; and

(2) provide electronic access to the notice through the computer gateway administered by the office of technology.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-6

Bid opening; agency employee witnesses

Sec. 6. (a) An employee of the purchasing agency shall open bids in the presence of one (1) or more other employees of the purchasing agency according to the procedure stated in the invitation for bids as required by section 2(b)(4) of this chapter.

(b) Individuals other than employees of the purchasing agency may not be present at an opening of bids unless the bids are opened publicly.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-7

Bids; confidentiality during negotiation; evaluation

Sec. 7. Bids must be:

(1) opened so as to avoid disclosure of contents to competing bidders during the process of negotiation; and

(2) evaluated based on the requirements provided in the invitation for bids.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-8

Contract award

Sec. 8. A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-9
Bid register requirements; public inspection of contract files; confidential proprietary information

Sec. 9. (a) The purchasing agency shall prepare a bid register.

(b) The bid register must contain the following:

(1) A copy of all documents that are included as part of the invitation for bids.

(2) A list of all persons to whom copies of the invitation for bids were given.

(3) A list of all bids received. The list of bids received must include the following information:

(A) The name and address of each bidder.

(B) The dollar amount of all bid prices received during the bidding process.

(C) The name of the successful bidder and the dollar amount of that bidder's bid.

(4) The basis on which the award was made.

(5) Documentation of the purchasing agency's negotiating process with bidders. The documentation must include the following:

(A) A log of the date and times of each meeting with a bidder. The log must include the identity of the bidder.

(B) A description of the nature of all communications with each bidder.

(C) Subject to subdivision (6), a copy of all written communications, including electronic communications, with each bidder.

(6) The entire contents of the contract file except for proprietary information included with a bid, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the invitation for bids.

(c) Except as provided in section 10 of this chapter, the bid register is subject to public inspection only after the contract award.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-10
Purchases over $200,000

Sec. 10. (a) This section applies only if the amount of the purchase is more than two hundred thousand dollars ($200,000).

(b) After the purchasing agency has completed any negotiations, the purchasing agency shall set a date, time, and place for publishing the bid register required by section 9 of this chapter. The date set under this subsection may not be less than seven (7) days before the purchasing agency notifies the successful bidder of the award of the contract.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-11
Erroneous bids

Sec. 11. (a) The purchasing agency may establish policies to allow any of the following:

(1) Correction or withdrawal of inadvertently erroneous bids before or after an award.

(2) Cancellation of awards or contracts based on a mistake described in subdivision (1).

(b) Except as provided in a rule or policy, a purchasing agency must make a written decision to:

(1) permit the correction or withdrawal of a bid; or

(2) cancel awards or contracts based on bid mistakes.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-12
Additional material in bid

Sec. 12. If a bidder inserts contract terms or bids on items not specified in the invitation for bids, the purchasing agent shall treat the additional material as a proposal for addition to the contract and may do any of the following:

(1) Declare the bidder nonresponsive.

(2) Permit the bidder to withdraw the proposed additions to the contract in order to meet the requirements and criteria provided in the invitation for bids.

(3) Accept any of the proposed additions to the contract, subject to section 13 of this chapter.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.3-13
Acceptance of contract additions; written determination by agency required

Sec. 13. (a) The purchasing agent may not accept proposed additions to the contract that are prejudicial to the interest of the governmental body or fair competition.

(b) A decision of the purchasing agent to permit a change to the requirements of the invitation for bids must be supported by a written determination by the purchasing agency.

As added by P.L.160-2006, SEC.6.

IC 5-22-7.5

Chapter 7.5. Online Reverse Auctions

IC 5-22-7.5-1

Authorization for reverse auction

Sec. 1. (a) A purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site to:

(1) issue an invitation for bids; and

(2) receive bids.

(b) Except as provided in this chapter, a purchasing agency and a bidder must comply with the requirements of this article when participating in a reverse auction.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-2

Necessity for written policies

Sec. 2. (a) Before conducting a reverse auction, the purchasing agency must adopt written policies that do the following:

(1) Establish procedures for all the following:

(A) Transmitting notices, solicitations, and specifications.

(B) Receiving offers.

(C) Making payments.

(D) Protecting the identity of a bidder or an offeror.

(E) For a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing.

(F) Establishing the deadline by which offers must be received and will be considered to be open and available for public inspection.

(G) Establishing the procedure for the opening of offers.

(2) Require the purchasing agency to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law.

(b) Written policies that comply with rules for an Internet public purchasing site adopted by the Indiana department of administration under IC 4-13-17-4 satisfy the requirements of this section.

As added by P.L.93-2004, SEC.9. Amended by P.L.160-2006, SEC.7.

IC 5-22-7.5-3

Bids in a reverse auction

Sec. 3. If a purchasing agency issues an invitation for bids using a reverse auction conducted through an Internet purchasing site under this chapter, only bids made:

(1) in accordance with the policies described in section 2 of this chapter; and

(2) through the Internet purchasing site;

may be evaluated by the purchasing entity at the close of bidding.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-4
Requirements of Internet purchasing site for reverse auction

Sec. 4. When used for a reverse auction, an Internet purchasing site must do the following:

(1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders.

(2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing.

(3) Conceal information that identifies a bidder.

(4) Comply with this article.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-5
Bidder fees

Sec. 5. The purchasing agency may charge a bidder in a reverse auction a fee set in the written policies adopted under section 2 of this chapter.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-6
Opening reverse auction bids

Sec. 6. For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a computer generated record of the information contained in all bids for a proposed purchase that were received by the site not later than the posted bid deadline is reviewed publicly by the purchasing agency in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-7
Noncollusion affirmation inapplicable

Sec. 7. IC 5-22-16-6(a)(2) does not apply to a reverse auction.

As added by P.L.93-2004, SEC.9.

IC 5-22-7.5-8
Repealed

(As added by P.L.93-2004, SEC.9. Repealed by P.L.160-2006, SEC.11.)

IC 5-22-8
Chapter 8. Small Purchases

IC 5-22-8-1
Applicability of chapter

Sec. 1. (a) This chapter applies only to a purchase expected by the purchasing agent to be less than one hundred fifty thousand dollars ($150,000).

(b) Purchase requirements may not be artificially divided so as to constitute a small purchase under this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.1; P.L.195-2007, SEC.1.

IC 5-22-8-2
Purchases below $50,000

Sec. 2. (a) This section applies only if the purchasing agent expects the purchase to be less than fifty thousand dollars ($50,000).

(b) A purchasing agent may make a purchase under small purchase policies established by the purchasing agency or under rules adopted by the governmental body.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.2; P.L.195-2007, SEC.2.

IC 5-22-8-3
Purchases between $50,000 and $150,000

Sec. 3. (a) This section applies only if the purchasing agent expects the purchase to be:

(1) at least fifty thousand dollars ($50,000); and

(2) not more than one hundred fifty thousand dollars ($150,000).

(b) A purchasing agent may purchase supplies under this section by inviting quotes from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.

(c) The purchasing agent shall mail an invitation to quote to the persons described in subsection (b) at least seven (7) days before the time fixed for receiving quotes.

(d) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

(e) The purchasing agent may reject all quotes.

(f) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under IC 5-22-10-10.

As added by P.L.7-1998, SEC.3. Amended by P.L.195-2007, SEC.3.

IC 5-22-9
Chapter 9. Request for Proposals

IC 5-22-9-1
Use of request for proposals

Sec. 1. Subject to the policies of the purchasing agency, a purchasing agent may award a contract using the procedure provided by this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.160-2006, SEC.8; P.L.195-2007, SEC.4.

IC 5-22-9-2
Request for proposals; contents

Sec. 2. The purchasing agent shall solicit proposals through a request for proposals, which must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

(2) A statement concerning the relative importance of price and the other evaluation factors.

(3) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility, which may be imposed in accordance with rules of the governmental body.

(4) A statement concerning whether discussions may be conducted with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for award.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-3
Public notice of request for proposals

Sec. 3. (a) The purchasing agency shall give public notice of the request for proposals in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the computer gateway administered by the office of technology.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through the electronic gateway administered by the office of technology.

As added by P.L.49-1997, SEC.1. Amended by P.L.251-1999, SEC.6; P.L.31-2002, SEC.4; P.L.177-2005, SEC.23.

IC 5-22-9-4
Opening of proposals

Sec. 4. Proposals must be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-5
Register of proposals; contents

Sec. 5. (a) A register of proposals must be:

(1) prepared; and

(2) open for public inspection after contract award.

(b) The register of proposals must contain the following:

(1) A copy of the request for proposals.

(2) A list of all persons to whom copies of the request for proposals were given.

(3) A list of all proposals received, which must include all of the following:

(A) The names and addresses of all offerors.

(B) The dollar amount of each offer.

(C) The name of the successful offeror and the dollar amount of that offeror's offer.

(4) The basis on which the award was made.

(5) The entire contents of the contract file except for proprietary information included with an offer, such as trade secrets, manufacturing processes, and financial information that was not required to be made available for public inspection by the terms of the request for proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-6
Responsible offerors; discussions; final offers

Sec. 6. As provided in the request for proposals or under the rules or policies of the governmental body, discussions may be conducted with, and best and final offers obtained from, responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-7
Award

Sec. 7. (a) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals.

(b) If provided in the request for proposals, award may be made to more than one (1) offeror whose proposals are determined in writing to be advantageous to the governmental body, taking into consideration price and other evaluation factors set forth in the request for proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-8
Rules; policies

Sec. 8. The governmental body may provide by rule or policy that:

(1) it is either not practicable or not advantageous to the governmental body to purchase specified types of supplies by competitive sealed bidding; and

(2) receiving proposals is the preferred method for purchase of that type of supply.

As added by P.L.49-1997, SEC.1.

IC 5-22-9-9

Fair and equal treatment of offerors

Sec. 9. (a) Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

(b) In conducting discussions with an offeror, information derived from proposals submitted by competing offerors may be used in discussion only if the identity of the offeror providing the information is not disclosed to others. The purchasing agency must provide equivalent information to all offerors with which the purchasing agency chooses to have discussions.

As added by P.L.49-1997, SEC.1. Amended by P.L.160-2006, SEC.9; P.L.195-2007, SEC.5.

IC 5-22-9-10

Evaluation; factors and criteria

Sec. 10. The only factors or criteria that may be used in the evaluation of proposals are those specified in the request for proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-10

Chapter 10. Special Purchasing Methods

IC 5-22-10-1

Purchase without soliciting bids or proposals

Sec. 1. Notwithstanding any other provision of this article, a purchasing agent may make a purchase under this chapter without soliciting bids or proposals.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-2

Competition

Sec. 2. A special purchase must be made with competition as is practicable under the circumstances.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-3

Contract files; record listing all contracts

Sec. 3. (a) A purchasing agent shall maintain the contract records for a special purchase in a separate file.

(b) A purchasing agent shall include in the contract file a written determination of the basis for:

(1) the special purchase; and

(2) the selection of a particular contractor.

(c) Notwithstanding any other law, a governmental body shall maintain a record listing all contracts made under this chapter for a minimum of five (5) years. The record must contain the following information:

(1) Each contractor's name.

(2) The amount and type of each contract.

(3) A description of the supplies purchased under each contract.

(d) The contract records for a special purchase are subject to audit by the state board of accounts.

As added by P.L.49-1997, SEC.1. Amended by P.L.181-2015, SEC.22.

IC 5-22-10-4

Emergency conditions

Sec. 4. (a) A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

(b) The counterterrorism and security council established by IC 10-19-8-1 may make a purchase under this section to preserve security or act in an emergency as determined by the governor.

As added by P.L.49-1997, SEC.1. Amended by P.L.123-2002, SEC.9; P.L.22-2005, SEC.3.

IC 5-22-10-5

Savings to governmental body

Sec. 5. A purchasing agent may make a special purchase when there exists a unique opportunity to obtain supplies or services at a substantial savings to the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-6

Auctions

Sec. 6. A purchasing agent may make a special purchase at an auction.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-7

Data processing contract or license agreements

Sec. 7. A purchasing agent may make a special purchase of data processing contracts or license agreements for:

(1) software programs; or

(2) supplies or services, when only one (1) source meets the using agency's reasonable requirements.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-8

Compatibility of equipment, accessories, or replacement parts

Sec. 8. A purchasing agent may make a special purchase when:

(1) the compatibility of equipment, accessories, or replacement parts is a substantial consideration in the purchase; and

(2) only one (1) source meets the using agency's reasonable requirements.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-9

Purchasing method impairs functioning of agency

Sec. 9. A purchasing agent may make a special purchase when purchase of the required supplies or services under another purchasing method under this article would seriously impair the functioning of the using agency.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-10

No offer received under other purchasing method

Sec. 10. A purchasing agent may make a special purchase when the purchasing agency has solicited for a purchase under another purchasing method described in this article and has not received a responsive offer.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-11

Evaluation of supplies or system containing supplies

Sec. 11. A purchasing agent may make a special purchase for the evaluation of supplies or a system containing supplies for any of the following reasons:

(1) To obtain:

(A) functional information; or

(B) comparative data.

(2) For a purpose that in the judgment of the purchasing agent may advance the long term competitive position of the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-12

Governmental discount available

Sec. 12. A purchasing agent may make a special purchase when the market structure is based on price but the governmental body is able to receive a dollar or percentage discount of the established price.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-13

Single source for supply; award of contract

Sec. 13. Subject to sections 14 and 15, a purchasing agent may award a contract for a supply when there is only one (1) source for the supply and the purchasing agent determines in writing that there is only one (1) source for the supply.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-14

General Services Administration price

Sec. 14. A purchasing agent may make a purchase from a person when the purchasing agent determines in writing that:

(1) supplies can be purchased from the person or the person's authorized representative at prices equal to or less than the prices stipulated in current federal supply service schedules established by the federal General Services Administration; and

(2) it is advantageous to the governmental body's interest in efficiency and economy.

As added by P.L.49-1997, SEC.1.

IC 5-22-10-15

Purchase from person who has contract with federal agency

Sec. 15. (a) A purchasing agent may purchase supplies if the purchase is made from a person who has a contract with a federal agency and the person's contract with the federal agency requires the person to make the supplies available to the state or political subdivisions.

(b) A purchasing agent for a political subdivision may purchase supplies if the purchase is made from a person who has a contract

with a state agency and the person's contract with the state requires the person to make the supplies or services available to political subdivisions, as provided in IC 4-13-1.6 or IC 5-22-17-9.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-16
Acquisition of supplies through transfer from federal government

Sec. 16. (a) A purchasing agent may acquire supplies if the purchasing agent determines that the governmental body can obtain the transfer of the supplies from the federal government under IC 4-13-1.7 at a cost less than would be obtained from purchase of the supplies by soliciting for bids or proposals.

(b) A governmental body may not make a purchase under this section if title to the property will be transferred to the governmental body before a sufficient appropriation to pay the costs of the purchase is appropriated. However, if the supplies will be transferred to the governmental body upon conditional sale or under a lease, a lease with option to purchase, or a contract for the use of the supplies, the governmental body may make the purchase under this section if there are sufficient funds appropriated to pay the consideration required for one (1) year of the agreement.

(c) A purchasing agent who purchases or leases surplus federal materials shall, at the time of the purchase or lease, or immediately thereafter, give public notice in accordance with IC 5-3-1.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-17
Acquisition of supplies through acceptance of gift

Sec. 17. A purchasing agent may acquire supplies by accepting a gift for the purchasing agent's governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-10-18
Special purchase of copyrighted material

Sec. 18. A purchasing agent for a state purchasing agency may make a special purchase of copyrighted materials to be used, provided, or distributed by a state agency.
As added by P.L.22-1997, SEC.10.

IC 5-22-10-19
Purchase from public utility following independent appraisal

Sec. 19. A purchasing agent may make a special purchase from a public utility if the purchase or lease price is a negotiated price that considers the results of an independent appraisal that the purchasing agency obtains and an independent appraisal that the public utility obtains.
As added by P.L.7-1998, SEC.4.

IC 5-22-10-20

Purchase of petroleum products by aviation commissioners, airport authority, or port authority

Sec. 20. (a) This section applies to the purchase of petroleum products by:

(1) a board of aviation commissioners under IC 8-22-2;

(2) an airport authority under IC 8-22-3; or

(3) a port authority organized under IC 8-10-5.

(b) A purchasing agent may make a special purchase of petroleum products if the petroleum products are for resale to the general public.

As added by P.L.7-1998, SEC.5. Amended by P.L.8-2013, SEC.1.

IC 5-22-11
Chapter 11. Purchases From the Department of Correction

IC 5-22-11-1
Requirement to purchase from the department of correction

Sec. 1. Subject to section 2 of this chapter, a governmental body shall purchase from the department of correction supplies and services produced or manufactured by the department under IC 11-10-6 as listed in the department's printed catalog unless the supplies and services cannot be furnished in a timely manner.

As added by P.L.49-1997, SEC.1.

IC 5-22-11-2
Specifications for supplies and services

Sec. 2. Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price.

As added by P.L.49-1997, SEC.1.

IC 5-22-11-3
Catalog

Sec. 3. The department of correction shall furnish each governmental body a catalog with the following information:

(1) Supplies and services available for sale.

(2) Prices of supplies and services available for sale.

As added by P.L.49-1997, SEC.1.

IC 5-22-12

Chapter 12. Purchase of Rehabilitation Center Products

IC 5-22-12-1

Applicability of chapter

Sec. 1. This chapter applies only to the following governmental bodies:

(1) A state institution (as defined in IC 12-7-2-184).

(2) A penal facility operated by the department of correction.

(3) An institution operated by the state department of health under IC 16-19-6.

(4) A political subdivision.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-2

"Bureau" defined

Sec. 2. As used in this chapter, "bureau" refers to the rehabilitation services bureau of the division of disability and rehabilitative services established under IC 12-12-1-1.

As added by P.L.49-1997, SEC.1. Amended by P.L.141-2006, SEC.8.

IC 5-22-12-3

"Rehabilitation center" defined

Sec. 3. As used in this chapter, "rehabilitation center" refers to the rehabilitation center established under IC 12-12-3-1.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-4

Conditions for purchases

Sec. 4. A governmental body shall purchase articles produced by the rehabilitation center under the same conditions as articles produced by the department of correction under IC 5-22-11, unless similar articles are produced by the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-5

Catalog

Sec. 5. The bureau shall publish a catalog for the use of governmental bodies, showing the products and services available through the rehabilitation center.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-6

Purchase of articles listed in catalog

Sec. 6. (a) Whenever a governmental body needs an article listed in the catalog published under section 5 of this chapter, the governmental body:

(1) shall give the bureau a reasonable time to produce or supply

the article; and

(2) except for an article produced by the department of correction, may not elsewhere:

(A) contract for;

(B) purchase; or

(C) pay a bill for;

an article described in the catalog unless the article cannot be furnished by the bureau.

(b) A governmental body may contract elsewhere for purchase of an article described in the catalog if the bureau gives a written statement that the bureau cannot furnish the article.

As added by P.L.49-1997, SEC.1.

IC 5-22-12-7

Specifications for supplies

Sec. 7. Supplies purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price.

As added by P.L.49-1997, SEC.1.

IC 5-22-13

Chapter 13. Purchases From Qualified Nonprofit Agencies for Persons With Severe Disabilities

IC 5-22-13-1

"Qualified agency" defined

Sec. 1. As used in this chapter, "qualified agency" refers to a nonprofit agency for persons with severe disabilities that meets all of the following conditions:

(1) The agency complies with Indiana laws governing private nonprofit organizations.

(2) The agency is certified by the Wage and Hour Division of the United States Department of Labor.

(3) The agency meets the standards adopted by the secretary of family and social services.

(4) The agency makes reports under IC 16-32-2-7.

As added by P.L.49-1997, SEC.1.

IC 5-22-13-2

Conditions for purchases; political subdivisions

Sec. 2. (a) This section applies only to a governmental body that is a political subdivision.

(b) A governmental body may purchase supplies and services without advertising or calling for bids from a qualified agency under the same conditions as supplies produced by the department of correction are purchased under IC 5-22-11.

As added by P.L.49-1997, SEC.1.

IC 5-22-13-3

Conditions for purchase; governmental bodies other than political subdivisions

Sec. 3. (a) This section applies to a governmental body not covered by section 2 of this chapter.

(b) A governmental body shall purchase supplies and services without advertising or calling for bids from a qualified agency under the same conditions as supplies produced by the department of correction are purchased under IC 5-22-11.

(c) Except as provided in subsection (d), before a purchasing agent issues a solicitation for supplies or services, the purchasing agent shall do either of the following:

(1) Obtain a written determination within seven (7) business days from:

(A) the committee; or

(B) a person designated by the committee;

that no qualified agency can provide the supplies or services.

(2) Certify that the supplies or services offered by a qualified agency cannot be obtained as required in section 5 of this chapter.

(d) If a purchasing agent issues a solicitation for a consolidated purchase of supplies or services, or both, the purchasing agent shall do either of the following:

(1) Require vendors to purchase:

(A) supplies;

(B) services; or

(C) both supplies and services;

from a catalog of a qualified agency kept by the committee.

(2) Establish scoring standards to ensure participation in the solicitation by a qualified agency.

As added by P.L.49-1997, SEC.1. Amended by P.L.46-2007, SEC.3.

IC 5-22-13-4

Apportionment of purchases

Sec. 4. A governmental body may apportion purchases of supplies and services under this chapter on an equitable basis among the interested qualified agencies.

As added by P.L.49-1997, SEC.1.

IC 5-22-13-5

Supplies and services must meet specifications; determination of fair market price

Sec. 5. (a) Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price as described under subsection (b).

(b) A fair market price under this section must cover for the qualified agency the costs of raw materials, labor, overhead, and delivery cost. In determining the fair market price, the purchasing agent shall use one (1) or more of the following:

(1) Available information from reliable market sources.

(2) A market survey from a person designated by the committee.

(3) Previous contract prices.

(4) The range of bids from the most recent solicitation, including a determination of:

(A) the median price of the bids;

(B) the average price of the bids; and

(C) any market conditions or specifications that have changed since the most recent solicitation.

As added by P.L.49-1997, SEC.1. Amended by P.L.46-2007, SEC.4.

IC 5-22-14

Chapter 14. Small Business Set-Aside Purchases

IC 5-22-14-0.5

"NGB-22"

Sec. 0.5. As used in this chapter, "NGB-22" means the National Guard Report of Separation form or its predecessor or successor form.

As added by P.L.113-2016, SEC.1.

IC 5-22-14-1

"Small business"

Sec. 1. As used in this chapter, "small business" means a business that:

(1) is independently owned and operated;

(2) is not dominant in its field of operation; and

(3) satisfies the criteria:

(A) in the rules adopted under section 3 of this chapter; or

(B) to be a veteran owned small business concern as specified in section 3.5 of this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.90-2013, SEC.1.

IC 5-22-14-2

"Small business set-aside"

Sec. 2. As used in this chapter, "small business set-aside" means a purchase in which the solicitation states that offers will be accepted only by small businesses.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-2.5

"Veteran"

Sec. 2.5. As used in this chapter, "veteran" means an individual who:

(1) has previously:

(A) served on active duty in any branch of the armed forces of the United States or their reserves, in the national guard, or in the Indiana National Guard; and

(B) received an honorable discharge from service; or

(2) is currently serving in:

(A) any branch of the armed forces of the United States or their reserves;

(B) the national guard; or

(C) the Indiana National Guard.

As added by P.L.113-2016, SEC.2.

IC 5-22-14-3

Rules; businesses that are not small businesses

Sec. 3. (a) A governmental body may adopt rules to implement

this chapter. The Indiana department of administration shall adopt rules under IC 4-22-2 to implement this chapter.

(b) The rules adopted by a governmental body must establish criteria for determining qualifications as a small business. In establishing criteria, the rules may use any standards established for determination of small business status that are used by an agency of the federal government. A governmental body may also receive assistance from the Indiana economic development corporation to establish criteria or to implement the rules.

(c) The rules adopted by a governmental body may consider the number of employees employed by an offeror and the dollar volume of the offeror's business. The rules must provide that when computing the size of an offeror, the annual sales and receipts of the offeror and all of its affiliates must be included.

(d) The rules adopted by a governmental body must include the following criteria:

(1) A wholesale business is not a small business if its annual sales for its most recently completed fiscal year exceed four million dollars ($4,000,000).

(2) A construction business is not a small business if its average annual receipts for the preceding three (3) fiscal years exceed four million dollars ($4,000,000).

(3) A retail business or business selling services is not a small business if its annual sales and receipts exceed five hundred thousand dollars ($500,000).

(4) A manufacturing business is not a small business if it employs more than one hundred (100) persons.

(5) A business in any of the following sectors is not a small business if it employs more than one hundred (100) persons or if its annual sales exceed five million dollars ($5,000,000):

(A) Information technology.

(B) Life sciences.

(C) Transportation.

(D) Logistics.

As added by P.L.49-1997, SEC.1. Amended by P.L.4-2005, SEC.31; P.L.160-2006, SEC.10.

IC 5-22-14-3.5

Veteran owned small business concern; eligibility

Sec. 3.5. (a) A business qualifies as a small business for purposes of this chapter if the business is an Indiana small business concern owned and controlled by veterans, as defined in 15 U.S.C. 632(q)(3) as in effect January 1, 2013, or is an Indiana small business owned and operated by veterans (as defined in section 2.5 of this chapter) and the business:

(1) has:

(A) 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; or

(B) a current certification as a veteran owned small business by the Indiana department of administration;

(2) is owned and controlled by one (1) or more veterans or, in the case of a corporation, have at least fifty-one percent (51%) of the corporation's stock owned by one (1) or more veterans; and

(3) has its principal place of business located in Indiana.

(b) The Indiana economic development corporation may assist the Indiana department of administration in doing any of the following:

(1) Compiling and maintaining a comprehensive list of veteran owned small businesses.

(2) Assisting veteran owned small businesses in complying with the procedures for bidding on state contracts.

(3) Examining requests from the Indiana department of administration for the purchase of supplies or services to help determine which purchases may be consistent with the goal described in section 11(a) of this chapter.

(4) Simplifying specifications and contract terms to increase the opportunities for veteran owned small businesses to participate in state contracts.

(c) The Indiana economic development corporation, in consultation with the Indiana department of administration, may develop programs to encourage cities, counties, towns, townships, and private businesses to adopt the goal for contracts with veteran owned small businesses described in section 11(a) of this chapter.

(d) For purposes of this chapter, information submitted by an applicant for certification as a veteran owned small business that contains:

(1) personal financial information; or

(2) confidential business information;

is confidential.

(e) For purposes of this chapter, the following forms submitted by an applicant for certification as a veteran owned small business are confidential:

(1) DD 214 (as defined in IC 10-17-15-1).

(2) NGB-22 (as defined in section 0.5 of this chapter).

(3) All forms submitted to verify current military or naval service status.

As added by P.L.90-2013, SEC.2. Amended by P.L.113-2016, SEC.3.

IC 5-22-14-4

Identification of supplies; designation as small business; notice

Sec. 4. (a) A governmental body that has adopted rules under this chapter may identify as a small business set-aside specific supplies for which purchase has been requested under this article.

(b) A small business designation must be made before the

solicitation for the purchase is issued and the public notice of the purchase must state that the purchase is a small business set-aside.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-5
Reasonable expectation of two offers

Sec. 5. A governmental body may not designate a purchase as a small business set-aside unless there is a reasonable expectation that offers will be obtained from at least two (2) small businesses capable of furnishing the desired supplies or service at a fair and reasonable price.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-6
Solicitation confined to small businesses

Sec. 6. If a purchase is designated as a small business set-aside, the solicitation must be confined to small businesses.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-7
Award of contract

Sec. 7. A contract shall be awarded to the lowest responsible and responsive offeror among the small businesses in accordance with the rules of the governmental body.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-8
Acceptance of offer resulting in unreasonable price

Sec. 8. If the purchasing agent determines that acceptance of the lowest responsible and responsive offer will result in the payment of an unreasonable price, the purchasing agent shall reject all offers and may withdraw designation of the purchase as a small business set-aside.
As added by P.L.49-1997, SEC.1.

IC 5-22-14-9
Assistance from Indiana economic development corporation

Sec. 9. The Indiana economic development corporation may assist a governmental body in doing any of the following:

(1) Compiling and maintaining a comprehensive list of small businesses.

(2) Assisting small businesses in complying with the procedures for bidding on governmental contracts.

(3) Examining requests from governmental bodies for the purchase of supplies to help determine which purchases are to be designated small business set-asides.

(4) Simplifying specifications and contract terms to increase the opportunities for small business participation in governmental

contracts.

(5) Investigations by a governmental body to determine the responsibility of offerors on small business set-asides.

As added by P.L.49-1997, SEC.1. Amended by P.L.4-2005, SEC.32.

IC 5-22-14-10

Purchases subject to other provisions and rules; conflict of laws

Sec. 10. A purchase from a small business under this chapter is subject to:

(1) all other provisions of this article; and

(2) the rules of the governmental body.

If there is a conflict between the laws described in subdivisions (1) and (2) and this chapter, this chapter governs.

As added by P.L.49-1997, SEC.1.

IC 5-22-14-11

Veteran owned small business concern; rules; state contracting goals; procurement policies and procedures; reporting requirement

Sec. 11. (a) The Indiana department of administration shall adopt rules under IC 4-22-2 to do the following:

(1) Increase contracting opportunities for Indiana veteran owned small businesses described in section 3.5 of this chapter with a goal to procure in each state fiscal year at least three percent (3%) of state contracts with Indiana veteran owned small businesses.

(2) Develop procurement policies and procedures to accomplish the goal described in subdivision (1), including guidelines to be followed by the Indiana department of administration in conducting the department's procurement efforts.

(3) Implement IC 5-22-14-3.5.

These procurement policies do not apply to a procurement of supplies and services to address immediate and serious government needs at a time of emergency, including a threat to the public health, welfare, or safety that may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, a threat proclaimed by the President of the United States or the governor, or a threat declared by the commissioner of the Indiana department of administration.

(b) The Indiana department of administration shall annually evaluate its progress in meeting the goal described in this section for the previous state fiscal year. Beginning in 2014, after June 30 and before November 1 of each year, the Indiana department of administration shall submit a report to the governor, the Indiana department of veterans' affairs, and the interim study committee on public safety and military affairs established by IC 2-5-1.3-4 and the legislative council in an electronic format under IC 5-14-6. The report must include:

(1) the percentage goal obtained by the Indiana department of

administration during the previous state fiscal year; and

(2) a summary of why the Indiana department of administration failed to meet the goal and what actions are being taken by the Indiana department of administration to meet the goal in the current state fiscal year.

(c) The Indiana department of administration shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted. The Indiana department of veterans' affairs shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted by the Indiana department of administration.

As added by P.L.90-2013, SEC.3. Amended by P.L.2-2014, SEC.16; P.L.53-2014, SEC.68; P.L.113-2016, SEC.4.

IC 5-22-15

Chapter 15. Purchasing Preferences

IC 5-22-15-1

Applicability of chapter

Sec. 1. This chapter applies to the following:

(1) A purchase of supplies under this article by any of the following:

(A) A governmental body.

(B) A state educational institution.

(C) An instrumentality of the state that performs essential governmental functions on either a statewide or local basis.

(D) The state lottery commission created by IC 4-30-3-1.

(2) A purchase made under IC 5-17-1.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.1; P.L.133-2012, SEC.36.

IC 5-22-15-2

"Absolute preference"

Sec. 2. As used in this chapter, "absolute preference" means a requirement that a governmental body must purchase supplies described under this chapter, regardless of price.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-3

"Adjusted offer"

Sec. 3. As used in this chapter, "adjusted offer" means the offer price of an offeror for preferred supplies as determined under section 10 of this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.2; P.L.133-2012, SEC.37.

IC 5-22-15-4

"Preferred supplies"

Sec. 4. As used in this chapter, "preferred supplies" means supplies that are given a preference under this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-5

"Price preference percentage"

Sec. 5. As used in this chapter, "price preference percentage" means the percentage preference provided by this chapter for a specified kind or item of supplies.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.3; P.L.133-2012, SEC.38.

IC 5-22-15-6

"Total adjusted offer"

Sec. 6. As used in this chapter, "total adjusted offer" means the sum of the offers and adjusted offers of an offeror for each item of supplies.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-7
Allowable preferences; limitations

Sec. 7. (a) An offeror may claim one (1) of the following types of preference for which the offeror is eligible:

(1) An Indiana business preference under rules adopted under section 20 of this chapter or IC 4-13.6-6-2.5.

(2) A preference for supplies as provided by sections 16, 18, 19, and 24 of this chapter.

(3) An Indiana small business preference as provided by section 23 of this chapter.

(4) An Indiana farm product preference as provided by section 23.5 of this chapter.

(b) An offeror may not claim more than one (1) preference as provided by sections 16, 18, 19, and 24 of this chapter for a given supply item.

(c) This section does not:

(1) apply to; or

(2) limit;

action of the Indiana department of administration under rules adopted under section 21 of this chapter.
As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.2; P.L.209-2001, SEC.1; P.L.122-2011, SEC.2.

IC 5-22-15-8
Offer must indicate preferred supply or service

Sec. 8. An offeror who wants to claim a preference provided under this chapter for a given supply item must indicate in the offer what supply item in the offer is a preferred supply.
As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.4; P.L.133-2012, SEC.39.

IC 5-22-15-9
Certification that supply meets required qualifications

Sec. 9. A purchasing agent may require an offeror who claims a preference for a given supply item under section 8 of this chapter to certify that the supply offered meets the qualifications set for preferred supplies under this chapter.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-10
Computation of adjusted offer; formula

Sec. 10. (a) This section does not apply to an absolute preference.

(b) If an offeror offers a preferred supply for a given supply item,

the purchasing agent shall compute an adjusted offer for that item according to the following formula:

STEP ONE: Determine the price preference percentage for the supply item under this chapter.

STEP TWO: Multiply the offeror's offer for the supply item by the percentage determined under STEP ONE.

STEP THREE: Subtract the number determined under STEP TWO from the offeror's offer for the supply item.

As added by P.L.49-1997, SEC.1. Amended by P.L.79-2008, SEC.5; P.L.133-2012, SEC.40.

IC 5-22-15-11
Award to offeror with lowest total adjusted offer

Sec. 11. Notwithstanding any statute requiring the award of a contract to the lowest offeror, but subject to section 12 of this chapter, a purchasing agent shall award a contract to the offeror whose total adjusted offer is lower than the total adjusted offer of each other offeror.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-12
Award of contract; requirements

Sec. 12. Award of a contract under section 11 of this chapter is subject to the following:

(1) A requirement of an applicable statute to award a contract to a responsible and responsive bidder.

(2) A requirement of an applicable statute to award a contract:

(A) to the best bidder; or

(B) in the case of a purchase under IC 5-22-9, to the offeror whose offer is most advantageous to the governmental body.

(3) The authority of the purchasing agent under IC 5-22-17-12 to award contracts separately or for a combination of a line or class of supplies.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.6.

IC 5-22-15-13
Contracts awarded separately; combination of line or class of supplies

Sec. 13. If a purchasing agent awards contracts separately, or for a combination of a line or class of supplies under an applicable law, the purchasing agent shall compute total adjusted offers and award contracts as if each combination of lines or classes of supplies to be awarded a contract had been solicited separately.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-14
Price

Sec. 14. The price paid for preferred supplies purchased under a

contract awarded under this chapter shall be the price offered for the supplies and not the adjusted offer price of the supplies.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-15
Rules

Sec. 15. A governmental body may adopt rules to implement this chapter.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-16
Price preference for supplies that contain recycled or post-consumer materials

Sec. 16. (a) This section does not apply when the purchase description is limited to a supply that meets the description set forth in subsection (b).

(b) There is a price preference for supplies that contain recycled materials or post-consumer materials.

(c) The amount of the price preference and the recycled materials' composition of the supplies must be set by one (1) of the following:

(1) Rules adopted by the governmental body.
(2) Policies established by the purchasing agency.
(3) The solicitation.

The preference shall be set to maximize the use of recycled materials when economically practical.

(d) A price preference set under subsection (c) may not be less than ten percent (10%) or exceed fifteen percent (15%).
As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.3.

IC 5-22-15-17
Repealed

(As added by P.L.49-1997, SEC.1. Repealed by P.L.153-1999, SEC.6.)

IC 5-22-15-18
Price preference for soybean oil based ink

Sec. 18. (a) Notwithstanding section 1 of this chapter, this section does not apply to a purchase of supplies by any of the following:

(1) A political subdivision.
(2) A state educational institution.

(b) This section does not apply when the purchase description is limited to soybean oil based ink.

(c) There is a price preference of ten percent (10%) for soybean oil based ink.
As added by P.L.49-1997, SEC.1.

IC 5-22-15-19
Price preference for soy diesel/bio diesel

Sec. 19. (a) This section does not apply when the purchase description is limited to a fuel of which at least twenty percent (20%) by volume is soy diesel/bio diesel.

(b) As used in this section, "soy diesel/bio diesel" includes fuels (other than alcohol) that are primarily esters derived from biological materials, including oilseeds and animal fats, for use in compression and ignition engines.

(c) There is a price preference of ten percent (10%) for soy diesel/bio diesel.

(d) The price preference under this section applies to a purchase of fuel of which at least twenty percent (20%) by volume is soy diesel/bio diesel.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-20

Preferences to Indiana businesses; rules

Sec. 20. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) As used in this section, "out-of-state business" refers to a business that is not an Indiana business.

(c) A governmental body may adopt rules to give a preference to an Indiana business that submits an offer for a purchase under this article if all of the following apply:

(1) An out-of-state business submits an offer for the purchase.

(2) The out-of-state business is a business from a state that gives purchase preferences unfavorable to Indiana businesses.

(d) Rules adopted under subsection (c) must establish criteria for determining the following:

(1) Whether an offeror qualifies as an Indiana business under the rules.

(2) When another state's preference is unfavorable to Indiana businesses.

(3) The method by which the preference for Indiana businesses is to be computed.

(e) Rules adopted under subsection (c) may not give a preference to an Indiana business that is more favorable to the Indiana business than the other state's preference is to the other state's businesses.

(f) Rules adopted under subsection (c) must provide that a contract shall be awarded to the lowest responsive and responsible offeror, regardless of the preference provided under this section, if:

(1) the offeror is an Indiana business; or

(2) the offeror is a business from a state bordering Indiana and the offeror's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana businesses.

As added by P.L.49-1997, SEC.1. Amended by P.L.66-2004, SEC.3.

IC 5-22-15-20.5

"Indiana business"; criteria; price preferences; awarding of contracts; exception

Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

(b) As used in this section, "Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on Indiana as defined by criteria developed under subsection (c).

(c) The Indiana department of administration shall consult with the Indiana economic development corporation in developing criteria for determining whether a business is an Indiana business under subsection (b). The Indiana department of administration may consult with the Indiana economic development corporation to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There are the following price preferences for supplies purchased from an Indiana business:

(1) Five percent (5%) for a purchase expected by the state agency to be less than five hundred thousand dollars ($500,000).

(2) Three percent (3%) for a purchase expected by the state agency to be at least five hundred thousand dollars ($500,000) but less than one million dollars ($1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars ($1,000,000).

(e) If an Indiana business offers to provide supplies manufactured, assembled, or produced in Indiana, and if two (2) or more bids submitted were the same, the following price preference is available to the Indiana business, in addition to the price preference available under subsection (d):

(1) Three percent (3%) for a purchase expected by the state agency to be less than five hundred thousand dollars ($500,000).

(2) Two percent (2%) for a purchase expected by the state agency to be at least five hundred thousand dollars ($500,000) but less than one million dollars ($1,000,000).

(3) One percent (1%) for a purchase expected by the state agency to be at least one million dollars ($1,000,000).

The Indiana department of administration shall adopt rules under

IC 4-22-2 to establish guidelines for determining when supplies are manufactured or assembled in Indiana.

(f) A business that wants to claim a preference provided under this section must do all of the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the department:

(A) The location of the business's principal place of business. If the business claims the preference as an Indiana business described in subsection (b)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to Indiana residents.

(C) The number of the business's employees and the number of the business's employees who are Indiana residents.

(D) If the business claims the preference as an Indiana business described in subsection (b)(4), a description of the capital investments made in Indiana and a statement of the amount of those capital investments.

(E) If the business claims the preference as an Indiana business described in subsection (b)(5), a description of the substantial positive economic impact the business has on Indiana.

As added by P.L.66-2004, SEC.4. Amended by P.L.4-2005, SEC.33; P.L.123-2009, SEC.1; P.L.122-2011, SEC.3.

IC 5-22-15-20.7
Repealed

(As added by P.L.79-2008, SEC.6. Repealed by P.L.133-2012, SEC.41.)

IC 5-22-15-20.9
Price preferences for local Indiana businesses

Sec. 20.9. (a) This section applies only to a contract awarded by a political subdivision if the political subdivision provides in the solicitation that this section applies to the purchase.

(b) As used in this section, "affected county" refers to an Indiana county:

(1) in which the political subdivision awarding a contract under this article is located; or

(2) that is adjacent to the county described in subdivision (1).

(c) As used in this section, "local Indiana business" refers to any of the following:

(1) A business whose principal place of business is located in an affected county.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of affected counties.

(3) A business that employs residents of affected counties as a majority of its employees.

(4) A business that makes significant capital investments in the affected counties as defined in rules adopted by the political subdivision.

(5) A business that has a substantial positive economic impact on the affected counties as defined by criteria in rules adopted by the political subdivision.

(d) There are the following price preferences for supplies purchased from a local Indiana business:

(1) Five percent (5%) for a purchase expected by the purchasing agency to be less than fifty thousand dollars ($50,000).

(2) Three percent (3%) for a purchase expected by the purchasing agency to be at least fifty thousand dollars ($50,000) but less than one hundred thousand dollars ($100,000).

(3) One percent (1%) for a purchase expected by the purchasing agency to be at least one hundred thousand dollars ($100,000).

(e) Notwithstanding subsection (d), a purchasing agency may award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if the lowest responsive and responsible offeror is a local Indiana business.

(f) A business that wants to claim a preference provided under this section must do all the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the purchasing agency:

(A) The location of the business's principal place of business. If the business claims the preference as a local Indiana business described in subsection (c)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to residents of affected counties.

(C) The number of the business's employees and the number of the business's employees who are residents of affected counties.

(D) If the business claims the preference as a local Indiana business described in subsection (c)(4), a description of the capital investments made in the affected counties and a statement of the amount of those capital investments.

(E) If the business claims the preference as a local Indiana business described in subsection (c)(5), a description of the substantial positive economic impact the business has on the affected counties.

As added by P.L.172-2011, SEC.22. Amended by P.L.17-2012, SEC.1; P.L.67-2012, SEC.1.

IC 5-22-15-21
Promotion of purchase of supplies manufactured in the United States; rules

Sec. 21. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) A governmental body shall adopt rules to promote the purchase of supplies manufactured in the United States.

(c) Rules adopted under subsection (b) shall provide that supplies manufactured in the United States shall be specified and purchased unless the governmental body determines that any of the following apply:

(1) The supplies are not manufactured in the United States in reasonably available quantities.

(2) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States.

(3) The quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured outside the United States.

(4) The purchase of supplies manufactured in the United States is not in the public interest.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-22
Absolute preference to coal mined in Indiana

Sec. 22. (a) This section does not apply to the state lottery commission created by IC 4-30-3-1.

(b) This section does not apply if federal law requires the use of low sulphur coal in the circumstances for which the coal is purchased.

(c) Whenever a purchasing agent purchases coal for use as fuel, the purchasing agent shall give an absolute preference to coal mined in Indiana.

As added by P.L.49-1997, SEC.1.

IC 5-22-15-23
Price preference for supplies to Indiana small business

Sec. 23. (a) A governmental body shall give a fifteen percent (15%) preference for supplies to an Indiana small business (as defined in IC 5-22-14-1) that submits an offer for purchase under this article.

(b) The governmental body may adopt rules to establish criteria to carry out this section.

As added by P.L.153-1999, SEC.4.

IC 5-22-15-23.5
Price preference for Indiana agricultural products

Sec. 23.5. (a) A governmental body may give up to a ten percent

(10%) price preference for agricultural products grown, produced, or processed in Indiana.

(b) A governmental body may adopt rules to establish criteria to carry out this section.

As added by P.L.122-2011, SEC.4.

IC 5-22-15-24

Purchasing agents for government entities to give high calcium foods preference

Sec. 24. (a) This section applies in addition to any requirements placed upon a governmental entity by the United States Department of Agriculture under the National School Lunch Program or the School Breakfast Program.

(b) This section applies to:

(1) a governmental entity listed in section 1 of this chapter; or

(2) a business that contracts with a governmental entity listed in section 1 of this chapter;

that purchases food or beverages to be processed and served in a building or room owned or operated by the governmental entity.

(c) High calcium foods and beverages are preferred supplies. A purchasing agent shall give a preference to foods and beverages that:

(1) contain a higher level of calcium than products of the same type and quality; and

(2) are equal in price to or lower in price than products of the same type and quality.

(d) Notwithstanding subsection (c), if the director of a state institution (as defined in IC 12-7-2-184) determines that a high calcium food or beverage that is preferred under subsection (c) would interfere with the proper treatment and care of a patient of the state institution, the purchasing agent for the state institution is not required to purchase the high calcium food or beverage for that patient.

As added by P.L.209-2001, SEC.2.

IC 5-22-15-24.2

Forced labor; supplies prohibition

Sec. 24.2. (a) As used in this section, "forced labor" has the meaning set forth in 19 U.S.C. 1307.

(b) If an offeror offers to furnish supplies made in a country other than the United States, a governmental body may not award a contract to the offeror for those supplies if the supplies were made using forced labor.

(c) A governmental body shall inform offerors in the solicitation of the provisions of this section.

As added by P.L.194-2001, SEC.1.

IC 5-22-15-25

Steel products

Sec. 25. (a) As used in this section, "steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more such operations, by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.

(b) As used in this section, "United States" includes all territory, continental or insular, subject to the jurisdiction of the United States.

(c) Unless the head of the purchasing agency makes a written determination described in subsection (d), a solicitation must require that if any steel products are used in:

(1) the manufacture of the supplies required under the contract; or

(2) supplies used in the performance of the services under the contract by the contractor or a subcontractor of the contractor;

the steel products must be manufactured in the United States.

(d) Subsection (c) does not apply if the:

(1) head of the purchasing agency determines in writing that:

(A) the cost of the contract with the requirements of subsection (c) would be greater than one hundred fifteen percent (115%) of the cost of the contract without the requirements of subsection (c); and

(B) failure to impose the requirements of subsection (c) would not in any way:

(i) harm the business of a facility that manufactures steel products in Indiana; or

(ii) result in the reduction of employment or wages and benefits of employees of a facility described in item (i); or

(2) purchase is:

(A) less than ten thousand dollars ($10,000); and

(B) made under the small purchase policies (as described in IC 5-22-8-2(b)) established by the purchasing agency or under rules adopted by the governmental body.

(e) A purchasing agency shall inform offerors in the solicitation of the provisions of this section.

As added by P.L.194-2001, SEC.2.

IC 5-22-16

Chapter 16. Qualifications and Duties of Offerors and Prospective Contractors

IC 5-22-16-1

Responsibility of offeror; determination

Sec. 1. (a) If a purchasing agent determines that an offeror is not responsible, that determination must be made in writing by the purchasing agent.

(b) If an offeror fails to provide information required by the purchasing agent concerning a determination of whether the offeror is responsible, that offeror may not be considered responsible under this article.

(c) Information furnished by an offeror under this section shall not be disclosed outside the purchasing agency without the offeror's prior written consent.

(d) In determining whether an offeror is responsible, a purchasing agent may consider the following factors:

(1) The ability and capacity of the offeror to provide the supplies or service.

(2) The integrity, character, and reputation of the offeror.

(3) The competency and experience of the offeror.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-2

Responsiveness of offeror; determination

Sec. 2. In determining whether an offeror is responsive, a purchasing agent may consider the following factors:

(1) Whether the offeror has submitted an offer that conforms in all material respects to the specifications.

(2) Whether the offeror has submitted an offer that complies specifically with the solicitation and the instructions to offerors.

(3) Whether the offeror has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-3

Prequalified contractors

Sec. 3. Prospective contractors may be prequalified for particular types of supplies. Solicitation mailing lists of potential contractors may include any or all of such prequalified persons.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-4

Registration with secretary of state; payment of gross retail tax; condition of doing business

Sec. 4. (a) An offeror that is a foreign corporation must be

registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) This subsection applies to a purchase of tangible personal property for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2007, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase tangible personal property from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

As added by P.L.49-1997, SEC.1. Amended by P.L.254-2003, SEC.3; P.L.66-2004, SEC.5; P.L.246-2005, SEC.54; P.L.211-2007, SEC.4.

IC 5-22-16-5

Evidence of financial responsibility

Sec. 5. (a) A purchasing agent may specify in a solicitation that an offeror must provide evidence of financial responsibility in order to be considered responsible. The evidence of financial responsibility may be a bond, certified check, or other evidence specified by the purchasing agent in the solicitation.

(b) An offeror must file evidence of financial responsibility in the amount, at the time, and as specified by the purchasing agent in the solicitation.

(c) If a bond or certified check is required as the evidence of financial responsibility, the amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond, certified check, or other evidence of financial responsibility shall be made payable to the governmental body.

(d) This section does not preclude the use of a performance bond in addition to the bid bond, certified check, or other evidence of financial responsibility if the amount of the performance bond is stated in the solicitation.

(e) The check of an unsuccessful offeror shall be returned to the offeror by the purchasing agent upon selection of successful offerors. The check of a successful offeror shall be held until delivery or until completion of the contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-16-6

Noncollusion affirmation

Sec. 6. (a) An offeror must file with the purchasing agent an affirmation, made under the penalties for perjury, that states in substance the following:

(1) The offeror has not entered into a combination or an agreement:

(A) relative to the price to be offered by a person;

(B) to prevent a person from making an offer; or

(C) to induce a person to refrain from making an offer.

(2) The offeror's offer is made without reference to any other offer.

(b) The purchasing agent may require the affirmation to be made in the contract documents.

(c) The purchasing agent shall reject an offer that the purchasing agent finds to be collusive.

(d) If after the purchasing agent has awarded the contract, the purchasing agent discovers that the successful offeror's affirmation was false, the purchasing agent shall declare the contract forfeited and award a new contract.

(e) A person convicted of perjury for filing a false affirmation under this section may not be a party to a contract under this article for three (3) years following the date of conviction.

As added by P.L.49-1997, SEC.1.

IC 5-22-16.5

Chapter 16.5. Disqualification of Contractors Dealing with the Government of Iran

IC 5-22-16.5-1

Inapplicability of statute because of ceasing federal authority

Sec. 1. This chapter does not apply if federal law ceases to authorize the states to adopt and enforce provisions relating to public contracting such as those in this chapter.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-2

"Department"

Sec. 2. As used in this chapter, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-3

"Energy sector of Iran"

Sec. 3. As used in this chapter, "energy sector of Iran" includes any activity to develop petroleum or natural gas resources or nuclear power in Iran.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-4

"Financial institution"

Sec. 4. As used in this chapter, "financial institution" has the meaning set forth in Section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172, 50 U.S.C. 1701 note), as in effect on January 1, 2012.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-5

"Iran"

Sec. 5. As used in this chapter, "Iran" includes the government of Iran and any agency or instrumentality of the government of Iran.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-6

"List"

Sec. 6. As used in this chapter, "list" refers to the list developed under section 9 of this chapter.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-7

"Person"

Sec. 7. For purposes of this chapter, "person" includes a successor to, or an affiliate of, the person.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-8
Activities that qualify as engaging in investment activities in Iran; exception

Sec. 8. (a) For purposes of this chapter, a person engages in investment activities in Iran if either of the following is true:

(1) The person provides goods or services of twenty million dollars ($20,000,000) or more in value in the energy sector of Iran, including providing any of the following for the energy sector of Iran:

(A) Oil or liquified natural gas tankers.

(B) Products used to construct or maintain pipelines used to transport oil or liquified natural gas.

(2) The person is a financial institution that extends twenty million dollars ($20,000,000) or more in credit to another person, for forty-five (45) days or more, if that other person:

(A) will use the credit to provide goods or services in the energy sector in Iran; and

(B) is, at the time the financial institution extends credit, a person identified on the list as a person engaging in investment activities in Iran under subdivision (1).

(b) A person's investment contract with the Indiana public retirement system may not be used as the basis for making a determination under this chapter that the person is engaged in investment activities in Iran.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-9
Development of list of persons who engage in investment activities in Iran

Sec. 9. (a) Not later than July 1, 2012, the department, using credible information available to the public, shall develop a list of persons the department determines to be engaged in investment activities in Iran.

(b) The department may enter into contracts for the development of the list.

(c) The list must be updated not later than every one hundred eighty (180) days.

(d) The department shall publish the list on the department's Internet web site.

(e) The department shall make every effort to avoid erroneous inclusion of a person on the list.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-10
Requirements before publication of list

Sec. 10. (a) Before the department publishes the list under section

9 of this chapter, the department shall do the following:

(1) Provide ninety (90) days advance written notice to any person of the department's intent to include that person on the list. The notice required by this subdivision must include the following information:

(A) A statement that a person's inclusion on the list would make the person nonresponsible for purposes of:

(i) submitting an offer in response to a solicitation;

(ii) submitting a bid, offer, or proposal relating to a public works project; or

(iii) otherwise entering into or renewing a contract to provide supplies or services;

with the state or a political subdivision.

(B) A statement that the person will be removed from the list if the person ceases engaging in investment activities in Iran.

(C) A statement that the person's status as nonresponsible with respect to this chapter ends when the person's name is removed from the list.

(2) Provide a person that is to be placed on the list an opportunity to demonstrate in writing to the department that the person is not engaged in investment activities in Iran.

(b) If a person demonstrates to the department that the person is not engaged in investment activities in Iran, the department may not include the person on the list.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-11

Person on list; nonresponsible; removal of nonresponsible designation

Sec. 11. (a) Except as provided in section 12 of this chapter, a person that is placed on the list is considered nonresponsible for purposes of:

(1) submitting an offer in response to a solicitation;

(2) submitting a bid, offer, or proposal relating to a public works project; or

(3) otherwise entering into or renewing a contract to provide supplies or services;

with the state or a political subdivision.

(b) Except as provided in section 12 of this chapter, a person's status as nonresponsible under this chapter ends when the person's name is removed from the list.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-12

Award of contracts to persons on list; conditions under which award permitted; written findings

Sec. 12. (a) Section 11 of this chapter does not apply to the award of a particular contract to a person if either subdivision (1) or

subdivision (2) applies:

(1) The purchasing agency awarding the contract finds in writing that all of the following are true:

(A) The person's investment activities in Iran were made before July 1, 2012.

(B) The person's investment activities in Iran have not been expanded or renewed after July 1, 2012.

(C) The purchasing agency determines that it is in the best interest of the purchasing agency's governmental body to enter into the contract with the person.

(D) The person has adopted and publicized and is implementing a formal plan to:

(i) cease investment activities in Iran; and

(ii) refrain from engaging in any new investments in Iran.

(2) Either of the following applies:

(A) If the governmental body awarding the contract is a political subdivision, the executive of the political subdivision makes a written finding that the governmental body would be unable to obtain the supplies or services for which the solicitation is made unless a contract is awarded to the person.

(B) If the governmental body is a state agency, the governor makes a finding that the state would be unable to obtain the supplies or services for which the solicitation is made unless a contract is awarded to the person.

(b) A finding made under subsection (a) must be in writing and shall be placed in the contract file.

As added by P.L.21-2012, SEC.4.

IC 5-22-16.5-13

Repealed

(As added by P.L.21-2012, SEC.4. Repealed by P.L.233-2015, SEC.13.)

IC 5-22-16.5-14

Consequences for false certification; procedures; civil actions; persons barred from maintaining civil actions

Sec. 14. (a) If a purchasing agency, using credible information available to the public, determines that a certification given by a person to the purchasing agency's governmental body is false, the purchasing agency shall:

(1) notify the person in writing of the purchasing agency's determination that the certification is false; and

(2) give the person ninety (90) days within which to respond to the written notice.

(b) If the person fails to demonstrate to the purchasing agency that the person has ceased the person's investment activities in Iran within ninety (90) days after the notice is given to the person under

subsection (a), the following apply:

(1) The purchasing agency shall report to the attorney general the following:

(A) The name of the person that the purchasing agency has determined to have submitted a false certification.

(B) The information upon which the purchasing agency has made its determination.

The attorney general shall determine whether to bring a civil action under this section against the person.

(2) If the purchasing agency is a political subdivision, the purchasing agency may also provide the information described in subdivision (1) to an attorney representing the political subdivision. An attorney representing the political subdivision may bring a civil action under this section against the person if the attorney general declines to bring a civil action against the person under this chapter.

(3) If it is determined in a civil action under this section that the person submitted a false certification, the following apply:

(A) The court may impose on the person a civil penalty of two hundred fifty thousand dollars ($250,000).

(B) The person shall pay all reasonable costs incurred in the action, including the following:

(i) Costs incurred by the governmental body in the investigations that led to the purchasing agency's finding that the person filed a false certification.

(ii) Reasonable attorney's fees and other litigation costs incurred by the governmental body.

(C) The purchasing agency may terminate the contract with the governmental body with respect to which the false certification was made.

(D) The purchasing agency may consider the person nonresponsible for purposes of the awarding of any contracts by the governmental body for not more than three (3) years after the date of the purchasing agency's determination under subsection (a).

(c) A civil action brought under this section must be filed not later than three (3) years after the purchasing agency makes the determination under subsection (a).

(d) A person other than the governmental body, including an unsuccessful offeror, may not:

(1) bring a civil action under this section;

(2) file a bid protest; or

(3) bring any other kind of action;

based on the purchasing agency's determination of a false certification under subsection (a).

(e) This section does not create a private right of action for the imposition of the penalties provided for in this section.

As added by P.L.21-2012, SEC.4. Amended by P.L.233-2015,

SEC.14.

IC 5-22-17

Chapter 17. Contracts

IC 5-22-17-1

Cost plus a percentage of cost contract

Sec. 1. A governmental body may not enter into a cost plus a percentage of cost contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-2

Cost reimbursement contract

Sec. 2. A governmental body may enter into a cost reimbursement contract if the purchasing agent determines in writing that the contract is likely to be less costly to the governmental body than any other contract type, or that it is impracticable to obtain the supplies required except under such a contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-3

Contracts for supplies; time periods

Sec. 3. (a) This section does not apply to a discounted contractual arrangement for services or supplies funded through a designated leasing entity.

(b) Subject to subsections (c) through (e) and section 5 of this chapter, a contract for supplies may be entered into for a period not to exceed four (4) years.

(c) County and municipal hospitals may contract for the purchase of supplies for more than one (1) year but not more than five (5) years if the supplies are purchased under IC 5-22-7.

(d) The contract must specify that payment and performance obligations are subject to the appropriation and availability of funds.

(e) A political subdivision must have available a sufficient appropriation balance or an approved additional appropriation before a purchasing agent may award a contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-4

Renewal of contracts

Sec. 4. (a) A contract that contains a provision for escalation of the price of the contract may be renewed under this section if the price escalation is computed using:

(1) a commonly accepted index named in the contract; or

(2) a formula set forth in the contract.

(b) Subject to section 5 of this chapter, with the agreement of the contractor and the purchasing agency, a contract may be renewed any number of times.

(c) The term of a renewed contract may not be longer than the term of the original contract.

As added by P.L.49-1997, SEC.1. Amended by P.L.153-1999, SEC.5.

IC 5-22-17-5

Funds not appropriated or not available; cancellation of contract

Sec. 5. (a) When the fiscal body of the governmental body makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a contract, the contract is considered canceled.

(b) A determination by the fiscal body that funds are not appropriated or otherwise available to support continuation of performance is final and conclusive.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-5.5

Applicability; prohibition on state contracts and grants with entities that perform abortions; appropriations; termination of contract

Sec. 5.5. (a) This section does not apply to hospitals licensed under IC 16-21-2 or ambulatory surgical centers licensed under IC 16-21-2.

(b) An agency of the state may not:

(1) enter into a contract with; or

(2) make a grant to;

any entity that performs abortions or maintains or operates a facility where abortions are performed that involves the expenditure of state funds or federal funds administered by the state.

(c) Any appropriation by the state:

(1) in a budget bill;

(2) under IC 5-19-1-3.5; or

(3) in any other law of the state;

to pay for a contract with or grant made to any entity that performs abortions or maintains or operates a facility where abortions are performed is canceled, and the money appropriated is not available for payment of any contract with or grant made to the entity that performs abortions or maintains or operates a facility where abortions are performed.

(d) For any contract with or grant made to an entity that performs abortions or maintains or operates a facility where abortions are performed covered under subsection (b), the budget agency shall make a determination that funds are not available, and the contract or grant shall be terminated under section 5 of this chapter.

As added by P.L.193-2011, SEC.1.

IC 5-22-17-6

Early performance; completion after termination date

Sec. 6. (a) The purchasing agent may specify in a contract that early performance of the contract will result in increased compensation at either:

(1) a percentage of the contract amount; or
(2) a specific dollar amount;
determined by the purchasing agent.

(b) The purchasing agent may specify in a contract that completion of the contract after the termination date of the contract will result in a deduction from the compensation in the contract at either:
(1) a percentage of the contract amount; or
(2) a specific dollar amount;
determined by the purchasing agent.

(c) Notice of inclusion of contract provisions permitted under this section in a contract must be included in the solicitation.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-7

Contract for remediation of hazardous waste site

Sec. 7. (a) As used in this section, "release" means any discharging, disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pouring, pumping, or spilling into the environment. The term includes the abandonment or discarding of barrels, containers, or other closed receptacles containing any petroleum or hazardous substance.

(b) As used in this section, "remediation" means any of the following:
(1) Actions necessary to prevent, minimize, or mitigate damages to the public health or welfare or to the environment that may otherwise result from a release or threat of a release.
(2) Actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release of petroleum or a hazardous substance into the environment to eliminate the release of petroleum or hazardous substances so that the petroleum or hazardous substances do not migrate to cause substantial danger to present or future public health or welfare or the environment.
(3) The cleanup or removal of released petroleum or hazardous substances from the environment.

(c) Notwithstanding section 3 of this chapter, a contract for remediation of a hazardous waste site may be entered into for any period not to exceed ten (10) years. The other provisions of section 3 of this chapter apply to a contract for remediation of hazardous waste.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-8

Contract for supplies and services to implement EBT program

Sec. 8. (a) As used in this section, "division" refers to the division of family resources established by IC 12-13-1-1.

(b) As used in this section, "EBT program" refers to an electronic

benefits transfer program.

(c) Notwithstanding section 3 of this chapter, the division may enter into a contract for supplies and services to implement an EBT program for an initial period not to exceed five (5) years. The division may renew the contract for any number of successive periods not to exceed two (2) years each.

As added by P.L.49-1997, SEC.1. Amended by P.L.145-2006, SEC.15.

IC 5-22-17-9

Extension of offers to political subdivisions

Sec. 9. A contract entered into by a state agency may require the contractor to offer to political subdivisions the services or supplies that are the subject of the contract under conditions specified in the contract.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-10

Contract for petroleum products

Sec. 10. (a) As used in this section, "petroleum products" includes the following:

(1) Gasoline.
(2) Fuel oils.
(3) Lubricants.
(4) Liquid asphalt.

(b) A purchasing agent may award a contract for petroleum products to:

(1) the lowest responsible and responsive offeror; or
(2) all responsible and responsive offerors.

(c) A contract entered into under this section may allow for the escalation or de-escalation of price.

(d) This subsection applies to a petroleum products contract that is awarded to all responsible and responsive offerors as provided in subsection (b). The purchasing agent must purchase the petroleum products from the lowest of the responsible and responsive bidders. The contract must provide that the bidder from whom petroleum products are being purchased shall provide five (5) business days written notice of any change in price. Upon receipt of written notice, the purchasing agent shall request current price quotes in writing based upon terms and conditions of the original offer (as awarded) from all successful responsible and responsive offerors. The purchasing agent shall record the quotes in minutes or memoranda. The purchasing agent shall purchase the petroleum products from the lowest responsible and responsive offeror, taking into account the price change of the current supplier and the price quotes of the other responsible and responsive offerors.

As added by P.L.49-1997, SEC.1.

IC 5-22-17-11
Contract for sand, gravel, asphalt, paving materials, or crushed stone

Sec. 11. A county may award a sand, gravel, asphalt paving materials, or crushed stone contract to more than one (1) responsible and responsive offeror if both of the following apply:

(1) The specifications allow for offers to be based upon service to specific geographic areas.

(2) The contracts are awarded by geographic area.

The county is not required to describe the geographic areas in the specifications.

As added by P.L.7-1998, SEC.7.

IC 5-22-17-12
Separate contracts; awarding contract to an offeror other than the lowest offeror

Sec. 12. (a) A solicitation may provide that offers will be received and contracts will be awarded separately or for any combination of a line or a class of supplies or services contained in the solicitation.

(b) If the solicitation does not indicate how separate contracts might be awarded, the purchasing agent may award separate contracts to different offerors under this section only if the purchasing agent makes a written determination showing that the award of separate contracts is in the interest of efficiency or economy.

(c) If the purchasing agent awards a contract for a line or class of supplies or services, or any combination of lines or classes, to an offeror other than the lowest offeror, the purchasing agent must make a written determination stating the reasons for awarding a contract to that offeror.

As added by P.L.7-1998, SEC.8.

IC 5-22-17-13
Contracts for supplies or services for an unspecified number of items at a fixed price per unit

Sec. 13. A solicitation may provide that the purchasing agent will award a contract for supplies or services for an unspecified number of items at a fixed price per unit. Such a contract may include a formula or a method for escalation of the unit price.

As added by P.L.7-1998, SEC.9.

IC 5-22-17-14
Contracts involving steel products

Sec. 14. A contract awarded under this article must include the requirements of IC 5-22-15-25(c) unless the head of the purchasing agency makes a determination under IC 5-22-15-25(d).

As added by P.L.194-2001, SEC.3.

IC 5-22-18

Chapter 18. Other Procedures Governing Purchasing

IC 5-22-18-1

Public notice

Sec. 1. (a) Whenever public notice is required by this article, notice shall be given by publication in the manner prescribed by IC 5-3-1.

(b) The purchasing agent may give notice other than as required in IC 5-3-1 that the purchasing agent considers will increase competition.

(c) The purchasing agent shall schedule all notices given under this section to provide a reasonable amount of time for preparation and submission of responses after notification. The period between:

(1) the last publication, mailing, or posting of notices required by this section; and

(2) the final date set for submitting offers;

must be at least seven (7) calendar days.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-2

Cancellation of solicitation; rejection of offer

Sec. 2. (a) When the purchasing agent determines it is in the best interests of the governmental body:

(1) a solicitation may be canceled; or

(2) offers may be rejected;

in whole or in part as specified in the solicitation.

(b) The reasons for a cancellation of a solicitation or rejection of offers must be made a part of the contract file.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-3

Offers opened after time stated in solicitation

Sec. 3. Notwithstanding any other law, offers may be opened after the time stated in the solicitation if both of the following apply:

(1) The governmental body makes a written determination that it is in the best interest of the governmental body to delay the opening.

(2) The day, time, and place of the rescheduled opening is announced at the day, time, and place of the originally scheduled opening.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-4

Contract and purchasing records; protection of documents

Sec. 4. (a) Except as provided in this section or by another law, contract and purchasing records are public records subject to public inspection under IC 5-14-3.

(b) A governmental body may establish policies or adopt rules for the protection of documents submitted to the governmental body in response to a solicitation.

(c) Policies or rules may provide procedures for the following:

(1) Protection of offers before opening to prevent disclosure of contents.

(2) Afford unobstructed evaluation of offers and award of contracts by the purchasing agent after opening.

(3) Protection of offers from tampering before and after opening.

As added by P.L.49-1997, SEC.1.

IC 5-22-18-5

Purchase order or lease made public record by political subdivisions

Sec. 5. (a) This section applies only to a political subdivision.

(b) Within thirty (30) days after the acceptance of an offer, the purchasing agent shall deliver in person or by first class mail to the successful offeror the original of each purchase order or lease, retain a copy for the purchasing agent's records, and file a copy for public record and inspection as follows:

(1) When a purchase or lease is made for a county or municipality, the copy of the purchase order or lease must be filed with the fiscal officer of the unit.

(2) When a purchase or lease is made for a township, the copy of the purchase order or lease must be filed with the fiscal officer of the county.

(3) When a purchase or lease is made for a school corporation or a quasi-public corporation, the copy of the purchase order or lease must be filed with the records of the corporation.

As added by P.L.7-1998, SEC.10.

IC 5-22-19

Chapter 19. Determinations

IC 5-22-19-1

Determinations final and conclusive; judicial review

Sec. 1. The determinations required by this article are final and conclusive, and subject to judicial review under section 2 of this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-2

Petition for judicial review; filing; relief

Sec. 2. (a) A person aggrieved by a determination under this article may file a petition for judicial review of that determination in a court of appropriate jurisdiction.

(b) The court shall grant relief only if it determines that a person seeking judicial relief has been substantially prejudiced by a determination that is any of the following:

(1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Contrary to constitutional right, power, privilege, or immunity.

(3) In excess of statutory jurisdiction, authority, or limitations, or short of statutory right.

(4) Without observance of procedure required by law.

(5) Unsupported by substantial evidence.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-3

Burden of demonstrating invalidity

Sec. 3. The burden of demonstrating the invalidity of the determination is on the person asserting the invalidity.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-4

Setting aside determination; remanding case

Sec. 4. (a) If the court finds that a person has been substantially prejudiced by a determination, the court may set aside the determination. The court may remand the case to the governmental body for further proceedings and compel an action by the governmental body that has been unreasonably delayed or unlawfully withheld.

(b) A court may not award damages in an action under this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-19-5

Standing

Sec. 5. An Indiana taxpayer has standing to:

(1) challenge a determination made under IC 5-22-15-25(d); and

(2) enforce a contract provision required by IC 5-22-17-14 if the contract is related to steel products (as defined in IC 5-22-15-25(a)) or supplies manufactured by steel products.

As added by P.L.194-2001, SEC.4.

IC 5-22-20
Chapter 20. Modification and Termination of Contracts

IC 5-22-20-1
Policies or rules for inclusion of clauses or contract provisions

Sec. 1. A governmental body may establish policies or adopt rules permitting or requiring any of the following:

(1) The inclusion of clauses providing for adjustments in prices or time of performance.

(2) The inclusion of contract provisions dealing with either of the following:

(A) The unilateral right of the governmental body to order, in writing either of the following:

(i) Changes in the work within the scope of the contract.

(ii) Temporary stopping of the work or delaying performance.

(B) Variations occurring between estimated quantities of work in a contract and actual quantities.

As added by P.L.49-1997, SEC.1.

IC 5-22-20-2
Adjustments in price; computation

Sec. 2. Adjustments in price under clauses established under section 1 of this chapter must be computed in one (1) or more of the following ways:

(1) By agreement on a fixed price adjustment before the beginning of the pertinent performance or as soon after the beginning of the performance as practicable.

(2) By unit prices specified in the contract or subsequently agreed upon.

(3) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon.

(4) In such other manner as the contracting parties may mutually agree.

(5) In the absence of agreements by the parties, by a unilateral determination by the governmental body of the costs attributable to the events or situations under such clauses, with adjustment of profit or fee, all as computed by the governmental body in accordance with applicable rules adopted by the governmental body.

As added by P.L.49-1997, SEC.1.

IC 5-22-21

Chapter 21. Disposition of State Surplus Personal Property

IC 5-22-21-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to personal property owned by a governmental body that is a state agency.

(b) This chapter does not apply to the following:

(1) The sale of timber by the department of natural resources under IC 14-23-4.

(2) The satisfaction of a lien or judgment by a state agency under court proceedings.

(3) The disposition of unclaimed property under IC 32-34-1.

(4) The sale or harvesting of vegetation (as defined in IC 8-23-24.5-3) under IC 8-23-24.5.

(5) The sale or harvesting of vegetation (as defined in IC 4-20.5-22-4) under IC 4-20.5-22.

As added by P.L.49-1997, SEC.1. Amended by P.L.2-2002, SEC.34; P.L.182-2009(ss), SEC.79.

IC 5-22-21-2

"Commissioner" defined

Sec. 2. As used in this chapter, "commissioner" refers to the commissioner of the department.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-3

"Department" defined

Sec. 3. As used in this chapter, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-4

"Surplus property" defined

Sec. 4. As used in this chapter, "surplus property" means property that is not usable by a state agency as determined under this chapter.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-5

Sales of property; requirements

Sec. 5. Subject to IC 8-23-7 and this chapter, all sales of property belonging to a state agency, other than property on which allowance is made on another purchase with the written approval of the commissioner, shall be:

(1) conducted by the commissioner;

(2) based on competitive bids; and

(3) made to the highest responsible bidder.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-6
Commissioner to adopt procedures

Sec. 6. The commissioner shall adopt a procedure requiring the following:

(1) Each state agency shall notify the department of surplus property.

(2) The department shall inspect the surplus property and determine if the property is usable by other state agencies.

(3) A state agency that requests the purchase of:

(A) new property; or

(B) material to be used for rehabilitation programs;

shall accept by transfer or purchase surplus property that is usable by a state agency instead of purchasing new property or materials.

(4) Property that is not usable by other state agencies may be:

(A) sold under section 7 or 7.5 of this chapter or IC 5-22-22;

(B) demolished, discarded, donated under section 7.6 of this chapter, or junked if the property has no market value; or

(C) disposed of if the property can be recycled in conjunction with a program administered by the department to promote recycling of property, the components of property, or the materials of property.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-7
Sales to political subdivisions

Sec. 7. Except as provided in section 7.5 of this chapter, surplus property available for sale may, under the policies prescribed by the budget agency, be offered for sale to political subdivisions. The policies of the budget agency must require that if the property is in the possession of the Indiana department of transportation and is to be offered to political subdivisions, the commissioner shall notify each supervisor of county highways appointed under IC 8-17-3-1 of the sale.

As added by P.L.49-1997, SEC.1. Amended by P.L.49-2002, SEC.1; P.L.246-2005, SEC.55.

IC 5-22-21-7.5
Surplus computer hardware; offer to educational entities

Sec. 7.5. (a) This section applies to surplus computer hardware that:

(1) is not usable by a state agency as determined under section 6 of this chapter; and

(2) has market value.

(b) As used in this section, "educational entity" refers to a school corporation as defined in IC 36-1-2-17 or nonpublic schools as defined in IC 20-10.1-1-3 before July 1, 2005, or IC 20-18-2-12.

(c) As used in this section, "market value" means the value of the

property is more than the estimated costs of sale and transportation of the property.

(d) Surplus computer hardware available for sale may, under the policies prescribed by the budget agency, be offered to an educational entity.

As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.84; P.L.246-2005, SEC.56; P.L.246-2005, SEC.57; P.L.1-2006, SEC.124; P.L.133-2012, SEC.42.

IC 5-22-21-7.6

Donation of surplus computer hardware to educational entities

Sec. 7.6. (a) This section applies to surplus computer hardware that is:

(1) not usable by a state agency as determined under section 6 of this chapter; and

(2) not sold to an educational entity or political subdivision after being offered for sale.

(b) The department may donate the surplus computer hardware to an educational entity or a school corporation (as defined by IC 36-1-2-17) or nonpublic schools (as defined in IC 20-18-2-12).

As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.85.

IC 5-22-21-8

Sale when property not purchased by political subdivision

Sec. 8. If a political subdivision does not purchase surplus property under section 7 of this chapter, the surplus property shall be sold under IC 5-22-22.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-9

Sales made for cash only

Sec. 9. A sale of property under this chapter or under IC 5-22-22 must be made for cash.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-10

Proceeds of sales

Sec. 10. (a) The proceeds of a sale under this chapter or under IC 5-22-22 shall be deposited in the state treasury and credited to the fund from which the property was purchased.

(b) The proceeds are subject to allotment by the budget agency with the approval of the governor.

As added by P.L.49-1997, SEC.1.

IC 5-22-21-11

Persons prohibited from bidding

Sec. 11. The commissioner may prohibit any of the following from bidding on property sold under this chapter or IC 5-22-22 when

a state employee has participated in the disposal process of the state agency that has possession of the property:

(1) The state employee.

(2) The spouse of the state employee.

(3) An unemancipated child of the state employee.

(4) An agent of any of the individuals described in subdivisions (1) through (3).

As added by P.L.49-1997, SEC.1.

IC 5-22-22

Chapter 22. Disposition of Surplus Personal Property by a Governmental Body

IC 5-22-22-1

Applicability of chapter

Sec. 1. (a) This chapter applies only to personal property owned by a governmental body.

(b) This chapter does not apply to dispositions of property described in any of the following:

(1) IC 5-22-21-1(b).

(2) IC 36-1-11-5.5.

(3) IC 36-1-11-5.7.

(c) This chapter does not apply to any of the following:

(1) The disposal of property under an urban homesteading program under IC 36-7-17 or IC 36-7-17.1.

(2) The lease of school buildings under IC 20-47.

(3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.

(4) The disposal of property by a redevelopment commission established under IC 36-7.

(5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.

(6) The disposal of a municipally owned utility under IC 8-1.5.

(7) The sale or lease of property by a unit (as defined in IC 36-1-2-23) to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.

(8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.

(9) The sale or lease of property acquired under IC 36-7-13 for industrial development.

(10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.

(11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.

(12) The disposition of property by a soil and water conservation district under IC 14-32.

(13) The disposal of surplus property by the health and hospital corporation established and operated under IC 16-22-8.

(14) The disposal of personal property by a library board under IC 36-12-3-5(c).

(15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.

(16) The disposal of an interest in property by a housing authority under IC 36-7-18.
(17) The disposal of property under IC 36-9-37-26.
(18) The disposal of property used for park purposes under IC 36-10-7-8.
(19) The disposal of curricular materials that will no longer be used by school corporations under IC 20-26-12.
(20) The disposal of residential structures or improvements by a municipal corporation without consideration to:
(A) a governmental body; or
(B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.
(21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property" means property that is:
(A) listed on the National Register of Historic Places; or
(B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.
(22) The disposal of real property without consideration to:
(A) a governmental body; or
(B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;
when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.
(23) The disposal of property to a person under an agreement between the person and a governmental body under IC 5-23.
As added by P.L.49-1997, SEC.1. Amended by P.L.1-2005, SEC.86; P.L.184-2005, SEC.3; P.L.2-2006, SEC.33; P.L.188-2007, SEC.1; P.L.118-2013, SEC.1; P.L.286-2013, SEC.3.

IC 5-22-22-2
Applicability of laws regarding disposition of state surplus personal property
Sec. 2. If the property is owned by a state agency, IC 5-22-21, to the extent applicable, also applies to the disposition of the property.
As added by P.L.49-1997, SEC.1.

IC 5-22-22-3
Sale by purchasing agent
Sec. 3. A purchasing agency may sell property that:
(1) has been left in the custody of an officer or employee of a governmental body and has remained unclaimed for more than

one (1) year; or

(2) belongs to the governmental body but is no longer needed or is unfit for the purpose for which it was intended.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-4

Use of auctioneer

Sec. 4. (a) If the property to be sold is:

(1) one (1) item, with an estimated value of one thousand dollars ($1,000) or more; or

(2) more than one (1) item, with an estimated total value of five thousand dollars ($5,000) or more;

the purchasing agency may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and conduct a public auction.

(b) The advertising by an auctioneer under this section must include a detailed description of the property to be sold.

(c) The purchasing agency shall pay an auctioneer who conducts a sale under this section from the gross proceeds of the sale received before other expenses and liens are paid.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-4.5

Internet sales; costs

Sec. 4.5. (a) The purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following:

(1) The site is approved by the office of technology established by IC 4-13.1-2-1.

(2) The site is linked to the electronic gateway administered under IC 4-13.1-2-2(a)(5) by the office of technology.

(b) The purchasing agency's posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold.

(c) The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site.

As added by P.L.31-2002, SEC.5. Amended by P.L.198-2007, SEC.3.

IC 5-22-22-5

Public sale or sealed bids; advertisements

Sec. 5. (a) If:

(1) an auctioneer is not engaged under section 4 of this chapter; or

(2) the surplus property is not sold through an Internet auction site under section 4.5 of this chapter;

the purchasing agency shall sell the property at a public sale or by sealed bids delivered to the office of the purchasing agency before the date of sale.

(b) Advertisement of the sale shall be made in accordance with

IC 5-3-1.

(c) All sales shall be made to the highest responsible bidder.

As added by P.L.49-1997, SEC.1. Amended by P.L.31-2002, SEC.6.

IC 5-22-22-6

Public or private sale or transfer without advertising

Sec. 6. If the property to be sold is:

(1) one (1) item, with an estimated value of less than one thousand dollars ($1,000); or

(2) more than one (1) item, with an estimated total value of less than five thousand dollars ($5,000);

the purchasing agency may sell the property at a public or private sale or transfer the property, without advertising.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-7

Sale or transfer of recyclable property

Sec. 7. If the property to be sold is material that:

(1) may be recycled; and

(2) has been collected in conjunction with a recycling program;

the purchasing agency may, without advertising, sell the property at a public or private sale or transfer the property.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-8

Worthless property

Sec. 8. (a) If the property is worthless, it may be demolished or junked.

(b) For purposes of this section and IC 5-22-21-6(4)(B), property may be considered worthless or of no market value if the value of the property is less than the estimated costs of the sale and transportation of the property.

As added by P.L.49-1997, SEC.1. Amended by P.L.7-1998, SEC.11.

IC 5-22-22-9

Disposal of law enforcement vehicles

Sec. 9. (a) If a purchasing agency disposes of a law enforcement vehicle that is a model year of 1994 or after and is painted in a color scheme of more than one (1) color by transferring the vehicle to:

(1) a person who will operate the vehicle on a public highway in Indiana, the person must repaint the vehicle in:

(A) a monochrome color scheme; or

(B) a color scheme that does not duplicate the color scheme of an Indiana law enforcement vehicle;

before the vehicle is operated on a public highway in Indiana;

(2) a person who will sell or otherwise transfer the vehicle to another person who will operate the vehicle on a public highway in Indiana, the person must repaint the vehicle in:

(A) a monochrome color scheme; or
(B) a color scheme that does not duplicate the color scheme of an Indiana law enforcement vehicle;
before the vehicle is sold or otherwise transferred to the other person to be operated on a public highway in Indiana;
(3) a person who will sell or otherwise transfer the vehicle to another person who will not operate the vehicle on a public highway in Indiana, the person is not required to repaint the vehicle before the vehicle is sold or otherwise transferred to the other person; or
(4) another governmental body, the governmental body is not required to repaint the vehicle before the vehicle is operated on a public highway in Indiana.

(b) Before a purchasing agency disposes of a law enforcement vehicle that is painted in a color scheme of more than one (1) color, the purchasing agency must provide a copy of this subsection to the prospective purchaser of the vehicle.

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

As added by P.L.49-1997, SEC.1.

IC 5-22-22-10
Exchange of property between purchasing agency and governmental body

Sec. 10. (a) A purchasing agency may exchange property with another governmental body upon terms and conditions agreed upon by the governmental bodies as evidenced by adoption of a substantially identical resolution by each entity.

(b) A transfer under this section may be made for any amount of property or cash as agreed upon by the governmental bodies.

As added by P.L.49-1997, SEC.1.

IC 5-22-22-11
Notice of sale

Sec. 11. (a) Notice of a sale under this chapter must be given by publication of the time, place, and terms of the sale, as provided in IC 5-3-1 in the county where the property is located. The publication shall be made at least fifteen (15) days before the date of the sale.

(b) Notice under this section is required in addition to notice:
(1) given by an auctioneer under section 4 of this chapter; or
(2) provided by an Internet auction site under section 4.5 of this chapter.

As added by P.L.49-1997, SEC.1. Amended by P.L.31-2002, SEC.7.

IC 5-22-22-12
Transfer to volunteer fire department, fire protection district, or fire protection territory

Sec. 12. (a) This section applies to the following surplus property:

(1) Fire trucks.
(2) Emergency service vehicles.
(3) Firefighting or emergency services equipment.

(b) As used in this section, "fire department" refers to any of the following:

(1) A volunteer fire department (as defined in IC 36-8-12-2).
(2) The board of fire trustees of a fire protection district established under IC 36-8-11.
(3) The provider unit of a fire protection territory established under IC 36-8-19.

(c) Notwithstanding section 4, 4.5, or 5 of this chapter, a governmental body may transfer title of surplus property to a fire department for the fire department's use in providing fire protection or emergency services.

(d) A fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the fire departments located in the same county as the governmental body may be transferred to any fire department in Indiana.

(e) A governmental body may transfer title of surplus property to a fire department under this section by:

(1) sale;
(2) gift; or
(3) another arrangement acceptable to the governmental body and the fire department.

As added by P.L.83-1998, SEC.1. Amended by P.L.1-1999, SEC.8; P.L.31-2002, SEC.8; P.L.128-2008, SEC.5.

IC 5-22-23

Chapter 23. Telephone Calling Systems for Confined Offenders

IC 5-22-23-0.5

Application of chapter

Sec. 0.5. This chapter does not apply to solicitations for telephone calling systems (including local, interlata, intralata, and interstate long distance services) for confined offenders made before March 20, 2002.

As added by P.L.220-2011, SEC.103.

IC 5-22-23-1

"Confined" defined

Sec. 1. For purposes of this chapter, "confined" has the meaning set forth in IC 11-8-1-6.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-2

"Department" defined

Sec. 2. For purposes of this chapter, "department" refers to the Indiana department of administration.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-3

"Offender" defined

Sec. 3. For purposes of this chapter, "offender" has the meaning set forth in IC 11-8-1-9.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-4

"System" defined

Sec. 4. For purposes of this chapter, "system" means a telephone calling system (including local, intralata, interlata, and interstate long distance services) for confined offenders.

As added by P.L.65-2002, SEC.1.

IC 5-22-23-5

Requirements of system solicitation; deposit of commissions into correctional facilities calling system fund

Sec. 5. (a) This section applies to a solicitation for a system by the department.

(b) Notwithstanding any other law, the solicitation must include a statement concerning the following:

(1) Any security and fraud control services considered necessary by the department, including the use of collect calling services as the sole means of confined offender communications with the general population.

(2) The goal of reducing the total cost of a telephone call placed by a confined offender by soliciting competitive proposals that emphasize lower:
(A) per call service charges;
(B) per minute rates; and
(C) commission rates.

(c) The department shall accept the responsible offeror whose proposal is determined in writing to be the most advantageous to the governmental body, taking into consideration price and the other evaluation factors set forth in the request for proposals. The determination must include the consideration of any requirement imposed under subsection (b).

(d) The department shall deposit commissions received under a contract entered into under a solicitation into the correctional facilities calling system fund established by section 7 of this chapter.
As added by P.L.65-2002, SEC.1.

IC 5-22-23-6
Requirements of a system solicitation by certain purchasing agents

Sec. 6. (a) This section applies to a purchasing agent for the following:
(1) A community corrections advisory board.
(2) A juvenile detention center.
(3) A juvenile detention facility.
(4) A county jail.

This section does not apply to a purchasing agent for a county with a population less than seventy-five thousand (75,000).

(b) Notwithstanding any other law, a solicitation by a purchasing agent:
(1) must include any security and fraud control services considered necessary by the purchasing agency, including the use of collect calling services as the sole means of confined offender communications with the general population; and
(2) may not solicit:
(A) a per call service charge;
(B) a per minute rate; or
(C) a commission rate;
that exceeds the terms of a contract between the state and a telecommunications provider for the same service under the most recent solicitation submitted by the department under this article.
As added by P.L.65-2002, SEC.1.

IC 5-22-23-7
Establishment and management of the correctional facilities calling system fund

Sec. 7. (a) The correctional facilities calling system fund is established for the purposes of improving, repairing, rehabilitating,

and equipping department of correction facilities. The fund consists of the following:

(1) Money deposited in the fund under section 5(d) of this chapter.

(2) Money appropriated by the general assembly.

(3) Money received from any other source.

(b) The department of correction shall administer the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund may not be spent unless the general assembly includes a specific line item appropriation in the budget bill or otherwise specifically appropriates the money in the fund.

(e) 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.

(f) 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.65-2002, SEC.1.

IC 5-22 Version b

ARTICLE 22. REPEALED

(Repealed by P.L.253-1997(ss), SEC.39.)

Note: This version of IC 5-22, as added by P.L.19-1997, SEC.7, was repealed by P.L.253-1997(ss), SEC.39, and re-enacted at IC 5-24 by P.L.253-1997(ss), SEC.40. See also the preceding version of IC 5-22, as added by P.L.49-1997, SEC.1.

IC 5-23

ARTICLE 23. PUBLIC-PRIVATE AGREEMENTS

IC 5-23-1

Chapter 1. Application and Construction

IC 5-23-1-1

Applicability of article

Sec. 1. This article applies to the following:

(1) The state.

(2) A political subdivision in a county containing a consolidated city.

(3) A political subdivision in a county where:

(A) the legislative body of the political subdivision; or

(B) if the political subdivision does not have a legislative body, the fiscal body of the political subdivision;

adopts the provisions of this article by resolution or ordinance.

As added by P.L.49-1997, SEC.34.

IC 5-23-1-2

Liberal construction and supplemental nature of powers; conflict of laws

Sec. 2. The powers conferred by this article shall be liberally construed in order to accomplish their purposes and shall be 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.49-1997, SEC.34.

IC 5-23-1-3

Public-private agreement

Sec. 3. The state or a political subdivision may enter into a public-private agreement with an operator under the terms of this article.

As added by P.L.49-1997, SEC.34.

IC 5-23-1-4

Application of prior statute to certain contracts, leases, agreements, or extensions

Sec. 4. (a) Except as provided in subsection (b), IC 36-1-14.3 (before its repeal) concerning public-private agreements does not apply to a contract, a lease, an agreement, or an extension of a contract, a lease, or an agreement entered into before May 10, 1995.

(b) This subsection applies to an agreement in the nature of a public-private agreement (as defined in IC 36-1-14.3-4 (before its repeal)) that was entered into or extended before May 10, 1995. The parties to an agreement described in this section may enter into an

addendum of the agreement to be governed by IC 36-1-14.3 (before its repeal) and to apply the provisions of IC 36-1-14.3 (before its repeal) to the agreement. If the parties enter into an addendum under this section, the addendum becomes a part of the agreement to the same extent as if the addendum had been part of the original agreement.
As added by P.L.220-2011, SEC.104.

IC 5-23-1-5
Application of IC 5-22-16.5 to award of contracts under article

Sec. 5. (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) 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.
As added by P.L.21-2012, SEC.5.

IC 5-23-2
Chapter 2. Definitions

IC 5-23-2-1
Applicability of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-2
"Board"
Sec. 2. "Board" refers to the agent, board, commission, officer, or trustee of a public agency having the power to award contracts on behalf of the public agency.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-3
"BOT agreement"
Sec. 3. "BOT agreement" means any agreement between a governmental body and an operator to construct, operate, and maintain a public facility and to transfer the public facility back to the governmental body at an established future date.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-4
"Construction"
Sec. 4. (a) "Construction" means the process of building, renovating, reconstructing, expanding, modernizing, or assembling a public work, including any material enhancements or upgrades to an existing public facility.
(b) The term does not include normal repair, operation, general maintenance, or preservation of a public work.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-5
"Cost"
Sec. 5. "Cost" means the cost of entering into any public-private agreement, including, without limitation, the following:
(1) The cost of acquisition and construction of any public facility or any modification, improvement, or extension of that facility.
(2) Any cost incident to the acquisition of any necessary property, easement, or right-of-way.
(3) Engineering or architectural fees, legal fees, and fiscal agents' and financial advisers' fees.
(4) Any cost incurred for preliminary planning to determine the economic or engineering feasibility of a proposed public-private agreement.

(5) Costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications, the inspection and supervision of the construction of any public facility, and any other cost incurred by the governmental body.

As added by P.L.49-1997, SEC.34.

IC 5-23-2-6
"Governmental body"

Sec. 6. "Governmental body" has the meaning set forth in IC 5-22-2-13 and includes, for purposes of this article, any state educational institution or other instrumentality of this state.

As added by P.L.49-1997, SEC.34. Amended by P.L.213-2015, SEC.69.

IC 5-23-2-7
"Operating agreement"

Sec. 7. "Operating agreement" means an agreement between an operator and the governmental body for the operation, maintenance, repair, or management of a public facility.

As added by P.L.49-1997, SEC.34.

IC 5-23-2-8
"Operator"

Sec. 8. "Operator" means a person who has entered into either an operating agreement or a BOT agreement with a governmental body to provide services to or on behalf of the governmental body.

As added by P.L.49-1997, SEC.34.

IC 5-23-2-9
"Original term"

Sec. 9. "Original term" means the initial term of a public-private agreement. The term includes all automatic renewals and automatic extensions of a public-private agreement.

As added by P.L.49-1997, SEC.34.

IC 5-23-2-10
"Person"

Sec. 10. "Person" means an association, a corporation, a limited liability company, a fiduciary, an individual, a joint stock company, a joint venture, a partnership, a sole proprietorship, or any other private legal entity.

As added by P.L.49-1997, SEC.34.

IC 5-23-2-11
"Public facility"

Sec. 11. "Public facility" means a facility located on, or to be located on, real property owned or leased by a governmental body and upon which a public service is or may be provided.

As added by P.L.49-1997, SEC.34.

IC 5-23-2-12
"Public funds"

Sec. 12. "Public funds" has the meaning set forth in IC 5-22-2-23.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-13
"Public-private agreement"

Sec. 13. "Public-private agreement" means a BOT agreement or an operating agreement.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-14
"Public service"

Sec. 14. "Public service" means any service customarily provided by a governmental body.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-15
"Public work"

Sec. 15. "Public work" means any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.
As added by P.L.49-1997, SEC.34.

IC 5-23-2-16
"State"

Sec. 16. "State" means the state of Indiana or a state agency (as defined in IC 6-1.1-1-18).
As added by P.L.213-2015, SEC.70.

IC 5-23-3
Chapter 3. BOT Agreements

IC 5-23-3-1
Agreements between governmental body and operator

Sec. 1. A governmental body may enter into a BOT agreement with an operator for the acquisition, planning, design, development, reconstruction, repair, maintenance, or financing of any public facility on behalf of the governmental body.

As added by P.L.49-1997, SEC.34.

IC 5-23-3-2
Provisions

Sec. 2. BOT agreements may provide the following:

(1) The design, construction, operation, management, maintenance, or financing of the cost of a public facility shall be partially or entirely the responsibility of the operator.

(2) The governmental body shall lease the public facility and real property owned by the governmental body upon which the public facility is to be located to the operator for a predetermined period. The BOT agreement must provide for ownership of all improvements by the governmental body, unless the governmental body elects to provide for ownership of the public facility by the operator during the term of the BOT agreement. In this case, ownership reverts back to the governmental body upon the termination of the BOT agreement.

(3) The BOT agreement must identify which costs are to be the responsibility of the operator and which costs are to be the responsibility of the governmental body.

(4) The operator may be authorized to retain a mutually agreed upon percentage of the revenues received in the operation and management of the public facility, or the operator may be paid an amount established by the governmental body, which shall be applied as follows:

(A) Capital outlay costs for the public facility and public service plus interest and principal repayment for any debt incurred.

(B) Costs associated with the operation, management, and maintenance of the public facility.

(C) Payment to the governmental body for reimbursement of the costs of maintenance, law enforcement, and other services if the services are performed by the governmental body under the BOT agreement.

(D) An agreed upon return on investment to the operator.

(5) The operator may pay the governmental body either a lease payment or a percentage of gross revenue per month for the operator's operation and use of the public facility.

(6) The BOT agreement may require a performance bond and

provide for the payment of contractors and subcontractors under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is applicable.
As added by P.L.49-1997, SEC.34.

IC 5-23-3-3
Repealed
(As added by P.L.49-1997, SEC.34. Repealed by P.L.252-2015, SEC.14.)

IC 5-23-3-4
Construction of public facility with public funds; applicable laws
Sec. 4. If a governmental body enters into a BOT agreement that involves the construction of a public facility with public funds under this section, the construction of that public facility is subject to IC 4-13.6, IC 5-16, or IC 36-1-12, whichever is applicable.
As added by P.L.49-1997, SEC.34.

IC 5-23-4

Chapter 4. Operating Agreements

IC 5-23-4-1

Agreements between governmental body and operator

Sec. 1. A governmental body may enter into an operating agreement with an operator for the operation, maintenance, repair, management, or any combination of operation, maintenance, repair, or management of any public facility for any public service to be performed on behalf of the governmental body.

As added by P.L.49-1997, SEC.34.

IC 5-23-4-2

Repealed

(As added by P.L.49-1997, SEC.34. Repealed by P.L.252-2015, SEC.15.)

IC 5-23-5

Chapter 5. Selection of Contractor by Request for Proposals

IC 5-23-5-1

Public-private agreement; request for proposals required

Sec. 1. Any public-private agreement contemplated by this chapter must require the governmental body to request proposals under this chapter before entering into the public-private agreement.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-2

Request for proposals; contents

Sec. 2. Proposals for public-private agreements shall be solicited through a request for proposals, which must include the following:

(1) The factors or criteria that will be used in evaluating the proposals.

(2) A statement concerning the relative importance of price and the other evaluation factors.

(3) A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.

(4) 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.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-3

Request for proposals; notice

Sec. 3. Notice of the request for proposals shall be given by publication in accordance with IC 5-3-1.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-4

Discussions regarding solicitation requirements

Sec. 4. As provided in the 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.49-1997, SEC.34.

IC 5-23-5-5

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 revisions of proposals.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-6
Disclosure of contents of proposals

Sec. 6. The governmental body may refuse to disclose the contents of proposals during discussions with eligible offerors.
As added by P.L.49-1997, SEC.34.

IC 5-23-5-7
Negotiation for best and final offers

Sec. 7. The governmental body shall negotiate the best and final offers of responsible offerors who submit proposals that are determined to be reasonably susceptible of being selected for a public-private agreement.
As added by P.L.49-1997, SEC.34.

IC 5-23-5-8
Options upon receipt of best and final offer

Sec. 8. After the best and final offers from responsible offerors have been negotiated under section 7 of this chapter, the governmental body shall either make a recommendation to the board to award the public-private agreement to an offeror or offerors or shall terminate the request for proposal process.
As added by P.L.49-1997, SEC.34.

IC 5-23-5-9
Public hearing on recommendation to award public-private agreement; notice

Sec. 9. If a recommendation to award the public-private agreement is made to the board, the board shall schedule a public hearing on the recommendation and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice shall include the following:

(1) The date, time, and place of the hearing.
(2) The subject matter of the hearing.
(3) A description of the public-private agreement to be awarded.
(4) The recommendation that has been made to award the public-private agreement to an identified offeror or offerors.
(5) The address and telephone number of the board.
(6) A statement indicating that the proposals and an explanation of the basis upon which the recommendation is being made are available for public inspection and copying at the principal office of the board during regular business hours.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-10
Proposals and explanation of recommendation; inspection and copying

Sec. 10. (a) The proposals and a written explanation of the basis upon which the recommendation is being made shall be delivered to

the board and 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 board shall allow the public to be heard on the recommendation.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-11

Response to request for proposals

Sec. 11. After the procedures required in this chapter have been completed, the board shall make a determination as to the most appropriate response to the request for proposals and may award the public-private agreement to the successful offeror or offerors.

As added by P.L.49-1997, SEC.34.

IC 5-23-5-12

Termination of request for proposal process

Sec. 12. If the request for proposal process is terminated under section 8 of this chapter, all proposals may, at the option of the governmental body, be returned to the offerors, and the governmental body may refuse to disclose the contents of the offers.

As added by P.L.49-1997, SEC.34.

IC 5-23-6

Chapter 6. Contract Terms and Conditions

IC 5-23-6-1

Original term in excess of five years

Sec. 1. (a) Under the provisions of this article, the governmental body may enter into a public-private agreement for an original term not to exceed five (5) years with board approval.

(b) Any public-private agreement with an original term in excess of five (5) years must be approved by the following:

(1) The board.

(2) If the state is a party to the agreement, the governor.

(3) If a political subdivision is a party to the agreement, by the fiscal body of the political subdivision.

As added by P.L.49-1997, SEC.34.

IC 5-23-6-2

Termination by board

Sec. 2. A public-private agreement may be terminated by the board in conformity with the terms of the public-private agreement.

As added by P.L.49-1997, SEC.34.

IC 5-23-6-3

Payments to parties upon termination

Sec. 3. The public-private agreement may provide for the payment of money to either party if the public-private agreement is terminated. The payments may be used in the form of liquidated damages to compensate the operator for demonstrated unamortized costs, to retire or refinance indebtedness created to improve or construct assets owned by the governmental body, or for any other purpose mutually agreeable to the operator and the governmental body.

As added by P.L.49-1997, SEC.34.

IC 5-23-7

Chapter 7. Records

IC 5-23-7-1

Records of operator in public-private agreement

Sec. 1. Records of an operator that is a party to a public-private agreement are subject to inspection and copying to the same extent the records would be subject to inspection and copying if the operator were a public agency under IC 5-14-3. This section is limited to records directly relating to the public-private agreements.
As added by P.L.49-1997, SEC.34.

IC 5-23-7-2

Inspection and copying

Sec. 2. Records that are provided by an operator to the governmental body that relate to compliance by the 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.49-1997, SEC.34.

IC 5-24

ARTICLE 24. ELECTRONIC DIGITAL SIGNATURE ACT

IC 5-24-1

Chapter 1. Applicability

IC 5-24-1-1

Applicability of article

Sec. 1. This article applies to the state or a state agency.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-1-2

Exempt entities

Sec. 2. Unless the supervising body of the branch, institution, or office elects to have this article apply and records the election with the state board of accounts, this article does not apply to the following:

(1) The judicial branch.

(2) The legislative branch.

(3) A state educational institution.

(4) The offices of the secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, and the clerk of the supreme court.

As added by P.L.253-1997(ss), SEC.40. Amended by P.L.2-2007, SEC.107.

IC 5-24-1-3

Election to be subject to article

Sec. 3. Each entity excluded by section 2 of this chapter may elect to be subject to this article by recording its written consent with the state board of accounts.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-1-4

Applicability of environmental electronic submission statutes

Sec. 4. IC 13-14-13 and IC 13-30-10-1 apply to the use of an electronic submission for any of the following:

(1) Satisfaction of a state or federal requirement for reporting to the department of environmental management.

(2) Satisfaction of the requirements for an application to the department of environmental management.

(3) Submission to the department of environmental management of any other substitute for a paper document.

As added by P.L.114-2008, SEC.2.

IC 5-24-2
Chapter 2. Definitions

IC 5-24-2-1
"Digital signature"

Sec. 1. "Digital signature" means an electronic signature that transforms a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine whether:

(1) the transformation was created using the private key that corresponds to the signer's public key; and

(2) the initial message has been altered since the transformation was made.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-2-2
"Electronic signature"

Sec. 2. "Electronic signature" means an electronic identifier, created by computer, executed or adopted by the party using it with the intent to authenticate a writing.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-2-3
"Person"

Sec. 3. "Person" means an individual, a corporation, a partnership, an association, a limited liability company, or other legal entity.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-2-4
"State"

Sec. 4. "State" means the state of Indiana and includes a state agency.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-2-5
"State agency"

Sec. 5. "State agency" has the meaning set forth in IC 4-13-1-1.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-2-6
"Writing"

Sec. 6. "Writing" means the following:

(1) Handwriting.

(2) Printing.

(3) Typewriting.

(4) Information that is created or stored in any electronic medium and is retrievable in a perceivable form.

(5) All other methods and means of forming letters and

characters upon paper or other materials.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-3

Chapter 3. General Provisions

IC 5-24-3-1

Effectiveness of digital signature

Sec. 1. A digital signature on a document received by or filed with the state shall be effective if it meets the following criteria:

(1) It is unique to the person using it.

(2) It is capable of verification.

(3) It is under the sole control of the person using it.

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(5) It conforms to the rules adopted by the state board of accounts.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-3-2

Adoption of procedures to conduct digital signature transactions

Sec. 2. The state board of accounts shall implement and administer a method used by the state to conduct authenticated electronic transactions using digital signatures.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-3-3

Procedural standards

Sec. 3. The state board of accounts shall implement a method of conducting electronic transactions using digital signatures that:

(1) considers existing and potential technological advances and defects;

(2) is practical, reliable, and effective; and

(3) insures the security and integrity of electronic digital signatures.

As added by P.L.253-1997(ss), SEC.40.

IC 5-24-3-4

Rules

Sec. 4. The state board of accounts shall adopt rules under IC 4-22-2 to implement this article.

As added by P.L.253-1997(ss), SEC.40.

IC 5-25

ARTICLE 25. INTERSTATE JOBS PROTECTION COMPACT

IC 5-25-1

Chapter 1. Definitions

IC 5-25-1-1

Application

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.50-1997, SEC.1.

IC 5-25-1-2

"Commission"

Sec. 2. "Commission" means the interstate jobs protection commission.

As added by P.L.50-1997, SEC.1.

IC 5-25-1-3

"Existing jobs"

Sec. 3. "Existing jobs" means employment by an individual, corporation, partnership, limited liability enterprise in any form, association, or business enterprise, for profit or nonprofit, that has a place of business within the state.

As added by P.L.50-1997, SEC.1.

IC 5-25-1-4

"Party state"

Sec. 4. "Party state" means a state that has legally joined this agreement.

As added by P.L.50-1997, SEC.1.

IC 5-25-1-5

"State"

Sec. 5. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

As added by P.L.50-1997, SEC.1.

IC 5-25-1-6

"Unnecessary relocation"

Sec. 6. "Unnecessary relocation" means the physical movement from one (1) place to another of the permanent place of business, employees, jobs, or buildings of a business, for the primary purpose of obtaining a special incentive given by any level of state or local government, as an enticement or condition for the particular movement.

As added by P.L.50-1997, SEC.1.

IC 5-25-2

Chapter 2. Compact

IC 5-25-2-1

Entry into compact

Sec. 1. The interstate jobs protection compact is enacted into law and entered into with all other jurisdictions legally joining in the form as substantially follows in this article.

As added by P.L.50-1997, SEC.1.

IC 5-25-2-2

Legislative findings

Sec. 2. The party states find the following:

(1) The protection of existing jobs from unnecessary interstate relocation is vital to the economy and well being of every state.

(2) The effects of the unnecessary interstate relocation of jobs present special problems that can be properly approached only with due consideration for the rights and interests of the business, those involved with the business, and the public.

(3) Measures for the reduction of the adverse effects of unnecessary interstate job relocation may be costly, and the devising of means to deal with them are of both public and private concern.

(4) The states are in a position and have the responsibility to assure that the protection of jobs shall be conducted in accordance with regard to the principles of fiscal responsibility and with consideration for local conditions.

(5) There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations, and codes relating to job protection and to accomplish this by means that minimize the time between the development and the enactment of such laws, rules, regulations, and codes.

As added by P.L.50-1997, SEC.1.

IC 5-25-2-3

Purposes

Sec. 3. The following are the purposes of this article:

(1) Study and identify the issues and problems regarding unnecessary interstate relocation of existing jobs and develop recommendations to the issues and problems.

(2) Investigate and encourage, with due recognition of relevant regional, physical, and other differences, effective programs in each of the party states that will result in the protection of jobs from unnecessary interstate relocation.

(3) Assist in achieving and maintaining an efficient and productive business climate that protects existing jobs without preventing incentives for new business or for expansion of

existing business.

(4) Provide the means for the encouragement and use of research that will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 2 of this chapter.

As added by P.L.50-1997, SEC.1.

IC 5-25-3

Chapter 3. The Commission

IC 5-25-3-1

Establishment; purpose

Sec. 1. (a) The interstate jobs protection commission is established.

(b) The purpose of the commission is to:

(1) carry out the purposes in IC 5-25-2;

(2) study the protection of existing jobs from unnecessary relocation;

(3) study and make recommendations to each party state regarding aspects of law or governmental administration dealing with matters within this article;

(4) gather and disseminate information to each party state relating to matters within this article;

(5) cooperate with the federal government and any public or private entities having interest in any subject coming within this article; and

(6) consult, upon the request of a party state, with the officials of such state in respect to any problem within this article.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-2

Commissioner; advisory body; alternates

Sec. 2. (a) The commission consists of one (1) commissioner from each party state, who shall be the governor of the party state.

(b) The commissioner from each state shall have the assistance of an advisory body, whose members shall be determined by each party state, to:

(1) consider problems relating to the scope of this article; and

(2) assist in discharging the commissioner's responsibilities on the commission.

(c) When a commissioner is unable to attend a meeting of the commission or perform any other function in connection with the business of the commission, the commissioner shall designate an alternate, from among the members of the advisory body required by this section, to represent and act for the commissioner. The designation of an alternate shall be communicated by the commissioner to the commission in such manner as its bylaws may provide.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-3

Voting; validity of actions; quorum

Sec. 3. (a) Each commissioner has one (1) vote.

(b) Actions of the commission requesting, accepting, or disposing of funds, services, or other property under:

(1) section 4 of this chapter;
(2) section 5(g) of this chapter; or
(3) section 5(h) of this chapter;

are valid only when taken at a meeting where a majority of the total number of votes on the commission is cast in favor of the action. All other actions are valid by a majority of those present and voting.

(c) A quorum of the commission consists of seventy-five percent (75%) of the entire commission.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-4
Powers and duties

Sec. 4. The commission may:

(1) establish and maintain facilities necessary for the transacting of its business; and
(2) acquire, hold, and convey real and personal property and any interest in real and personal property.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-5
Officers; executive director; bond; staff; retirement system; contracts; donations and grants; bylaws; reports

Sec. 5. (a) The commission shall elect annually, from its members, a chair, a vice chair, and a treasurer.

(b) The commission shall appoint an executive director and fix the executive director's duties and compensation. The executive director serves at the pleasure of the commission.

(c) The executive director, the treasurer, and other personnel as the commission designates shall be bonded. The commission shall determine the amounts of the bonds.

(d) The commission may employ staff as necessary for the purposes of the commission.

(e) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director, with the approval of the commission, has the following powers over the employees of the commission as necessary for the performance of the commission's functions:

(1) Appoint, remove, or discharge.
(2) Direct the duties and hours of operation.
(3) Fix the compensation and benefits for personnel.

(f) The commission may establish and maintain, independently or in conjunction with a party state, a suitable retirement system for its employees. Employees of the commission are eligible for Social Security coverage in respect to old age and survivor's insurance if the commission takes the steps necessary under the laws of the United States to participate in a program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in additional programs of employee benefits as the

commission considers appropriate.

(g) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association, partnership, limited liability company, or corporation.

(h) The commission may accept donations and grants of money, equipment, supplies, materials, and service from:

(1) any state;

(2) the United States or any other governmental agency; or

(3) any person, firm, association, partnership, limited liability company, or corporation;

and may receive, use, and dispose of the same.

(i) Any donation, grant or other source of funds accepted by the commission under subsection (h), or any services borrowed under subsection (g), must be reported in the annual report of the commission. The report must include the nature, amount, disposal, and conditions of the donation, grant, or services borrowed and the identity of the donor or lender.

(j) The commission shall adopt bylaws for its business and has the power to amend and rescind the bylaws. The commission shall publish its bylaws in convenient form and shall file a copy of the bylaws and a copy of any amendment to the bylaws, with the appropriate agency or officer and with the advisory body under section 2(b) of this chapter in each of the party states.

(k) The commission shall make reports as follows:

(1) Report annually to the governor, the advisory body under section 2(b) of this chapter, and the legislature of each party state covering the activities of the commission for the preceding year and listing such recommendations as may have been made by the commission.

(2) At the request of a party state, the commission must make a report in addition to the annual report to the party state.

(3) Upon its own request, the commission may make additional reports to the party states.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-6

Establishment of advisory and regional committees

Sec. 6. The commission may establish such advisory, technical, and regional committees as the commission considers necessary.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-7

Committee membership

Sec. 7. The membership of a committee may include private persons and public officials.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-8
Purpose of committees

Sec. 8. Committees may be formed to consider problems of special interest to party states or other matters of concern to the commission.

As added by P.L.50-1997, SEC.1.

IC 5-25-3-9
Budget; contents; apportionment of appropriations; restrictions on pledge of credit; accounts

Sec. 9. (a) The commission must submit to the governor or designated officer of each party state a budget of its estimated expenditures for the period required by the laws of that party state for presentation to the legislature.

(b) Each of the commission's budgets of estimated expenditures must contain:

(1) specific recommendations of the amount or amounts to be appropriated by each of the party states; and

(2) the source of information for each of the estimated expenditures and the request for appropriations.

(c) The total amount of appropriations requested under any budget must be apportioned among the party states in equal shares.

(d) The commission may not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under section 5(h) of this chapter, if the commission takes specific action setting aside the funds before incurring any obligation to be met. Except where the commission makes use of funds available to it under section 5(h) of this chapter, the commission may not incur any obligation before the allotment of funds by the party states.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant approved by the commission, and the report of the audit shall be included in and become part of the annual report of the commission.

(f) The accounts of the commission must be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(g) Nothing contained in this article may be construed to prevent the commission from complying with laws relating to audit or inspection of accounts by any government contributing to the support of the commission.

As added by P.L.50-1997, SEC.1.

IC 5-25-4

Chapter 4. Entry Into Force and Withdrawal

IC 5-25-4-1

Effective date of compact; withdrawal

Sec. 1. (a) This compact becomes effective in Indiana when enacted into law by Indiana and any three (3) of the following states:

(1) Alabama.
(2) Arkansas.
(3) Georgia.
(4) Illinois.
(5) Wisconsin.
(6) Iowa.
(7) Kansas.
(8) Kentucky.
(9) Michigan.
(10) Minnesota.
(11) Missouri.
(12) North Carolina.
(13) Ohio.
(14) Pennsylvania.
(15) South Carolina.
(16) Tennessee.
(17) Virginia.
(18) West Virginia.

(b) Except as provided in subsection (a), after the enactment into law of this compact by any four (4) states, this compact shall become effective to those four (4) states, and then to any other state upon enactment into law by that state.

(c) Any party state may withdraw from this article by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state before the time of such withdrawal.
As added by P.L.50-1997, SEC.1.

IC 5-25-5

Chapter 5. Effect on Other Laws, Construction, and Severability

IC 5-25-5-1

Liberal construction

Sec. 1. This article shall be liberally construed to effectuate the purposes of the article.

As added by P.L.50-1997, SEC.1.

IC 5-25-5-2

Severability of provisions

Sec. 2. The provisions of this article are severable and if any part of this article is declared to be contrary to the constitution of any party state or of the United States, or the applicability of this article to any government, agency, person, or circumstance is held invalid, the validity and applicability of the remainder of this article to any government, agency, person, or circumstance shall remain in effect.

As added by P.L.50-1997, SEC.1.

IC 5-25-5-3

Effect of article when contrary to constitution

Sec. 3. If this article is contrary to the constitution of any party state, the article shall remain in effect as to the remaining party states and in effect as to the party state affected as to all severable matters.

As added by P.L.50-1997, SEC.1.

IC 5-25-5-4

Effect of article on other laws

Sec. 4. This article does not limit, repeal, or supersede any other law of a party state.

As added by P.L.50-1997, SEC.1.

IC 5-26

ARTICLE 26. PUBLIC SAFETY COMMUNICATIONS

IC 5-26-1

Chapter 1. Definitions

IC 5-26-1-1
"Commission"

Sec. 1. As used in this article, "commission" refers to the integrated public safety commission established under IC 5-26-2-1.
As added by P.L.117-1999, SEC.1.

IC 5-26-1-1.2
"Committee"

Sec. 1.2. As used in IC 5-26-6, "committee" refers to the state agency public safety committee established by IC 5-26-6-1.
As added by P.L.2-2003, SEC.25.

IC 5-26-1-1.4
"Communications division"

Sec. 1.4. As used in IC 5-26-6, "communications division" refers to the communications division of the state police department.
As added by P.L.2-2003, SEC.26.

IC 5-26-1-1.6
"Department"

Sec. 1.6. As used in IC 5-26-6, "department" refers to the state police department established by IC 10-11-2-4.
As added by P.L.2-2003, SEC.27.

IC 5-26-1-1.8
"FCC"

Sec. 1.8. As used in IC 5-26-6, "FCC" refers to the Federal Communications Commission.
As added by P.L.2-2003, SEC.28.

IC 5-26-1-2
"Fund"

Sec. 2. As used in this article, "fund" refers to the integrated public safety communications fund established under IC 5-26-4-1.
As added by P.L.117-1999, SEC.1.

IC 5-26-1-3
"Member"

Sec. 3. As used in IC 5-26-2, "member" refers to a member of the integrated public safety commission.
As added by P.L.117-1999, SEC.1. Amended by P.L.2-2003, SEC.29.

IC 5-26-1-4
"Public safety agency"

Sec. 4. As used in this article, "public safety agency" means a federal, state, or local governmental entity eligible to hold an authorization in a public safety radio service as set forth in 47 CFR 90 et seq.

As added by P.L.117-1999, SEC.1.

IC 5-26-1-4.3
"State public safety agency"

Sec. 4.3. As used in IC 5-26-6, "state public safety agency" means a state entity eligible to hold an authorization in a public safety radio service as set forth in 47 CFR 90 et seq.

As added by P.L.2-2003, SEC.30.

IC 5-26-1-4.6
"Superintendent"

Sec. 4.6. As used in IC 5-26-6, “superintendent" refers to the superintendent of the state police department appointed under IC 10-11-2-6.

As added by P.L.2-2003, SEC.31.

IC 5-26-1-5
"System"

Sec. 5. As used in this article, "system" refers to the Indiana statewide wireless public safety voice and data communications system. The term does not include an enhanced emergency telephone system under IC 36-8-16-2 (before its repeal on July 1, 2012) or the statewide 911 system under IC 36-8-16.7.

As added by P.L.117-1999, SEC.1. Amended by P.L.132-2012, SEC.2.

IC 5-26-1-6
"User agency"

Sec. 6. (a) Except as provided in subsection (b), as used in this article, "user agency" means a public safety agency or other entity that enters into an agreement with the commission to use the system.

(b) As used in IC 5-26-6, "user agency" means a state public safety agency that uses the system.

As added by P.L.117-1999, SEC.1. Amended by P.L.2-2003, SEC.32.

IC 5-26-2

Chapter 2. Integrated Public Safety Commission

IC 5-26-2-1

Establishment of commission

Sec. 1. The integrated public safety commission is established for the purpose of promoting the efficient use of public safety agency resources through improved coordination and cooperation to enhance the safety of Indiana residents. As a first step in accomplishing this goal, the commission shall focus on establishing a statewide wireless voice and data communications system.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-2

Publication of policies in manual

Sec. 2. The commission shall publish its policies within a standardized operations procedures manual.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-3

Members

Sec. 3. (a) The commission is comprised of twelve (12) members as follows:

(1) A sheriff appointed by the governor.

(2) A chief of police appointed by the governor.

(3) A fire chief appointed by the governor.

(4) A head of an emergency medical services provider appointed by the governor.

(5) A mayor appointed by the governor.

(6) A county commissioner appointed by the governor.

(7) A representative of campus law enforcement appointed by the governor.

(8) A representative of the private sector appointed by the governor.

(9) The superintendent of the state police department, who represents the state agency public safety committee.

(10) The special agent in charge of the Indiana office of the Federal Bureau of Investigation or designee.

(11) An individual appointed by the speaker of the house of representatives.

(12) An individual appointed by the president pro tempore of the senate.

(b) Not more than four (4) members appointed under subsection (a)(1) through (a)(8) may be members of the same political party.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-4

Quorum; affirmative vote

Sec. 4. (a) Seven (7) members of the commission constitute a quorum.

(b) An affirmative vote of at least seven (7) members of the commission is required for the commission to take action.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-5

Powers of commission

Sec. 5. The commission's powers include the following:

(1) Planning for voluntary coordination of resources by public safety agencies.

(2) Developing coordinated, integrated responses to significant public safety events by those public safety agencies that choose to take part.

(3) Developing means of sharing information operationally and technologically to improve public safety.

(4) Contracting with consultants to assist in the planning and development under this article.

(5) Contracting with others to provide services under this article.

(6) Accepting gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agreeing to and complying with conditions attached thereto as necessary or appropriate to the purposes of the commission.

(7) Acquiring real property, or any interest therein, by lease, conveyance (including purchase) instead of foreclosure, or foreclosure as necessary or appropriate to the purposes of the commission.

(8) Owning, managing, operating, holding, clearing, improving, and constructing facilities on real property as necessary or appropriate to the purposes of the commission.

(9) Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering real property, or interests therein or facilities thereon as necessary or appropriate to the purposes of the commission.

(10) Acquiring personal property by lease or conveyance as necessary or appropriate to the purposes of the commission.

(11) Selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering personal property, or interests therein as necessary or appropriate to the purposes of the commission.

(12) The powers enumerated in IC 5-26-3-6.

(13) Any other power necessary, proper, or convenient to carry out this article.

As added by P.L.117-1999, SEC.1. Amended by P.L.123-2002, SEC.10.

IC 5-26-2-6
Chair and vice chair; staff

Sec. 6. (a) The governor shall select a chair and vice chair of the commission.

(b) The chair may appoint staff needed to carry out this chapter from the existing staff of participating agencies.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-7
Compensation and expenses of nonstate employee members

Sec. 7. Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-8
Expenses of state employee members

Sec. 8. Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-9
Per diem and expenses of legislative members

Sec. 9. The legislative members of the commission are entitled to receive the same per diem, mileage, and travel allowances paid to persons who serve as legislative members of interim study committees established by the legislative council.

As added by P.L.117-1999, SEC.1.

IC 5-26-2-10
Procurement procedures

Sec. 10. The commission is subject to the procurement procedures under IC 5-22.

As added by P.L.117-1999, SEC.1.

IC 5-26-3

Chapter 3. Indiana Statewide Wireless Public Safety Voice and Data Communications System

IC 5-26-3-1

Contract for establishment of system

Sec. 1. (a) The commission may contract for the establishment of a statewide wireless public safety voice and data communications system.

(b) The system must:

(1) be efficient;

(2) provide modern two (2) way voice or data communication to user agencies without a duplication of efforts; and

(3) allow user agencies with compatible equipment to communicate with one another, resulting in the efficient handling of emergencies and cooperation between agencies.

As added by P.L.117-1999, SEC.1.

IC 5-26-3-2

User's agreement

Sec. 2. If a public safety agency or other entity decides to use the system, the agency or other entity must enter into a user's agreement with the commission.

As added by P.L.117-1999, SEC.1.

IC 5-26-3-3

Supervision of system; use of facilities

Sec. 3. (a) The commission is responsible for the supervision of the statewide wireless public safety voice and data communications systems as follows:

(1) Maintenance of the main wide area transmitter sites and interconnection links of the system.

(2) Management of the system's Federal Communications Commission licensing.

(3) Frequency planning for the system.

(4) Management of the system.

(b) The Indiana statewide wireless public safety voice and data communications system may use the facilities of commercial mobile radio service providers (as defined in 47 USC 332). If the commission chooses to contract with one or more commercial mobile radio service providers to provide the system, the commission may delegate the responsibilities in subsection (a) to the commercial mobile radio service providers.

As added by P.L.117-1999, SEC.1.

IC 5-26-3-4

Criteria for determining who may use system

Sec. 4. The commission shall develop criteria for determining

whether a public safety agency or other entity may use the system. The commission may not prohibit a public safety agency from using the public safety agency's own public safety voice and data communications system.
As added by P.L.117-1999, SEC.1.

IC 5-26-3-5
Approval for public safety agencies to join system

Sec. 5. (a) Except as provided in subsection (b), a public safety agency or other entity may join the system with the approval of the commission.

(b) A state public safety agency may join the system if the agency is approved by the state agency public safety committee under IC 5-26-6 and the commission.
As added by P.L.117-1999, SEC.1. Amended by P.L.2-2003, SEC.33.

IC 5-26-3-6
Powers of commission

Sec. 6. (a) In addition to the powers enumerated in IC 5-26-2-5, the commission has the following powers related to the system:

(1) Ensuring that federal and state communications requirements are followed.
(2) Providing system planning, including mutual aid planning and compatibility planning with other public safety agency communications systems.
(3) Creating a standard user agreement.
(4) Providing assistance to local public safety agencies in making equipment purchases.
(5) Assessing charges for using the system.
(6) Entering into and performing use and occupancy agreements concerning the system under IC 4-13.5.
(7) Exercising any power necessary to carry out this chapter.

(b) The Indiana statewide wireless public safety voice and data communications system may use the facilities of commercial mobile radio service providers (as defined in 47 USC 332). If the commission chooses to contract with one or more commercial mobile radio service providers to provide the system, the commission may delegate the responsibilities in subsection (a) to the commercial mobile radio service providers.
As added by P.L.117-1999, SEC.1. Amended by P.L.123-2002, SEC.11.

IC 5-26-3-7
Subcommittees

Sec. 7. The following subcommittees are created:

(1) A user's subcommittee.
(2) A technical subcommittee.
(3) A finance subcommittee.

(4) Any other subcommittee as determined by the commission.
As added by P.L.117-1999, SEC.1.

IC 5-26-4
Chapter 4. Integrated Public Safety Communications Fund

IC 5-26-4-1
Establishment; contents; investment; reversion; transfer of money to other funds

Sec. 1. (a) The integrated public safety communications fund is established to be used only to carry out the purposes of this article. The fund shall be administered by the commission.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) gifts;

(3) federal grants;

(4) fees and contributions from user agencies that the commission considers necessary to maintain and operate the system;

(5) amounts distributed to the fund under IC 9; and

(6) money from any other source permitted by law.

(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 funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) If federal funds are not sufficient to pay for the system, the commission shall transfer money from the fund to the communications system infrastructure fund established by IC 5-26-5-4 in amounts sufficient to pay rentals and other obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.

As added by P.L.117-1999, SEC.1. Amended by P.L.123-2002, SEC.12; P.L.216-2014, SEC.5; P.L.198-2016, SEC.17.

IC 5-26-4-2
Appropriation of money in fund

Sec. 2. The money in the fund is annually appropriated as follows:

(1) To the commission, for its use, subject to the approval of the budget agency, in the acquisition, construction, equipping, operation, maintenance, and financing of the system and state user equipment for the system, including the payment of rentals and other obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.

(2) To the state police department, such amounts as determined by the budget agency that are sufficient to enable the state police crime laboratory to address any backlog of cases to be processed by the laboratory. The appropriations under this subdivision are subject to the payment of rentals and other

obligations under use and occupancy agreements or other contracts or leases relating to the financing of the system under IC 4-13.5.

As added by P.L.123-2002, SEC.13.

IC 5-26-5

Chapter 5. Communications System Infrastructure Fund

IC 5-26-5-1

"Communications system infrastructure" defined

Sec. 1. As used in this chapter, "communications system infrastructure" means all or part of the infrastructure of the system described in IC 5-26-3, including:

(1) towers and the associated land, improvements, foundations, access roads and rights-of-way, structures, fencing, and equipment necessary, proper, or convenient to enable the tower to function as part of the system;

(2) the radio and network equipment necessary, proper, or convenient to transmit and receive voice and data communications; and

(3) any other necessary, proper, or convenient elements of the system.

As added by P.L.123-2002, SEC.14.

IC 5-26-5-2

"Construction" defined

Sec. 2. As used in this chapter, "construction" means the erection, renovation, refurbishing, or alteration of all or any part of buildings, improvements, or other structures, including installation of fixtures or equipment, landscaping of grounds, site work, and providing for other ancillary facilities pertinent to the buildings or structures.

As added by P.L.123-2002, SEC.14.

IC 5-26-5-3

"Infrastructure fund" defined

Sec. 3. As used in this chapter, "infrastructure fund" refers to the communications system infrastructure fund.

As added by P.L.123-2002, SEC.14.

IC 5-26-5-4

Establishment of fund

Sec. 4. The communications system infrastructure fund is established for the purpose of providing communications system infrastructure. The infrastructure fund consists of distributions received under IC 5-26-4-1(e).

As added by P.L.123-2002, SEC.14.

IC 5-26-5-5

Administration and investment of fund

Sec. 5. The infrastructure fund shall be administered by the commission. The treasurer of state shall invest the money in the infrastructure fund not currently needed to meet the obligations of the infrastructure fund in the same manner as other public funds may

be invested.
As added by P.L.123-2002, SEC.14.

IC 5-26-5-6
Nonreversion of money

Sec. 6. Money in the infrastructure fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.123-2002, SEC.14.

IC 5-26-5-7
Use of money in fund; purposes

Sec. 7. The commission may use the money in the infrastructure fund only to pay the following:

(1) The cost of construction of communications system infrastructure.

(2) The cost of acquisition or leasing of all real or personal property required for the construction of communications system infrastructure.

(3) The cost of operation and maintenance of communications system infrastructure.

(4) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the commission for the construction of communications system infrastructure.

(5) Engineering and legal expenses, other professional services, and the costs of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(6) Payment of rentals and other obligations and performance of other obligations under use and occupancy agreements or other contracts or leases relating to the financing of communications system infrastructure under IC 4-13.5.

As added by P.L.123-2002, SEC.14.

IC 5-26-5-8
Priority of payment of obligations under use and occupancy agreements

Sec. 8. The commission shall pay its obligations under any use and occupancy agreement or any other contract or lease with the Indiana finance authority from money deposited in the infrastructure fund before making any other disbursement or expenditure of the money.
As added by P.L.123-2002, SEC.14. Amended by P.L.235-2005, SEC.92.

IC 5-26-5-9
Appropriation of money in fund; budget agency approval

Sec. 9. There is annually appropriated to the commission the money in the infrastructure fund for its use, subject to the approval

of the budget agency, in carrying out the purposes described in section 7 of this chapter.
As added by P.L.123-2002, SEC.14.

IC 5-26-6

Chapter 6. State Agency Public Safety Committee

IC 5-26-6-1

State agency public safety committee established

Sec. 1. The state agency public safety committee is established.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-2

State public safety agency required to join system

Sec. 2. A state public safety agency that has or wants to have a voice or data wireless communications network must join the system when technically and economically feasible.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-3

Responsibilities of communications division

Sec. 3. The communications division is responsible for the following with regard to state public safety agencies and state owned assets unless otherwise directed by the superintendent:

(1) Maintenance of the main wide area transmitter sites and interconnecting links.

(2) Management of FCC licensing.

(3) Frequency planning.

(4) Appropriate radio program software.

(5) Code plugs.

(6) System keys.

(7) Assignment and control of individual identification numbers and talkgroup numbers.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-4

Publication of committee policies

Sec. 4. The committee shall publish its policies within a standardized operations procedures manual approved by the superintendent.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-5

Criteria for system use

Sec. 5. The committee shall develop criteria for determining whether a state public safety agency may use the system.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-6

Committee members; vacancies; terms

Sec. 6. (a) The committee consists of ten (10) members appointed by the superintendent. Each of the following user agencies shall be

represented by one (1) committee member:

(1) State police department.

(2) Indiana department of transportation.

(3) Department of homeland security.

(4) Department of natural resources.

(5) Alcohol and tobacco commission.

(6) Department of state revenue.

(7) Department of environmental management.

(8) Military department of the state of Indiana.

(9) Department of correction.

(10) Indiana department of administration.

(b) A director of an agency described in subsection (a)(2) through (a)(10) shall recommend a person to the superintendent to serve as a committee member.

(c) The superintendent shall fill any vacancies on the committee.

(d) A committee member serves until the earlier of the following:

(1) The member is removed by the superintendent.

(2) The date the member ceases to be employed by the agency the member represents on the committee.

As added by P.L.2-2003, SEC.34. Amended by P.L.1-2006, SEC.125.

IC 5-26-6-7

Quorum; requirements to take action

Sec. 7. (a) Six (6) members of the committee constitute a quorum.

(b) An affirmative vote of at least six (6) members of the committee is required for the committee to take action.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-8

Contracts for the committee

Sec. 8. The department may enter into and administer contracts for the committee.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-9

Powers of committee

Sec. 9. The committee's powers include the following:

(1) Ensuring that federal and state communications requirements are followed.

(2) Providing system planning, including mutual aid planning and compatibility planning in coordination with the integrated public safety commission established under IC 5-26-2-1.

(3) Subject to IC 5-26-3-5, determining whether a state public safety agency may become a system user.

(4) Providing assistance to local public safety agencies in making equipment purchases.

(5) Exercising any power necessary to carry out this chapter.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-10
Chairperson; vice chairperson

Sec. 10. A chairperson and vice chairperson of the committee shall be selected by the superintendent.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-11
Restrictions on salary per diem and traveling expenses

Sec. 11. A member of the committee who is not a state employee is not entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); and

(2) reimbursement for:

(A) traveling expenses as provided under IC 4-13-1-4; and

(B) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-2003, SEC.34.

IC 5-26-6-12
Reimbursement for traveling and other expenses

Sec. 12. A member of the committee who is a state employee is entitled to:

(1) reimbursement for traveling expenses as provided under IC 4-13-1-4; and

(2) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.2-2003, SEC.34.

IC 5-26.5

ARTICLE 26.5. ADDRESS CONFIDENTIALITY PROGRAM

IC 5-26.5-1

Chapter 1. Definitions

IC 5-26.5-1-1

Applicability of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-1-2

"Address"

Sec. 2. "Address" means:

(1) a residential street address;
(2) a school address; or
(3) a work address;

of an individual as specified on an individual's application to be a program participant.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-1-3

"Domestic violence"

Sec. 3. "Domestic violence" includes conduct that is an element of an offense under IC 35-42 or a threat to commit an act described in IC 35-42 by a person against a person who:

(1) is or was a spouse of;
(2) is or was living as if a spouse of;
(3) has a child in common with;
(4) is a minor subject to the control of; or
(5) is an incapacitated individual under the guardianship or otherwise subject to the control of;

the other person regardless of whether the act or threat has been reported to a law enforcement agency or results in a criminal prosecution.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-1-4

"Incapacitated individual"

Sec. 4. "Incapacitated individual" has the meaning set forth in IC 12-10-7-1.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-1-5

"Minor"

Sec. 5. "Minor" means a person who is less than eighteen (18)

years of age.
As added by P.L.273-2001, SEC.3.

IC 5-26.5-1-6
"Program participant"

Sec. 6. "Program participant" refers to an individual certified as a program participant under IC 5-26.5-2-3.
As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.8.

IC 5-26.5-1-7
"Protective order"

Sec. 7. "Protective order" means any order issued by a court that prohibits a person from directly or indirectly contacting, harassing, disturbing, or approaching another person. The term includes an order (as defined in IC 5-2-9-2.1) and a protective order from a foreign jurisdiction.
As added by P.L.273-2001, SEC.3.

IC 5-26.5-1-8
"Sexual assault"

Sec. 8. For purposes of IC 5-26.5-2-2, "sexual assault" means conduct that constitutes:

(1) a misdemeanor or felony under IC 35-42-4 (sex crimes) or IC 35-46-1-3 (incest);
(2) a misdemeanor or felony under the laws of:
  (A) the United States;
  (B) another state; or
  (C) an Indian tribe;
that is substantially similar to an offense described in subdivision (1); or
(3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.
As added by P.L.133-2002, SEC.9. Amended by P.L.1-2003, SEC.20.

IC 5-26.5-1-9
"Stalking"

Sec. 9. For purposes of IC 5-26.5-2-2, "stalking" means conduct that constitutes:

(1) a crime under IC 35-45-10-5 (stalking);
(2) a misdemeanor or felony under the laws of:
  (A) the United States;
  (B) another state; or
  (C) an Indian tribe;
that is substantially similar to an offense described in subdivision (1); or

(3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

As added by P.L.133-2002, SEC.10. Amended by P.L.1-2003, SEC.21.

IC 5-26.5-2

Chapter 2. Address Confidentiality Program

IC 5-26.5-2-1

Eligible applicants

Sec. 1. The following individuals may apply to the office of the attorney general to have an address designated by the office of the attorney general serve as the individual's address or as the address of a minor or an incapacitated individual:

(1) An individual who is at least eighteen (18) years of age.
(2) A parent or guardian acting on behalf of a minor.
(3) A guardian acting on behalf of an incapacitated individual.
(4) An emancipated minor.

As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.11.

IC 5-26.5-2-2

Approval of applications

Sec. 2. The office of the attorney general shall approve an application filed in the manner and on a form prescribed by the office of the attorney general if the application contains the following:

(1) A sworn statement by the applicant that the applicant has good reason to believe that:
  (A) the applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of:
    (i) domestic violence;
    (ii) sexual assault; or
    (iii) stalking; and
  (B) the applicant fears for:
    (i) the applicant's safety; or
    (ii) the safety of a minor or an incapacitated individual on whose behalf the application is made.
(2) A copy of a valid protective order issued on behalf of the applicant or the minor or incapacitated individual on whose behalf the application is made.
(3) A designation of the office of the attorney general as an agent of the applicant for the purpose of:
  (A) service of process; and
  (B) receipt of mail.
(4) The:
  (A) mailing address; and
  (B) telephone number;
where the applicant may be contacted by the office of the attorney general.
(5) The new address that the applicant requests not be disclosed because disclosure may increase the risk of domestic violence.
(6) The signature of the applicant and of any representative of an agency designated under IC 5-26.5-3-4 that assisted in the

preparation of the application.

(7) The date the applicant signed the application.

As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.12.

IC 5-26.5-2-3

Certification of participants; confidentiality

Sec. 3. (a) Upon approving an application under section 2 of this chapter, the office of the attorney general shall certify the applicant as a program participant.

(b) Subject to IC 5-26.5-3-2, the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a record created under this chapter, is declared confidential for purposes of IC 5-14-3-4(a)(1).

As added by P.L.273-2001, SEC.3.

IC 5-26.5-2-4

Use of work address

Sec. 4. A program participant may use an address designated by the office of the attorney general as the program participant's work address.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-2-5

Manner of application to vote; recording residence address in computerized system; confidentiality of application information; voting by participant

Sec. 5. (a) The definitions set forth in IC 3-5-2 apply to this section.

(b) A program participant who is otherwise qualified to vote may apply to vote as provided in IC 3-7. The residence address of a program participant shall be recorded in the computerized system as set forth in the voter registration application. However, the voter registration application of the program participant is confidential, and the name and residence address of the program participant shall not be printed on any poll list or made available through any electronic poll list provided to precinct election officers.

(c) The program participant may vote in person at the office of the county election board or may vote absentee by mail. The absentee ballot application of a program participant is confidential. The program participant's mailing address shall be recorded in the computerized system as the address of the office of the attorney general. Except as provided in this section, IC 3-11-4-6 applies to a program participant who wishes to vote by absentee ballot.

As added by P.L.273-2001, SEC.3. Amended by P.L.209-2003, SEC.197; P.L.271-2013, SEC.35.

IC 5-26.5-2-6

Expiration of certification; renewal

Sec. 6. Certification as a program participant expires two (2) years after the date on which the office of the attorney general certifies or renews the certification of the applicant as a program participant. A program participant may apply to renew the certification under section 7 of this chapter.

As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.13.

IC 5-26.5-2-7

Notice of expiration; approval of renewal

Sec. 7. (a) This section applies to a program participant whose certification expired under section 6 of this chapter.

(b) The office of the attorney general shall notify the program participant of the expiration date at least thirty (30) days before the expiration date.

(c) The office of the attorney general shall approve an application for renewal of certification filed in the manner and on a form prescribed by the office of the attorney general if the application contains the requirements set forth in section 2 of this chapter. However, a program participant who applies for renewal of certification under this section does not have to provide a copy of a valid protective order.

As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.14.

IC 5-26.5-2-8

Repealed

(As added by P.L.273-2001, SEC.3. Repealed by P.L.133-2002, SEC.69.)

IC 5-26.5-2-9

Repealed

(As added by P.L.273-2001, SEC.3. Repealed by P.L.133-2002, SEC.69.)

IC 5-26.5-2-10

Perjury

Sec. 10. A person who knowingly or intentionally:

(1) falsely attests in an application made under this chapter that disclosure of the applicant's address would endanger:

(A) the applicant's safety; or

(B) the safety of a minor or an incapacitated individual upon whose behalf the application is made; or

(2) provides false or incorrect information upon making an application under this chapter;

commits perjury. This section applies to an application for certification under section 2 of this chapter and to an application for

renewal of certification under section 7 of this chapter.
As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.15.

IC 5-26.5-2-11
Name change; copy of decree to attorney general

Sec. 11. A program participant who obtains a change of name under IC 34-28-2 shall provide a copy of the decree of the court changing the program participant's name to the office of the attorney general not more than thirty (30) days after the court enters the decree.
As added by P.L.133-2002, SEC.16.

IC 5-26.5-3

Chapter 3. Duties of the Office of the Attorney General

IC 5-26.5-3-1

Adoption of rules

Sec. 1. The office of the attorney general may adopt rules to implement this article.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-3-2

Disclosure of confidential information

Sec. 2. The office of the attorney general may not disclose for public inspection or copying the name, address, telephone number, or any other identifying information relating to a program participant that is declared confidential under IC 5-26.5-2-3(b), as contained in a record created under this chapter, except as follows:

(1) When requested by a law enforcement agency, to the law enforcement agency.

(2) When directed by a court order, to a person identified in the order.

As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.17.

IC 5-26.5-3-3

Forwarding mail

Sec. 3. The office of the attorney general shall forward first class mail belonging to a program participant to the program participant.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-3-4

Designation of agencies providing counseling and shelter services

Sec. 4. The office of the attorney general shall designate:

(1) state and local agencies; and

(2) nonprofit agencies;

that provide counseling and shelter services to victims of domestic violence to assist persons in applying to be program participants.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-3-5

Assistance and counseling not considered legal advice

Sec. 5. Assistance and counseling provided by the office of the attorney general or its designees to applicants under this article may not be construed as legal advice.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-3-6

Address confidentiality fund

Sec. 6. (a) The office of the attorney general may accept grants

and donations made to the office for the purposes of this article.

(b) The address confidentiality fund is established as a dedicated fund to be administered by the office of the attorney general. The fund consists of money accepted by the office of the attorney general under subsection (a) and any appropriations made to the fund by the general assembly.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) 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 that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a fiscal year does not revert to the state general fund. Money in the fund is continuously appropriated for the purposes of this article.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-3-7

Civil immunity for attorney general, agent, or employee

Sec. 7. The office of the attorney general and an agent or employee of the office of the attorney general are immune from civil liability for damages for conduct within the scope and arising out of the performance of the duties imposed under this article.

As added by P.L.133-2002, SEC.18.

IC 5-26.5-4

Chapter 4. Revocation of Certification as a Program Participant

IC 5-26.5-4-1

Repealed

(As added by P.L.273-2001, SEC.3. Repealed by P.L.133-2002, SEC.69.)

IC 5-26.5-4-2

Change of address

Sec. 2. The office of the attorney general may revoke a program participant's certification if the program participant changes the program participant's residential address from the address listed on the application, unless the program participant provides the office of the attorney general with written notice seven (7) days before the change of address.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-4-3

Mail returned as undeliverable

Sec. 3. The office of the attorney general may revoke the certification of a program participant if mail forwarded by the office of the attorney general to the program participant's address is returned as undeliverable.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-4-4

Applicants using false information

Sec. 4. The office of the attorney general shall revoke the certification of a program participant who has applied to the address confidentiality program using false information.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-4-5

Termination or invalidity of protective order

Sec. 5. Unless the program participant's certification has been renewed under IC 5-26.5-2-7, the office of the attorney general shall revoke the certification of a program participant if the attorney general determines that the protective order on which the certification is based has been terminated or otherwise invalidated.

As added by P.L.273-2001, SEC.3. Amended by P.L.133-2002, SEC.19.

IC 5-26.5-4-6

Repealed

(As added by P.L.273-2001, SEC.3. Repealed by P.L.133-2002, SEC.69.)

IC 5-26.5-5

Chapter 5. Agency Use of Designated Address

IC 5-26.5-5-1

Responsibility for requesting use of designated address

Sec. 1. The program participant, and not the office of the attorney general, is responsible for requesting other persons to use the address designated by the office of the attorney general as the program participant's address.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-5-2

Requesting use of designated address

Sec. 2. A program participant may request that any person, including a state or local agency, use the address designated by the office of the attorney general as the program participant's address.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-5-3

Acceptance of designated address; use of confidential address

Sec. 3. (a) Whenever a state or local agency creates a new public record, the agency shall accept the address designated by the office of the attorney general as a program participant's substitute address unless the office of the attorney general determines that the agency is required by statute or administrative rule to use an address that would otherwise be confidential under this article.

(b) A state or local agency that uses a confidential address under subsection (a) may use the confidential address only for the purpose set out in the statute or administrative rule identified under subsection (a).

As added by P.L.273-2001, SEC.3.

IC 5-26.5-5-4

Use of designated address

Sec. 4. If:

(1) section 3 of this chapter does not apply; and

(2) federal law does not specifically require that the person use an address that otherwise would be confidential under this chapter;

the person that receives a request under section 2 of this chapter shall use the address designated by the office of the attorney general as the program participant's address.

As added by P.L.273-2001, SEC.3.

IC 5-26.5-5-5

Notice of termination

Sec. 5. A person who ceases to be a program participant is responsible for notifying persons who use the address designated by

the office of the attorney general as the program participant's address that the designated address is no longer the person's address.
As added by P.L.273-2001, SEC.3.

IC 5-27

ARTICLE 27. ELECTRONIC PAYMENTS TO GOVERNMENTAL BODIES

IC 5-27-1

Chapter 1. Applicability

IC 5-27-1-1

Transactions through computer gateway

Sec. 1. This article applies to a governmental body that conducts a transaction through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

As added by P.L.114-2002, SEC.1. Amended by P.L.177-2005, SEC.24.

IC 5-27-2
Chapter 2. Definitions

IC 5-27-2-1
Application
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.114-2002, SEC.1.

IC 5-27-2-2
"Contract"
Sec. 2. "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.
As added by P.L.114-2002, SEC.1.

IC 5-27-2-3
"Electronic payment"
Sec. 3. "Electronic payment" means a payment by means of:
(1) a credit card;
(2) a debit card;
(3) a charge card;
(4) a stored value card;
(5) a bank card;
(6) an electronic check; or
(7) an electronic funds transfer, including but not limited to:
(A) Fed wire; and
(B) Automated Clearing House.
As added by P.L.114-2002, SEC.1.

IC 5-27-2-4
"Governmental body"
Sec. 4. "Governmental body" means the state or a state agency.
As added by P.L.114-2002, SEC.1.

IC 5-27-2-5
"Provider company"
Sec. 5. "Provider company" means an individual, a corporation, a limited liability company, a partnership, a joint stock company, a business trust, a voting trust, a joint venture, an association, or a similar organization that provides a system allowing electronic payments.
As added by P.L.114-2002, SEC.1.

IC 5-27-3

Chapter 3. Electronic Payment

IC 5-27-3-1

Electronic payment

Sec. 1. A governmental body may accept electronic payment for a service, a tax, a license, a permit, a fee, information, or any other amount due the governmental body for a transaction conducted through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

As added by P.L.114-2002, SEC.1. Amended by P.L.177-2005, SEC.25.

IC 5-27-3-2

Governmental bodies; contracting with provider companies

Sec. 2. (a) A governmental body may enter into a contract with a provider company to enable the governmental body to accept an electronic payment.

(b) A governmental body must use the provider company provided or specified by the office of technology established by IC 4-13.1-2-1 to accept an electronic payment submitted to the governmental body as payment for a fee based service, license, or permit or for fee based information obtained through electronic access.

As added by P.L.114-2002, SEC.1. Amended by P.L.177-2005, SEC.26.

IC 5-27-3-3

Charges and fees

Sec. 3. (a) A governmental body may:

(1) if the governmental body obtains the consent of each governmental body that is directly affected by the transaction, recognize the net amount remitted by the provider company as payment in full of an amount due the governmental entity for a service, a tax, a license, a permit, a fee, information, or any other amount due the governmental body that was paid by an electronic payment; or

(2) collect a sum for the vendor transaction charge, discount fee, or any other charge from the person who makes an electronic payment.

A fee under subdivision (2) may be collected as an enhanced service fee by a governmental body. The fee is a permitted additional charge under IC 24-4.5-3-202.

(b) A governmental body may pay a service charge or fee in connection with its agreement with the provider company.

As added by P.L.114-2002, SEC.1.

IC 5-28

ARTICLE 28. INDIANA ECONOMIC DEVELOPMENT CORPORATION

IC 5-28-1

Chapter 1. Purpose

IC 5-28-1-1

Intent of general assembly

Sec. 1. (a) It is the intent of the general assembly to improve the quality of life for the citizens of Indiana by encouraging the:

(1) diversification of Indiana's economy and the orderly economic development and growth of Indiana;
(2) creation of new jobs;
(3) retention of existing jobs;
(4) growth and modernization of existing industry; and
(5) promotion of Indiana.

(b) The general assembly finds the following:

(1) Certain activities associated with the functions listed in subsection (a) may not work properly with the traditional responsibilities and activities of state agencies.
(2) The functions listed in subsection (a) can be achieved most efficiently by a body politic and corporate that:
(A) serves the interests of the state by carrying out the programs set forth in this article;
(B) is free from certain administrative restrictions that would hinder its performance; and
(C) possesses broad powers designed to maximize the state's economic development efforts.
(3) The corporation established by this article will:
(A) lead the state's economic development efforts;
(B) carry out the programs under this article, including the providing of grants and loans; and
(C) perform other essential public services for the state.
(4) In return for the corporation's economic development efforts to carry out the functions listed in subsection (a), the general assembly should appropriate state funds to the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-1-2

Corporation continuation of Indiana economic development corporation

Sec. 2. The corporation is a continuation of the Indiana economic development corporation established by IC 4-1.5-3-1 (before its repeal).

As added by P.L.20-2010, SEC.6.

IC 5-28-2
Chapter 2. Definitions

IC 5-28-2-1
Applicability
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.4-2005, SEC.34.

IC 5-28-2-2
"Board"
Sec. 2. "Board" refers to the board of the corporation established under IC 5-28-4.
As added by P.L.4-2005, SEC.34.

IC 5-28-2-3
"Corporation"
Sec. 3. Except as otherwise provided, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.
As added by P.L.4-2005, SEC.34.

IC 5-28-2-4
"Economic development"
Sec. 4. "Economic development" refers to the purposes described in IC 5-28-1-1.
As added by P.L.4-2005, SEC.34.

IC 5-28-2-5
"Secretary of commerce"
Sec. 5. "Secretary of commerce" refers to the secretary of commerce appointed under IC 5-28-3-4(a).
As added by P.L.4-2005, SEC.34.

IC 5-28-2-5.5
"Job creation incentive"
Sec. 5.5. "Job creation incentive" means a tax credit, tax deduction, grant, loan, or loan guarantee that a statute authorizes the state or an instrumentality of the state (excluding any political subdivision or other unit of local government) to award or approve for the purpose of encouraging the creation of new jobs in Indiana.
As added by P.L.110-2010, SEC.6.

IC 5-28-2-6
"Small business"
Sec. 6. For purposes of IC 5-28-17, "small business" means a business entity that satisfies the following requirements:
(1) On at least fifty percent (50%) of the working days of the

business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.

(2) The majority of the employees of the business entity work in Indiana.

As added by P.L.56-2009, SEC.1.

IC 5-28-3
Chapter 3. Indiana Economic Development Corporation

IC 5-28-3-1
Corporation established

Sec. 1. The Indiana economic development corporation is established.

As added by P.L.4-2005, SEC.34.

IC 5-28-3-2
Body corporate and politic; examination by state board of accounts

Sec. 2. (a) The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.

(b) The corporation and the corporation's funds, accounts, and financial affairs shall be examined by the state board of accounts as required by IC 5-11-1-9.

As added by P.L.4-2005, SEC.34. Amended by P.L.181-2015, SEC.23.

IC 5-28-3-3
Corporation employees

Sec. 3. Employees of the corporation are not employees of the state.

As added by P.L.4-2005, SEC.34.

IC 5-28-3-4
Secretary of commerce; corporation president

Sec. 4. (a) The governor shall appoint the secretary of commerce, who shall serve at the pleasure of the governor. The secretary of commerce is the chief executive officer of the corporation.

(b) The governor shall appoint the president of the corporation, who shall serve at the pleasure of the governor. The president shall report to the secretary of commerce.

As added by P.L.4-2005, SEC.34.

IC 5-28-3-5
Repealed

(As added by P.L.220-2011, SEC.105. Amended by P.L.39-2011, SEC.3. Repealed by P.L.145-2016, SEC.4.)

IC 5-28-3-6
Transfer of powers, duties, liabilities, records, and property of Indiana finance authority to corporation

Sec. 6. (a) As used in this section, "transferred programs" refers to the following:

(1) Shovel ready site development center under IC 5-28-28.4, as added by P.L.162-2007 (IC 4-4-11-44 before its repeal).

(2) Capital access program under IC 5-28-29, as added by P.L.162-2007 (IC 4-4-26 before its repeal).

(3) Industrial development loan guaranty program under IC 5-28-30, as added by P.L.162-2007 (IC 4-4-11-16 before its repeal).

(4) Agricultural loan and rural development project guarantee fund under IC 5-28-31, as added by P.L.162-2007 (IC 15-7-5-19.5 before its repeal).

(5) Business development loan fund under IC 5-28-32, as added by P.L.162-2007 (IC 4-4-11-16.5 before its repeal).

(b) On July 1, 2007, all powers, duties, and liabilities of the Indiana finance authority with respect to the transferred programs are transferred to the corporation.

(c) On July 1, 2007, all records and property of the Indiana finance authority with respect to the transferred programs, including appropriations and other funds under the authority's control or supervision, are transferred to the corporation.

(d) After June 30, 2007, any amounts owed to the Indiana finance authority under the transferred programs before July 1, 2007, are considered to be owed to the corporation.

(e) After June 30, 2007, a reference to the Indiana finance authority in a statute, rule, or other document concerning a transferred program is considered a reference to the corporation unless the reference applies to the issuance of obligations.

(f) On July 1, 2007, all powers, duties, and liabilities of the Indiana finance authority with respect to agreements entered into or obligations issued in connection with a transferred program are transferred to the corporation. The rights of a party to such an agreement or the holder of such an obligation remain unchanged, although the powers, duties, and liabilities described in this subsection have been transferred to the corporation.

As added by P.L.220-2011, SEC.106.

IC 5-28-4
Chapter 4. Corporation Board

IC 5-28-4-1
Corporation governed by board
Sec. 1. The corporation shall be governed by a board.
As added by P.L.4-2005, SEC.34.

IC 5-28-4-2
Membership
Sec. 2. (a) The board is composed of the following twelve (12) members, none of whom may be members of the general assembly:
(1) The governor.
(2) Eleven (11) individuals appointed by the governor.
The individuals appointed under subdivision (2) must be employed in or retired from the private or nonprofit sector or academia.
(b) When making appointments under subsection (a)(2), the governor shall appoint the following:
(1) At least five (5) members belonging to the same political party as the governor.
(2) At least three (3) members who belong to a major political party (as defined in IC 3-5-2-30) other than the party of which the governor is a member.
As added by P.L.4-2005, SEC.34.

IC 5-28-4-3
Term of office
Sec. 3. (a) The term of office of an appointed member of the board is four (4) years.
(b) Each member holds office for the term of appointment and continues to serve after expiration of the appointment until a successor is appointed and qualified. A member is eligible for reappointment.
(c) Members of the board appointed under section 2(a)(2) of this chapter serve at the pleasure of the governor.
As added by P.L.4-2005, SEC.34.

IC 5-28-4-4
Chairperson
Sec. 4. The governor shall serve as chairperson of the board.
As added by P.L.4-2005, SEC.34.

IC 5-28-4-5
Per diem and expenses
Sec. 5. The members of the board are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the board are also entitled to receive reimbursement for traveling expenses as provided

under IC 4-13-1-4 and other expenses actually incurred in connection with the members' duties as approved by the budget agency.
As added by P.L.4-2005, SEC.34.

IC 5-28-4-6
Quorum; proxy vote prohibited

Sec. 6. Seven (7) members constitute a quorum for the transaction of business. The affirmative vote of at least seven (7) members is necessary for action to be taken by the board. Members may not vote by proxy.
As added by P.L.4-2005, SEC.34.

IC 5-28-4-7
Meetings

Sec. 7. Meetings of the board shall be held at the call of the chairperson or whenever any six (6) voting members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the board.
As added by P.L.4-2005, SEC.34.

IC 5-28-5

Chapter 5. General Powers

IC 5-28-5-1

Economic development functions

Sec. 1. The corporation shall carry out the economic development functions of the state in conformity with the laws enacted by the general assembly.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-2

Grant of necessary and appropriate powers

Sec. 2. The corporation is granted all powers necessary or appropriate to carry out the corporation's public and corporate purposes under this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-3

Employees and agents; contracts

Sec. 3. (a) Subject to approval by the budget agency, the corporation may, without the approval of the attorney general, employ legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.

(b) Subject to approval by the budget agency, the corporation may enter into contracts without the approval of the attorney general.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-4

Terms of employment; retirement fund and employee benefits

Sec. 4. (a) The corporation shall determine qualifications, duties, compensation, and terms of service for persons employed by the corporation as employees or as independent contractors.

(b) The board may adopt a resolution providing that the corporation's employees who are eligible to participate in the public employees' retirement fund under the eligibility requirements set forth in IC 5-10.2 and IC 5-10.3 shall participate in the fund.

(c) The board may adopt a resolution to allow the corporation's employees to participate in group insurance and other benefit plans, including the state employees' deferred compensation plan, that are available to state employees.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-5

Ethics

Sec. 5. The board and the employees of the corporation are:

(1) under the jurisdiction of and rules adopted by the state ethics commission; and

(2) subject to ethics rules and requirements that apply to the executive branch of state government.

However, the board may adopt additional ethics rules and requirements that are more stringent than those adopted by the state ethics commission.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-6

Advisory committee

Sec. 6. The board shall establish an advisory committee to advise the board and the corporation on issues determined by the board. The advisory committee must:

(1) have members that represent diverse geographic areas and economic sectors of Indiana; and

(2) include members or representatives of local economic development organizations.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-6.5

Small business division

Sec. 6.5. The board may maintain a small business division to carry out the corporation's duties under IC 5-28-17. The board shall staff the division with employees of the corporation.

As added by P.L.56-2009, SEC.2. Amended by P.L.187-2014, SEC.12; P.L.145-2016, SEC.5.

IC 5-28-5-7

Contract, tort, and civil rights claims

Sec. 7. For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, the board and the employees of the corporation are public employees (as defined in IC 34-6-2-38).

As added by P.L.4-2005, SEC.34.

IC 5-28-5-8

Adoption of rules; emergency rules

Sec. 8. (a) The corporation shall adopt rules under IC 4-22-2 to carry out its duties under this article. The board may also adopt emergency rules under IC 4-22-2-37.1 to carry out its duties under this article.

(b) An emergency rule adopted under subsection (a) expires on the expiration date stated in the rule.

(c) An emergency rule adopted under subsection (a) may be extended as provided in IC 4-22-2-37.1(g), but the extension period may not exceed the period for which the original rule was in effect.

As added by P.L.4-2005, SEC.34. Amended by P.L.140-2013, SEC.4.

IC 5-28-5-9

Public meetings and public records laws

Sec. 9. Except as specifically provided by law, the corporation and the board are subject to IC 5-14-1.5 and IC 5-14-3.
As added by P.L.4-2005, SEC.34.

IC 5-28-5-10
Reimbursement of employee expenses

Sec. 10. An employee of the corporation is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the employee's duties as approved by the budget agency.
As added by P.L.4-2005, SEC.34.

IC 5-28-5-11
Request for appropriations

Sec. 11. The corporation may request appropriations from the general assembly to:

(1) carry out the corporation's duties under this article; and
(2) fund economic development and job creation programs.

As added by P.L.4-2005, SEC.34.

IC 5-28-5-12
Promotion fund

Sec. 12. (a) The Indiana promotion fund is established within the state treasury.

(b) Except as provided in section 13 of this chapter, the corporation shall deposit the following in the fund:

(1) All funding received from the private sector under IC 5-28-6-1(6).
(2) All other gifts, donations, bequests, devises, and contributions received by the corporation.

(c) The corporation shall administer the fund. 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 public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Except as provided in the terms of a gift, a donation, a contribution, a bequest, a devise, or other private sector funding, money in the fund may be used at the discretion of the board to carry out in any manner the corporation's purposes under this article.

(f) Money in the fund may be transferred to any fund administered by the corporation.

(g) Money in the fund is continuously appropriated to the corporation for the purposes of this article.
As added by P.L.4-2005, SEC.34.

IC 5-28-5-13

Nonprofit subsidiary corporation

Sec. 13. (a) Notwithstanding section 12 of this chapter, the board may establish a nonprofit subsidiary corporation to solicit and accept private sector funding, gifts, donations, bequests, devises, and contributions.

(b) A subsidiary corporation established under this section:

(1) must use money received under subsection (a) to carry out in any manner the purposes and programs under this article;

(2) must report to the budget committee each year concerning:

(A) the use of money received under subsection (a); and

(B) the balances in any accounts or funds established by the subsidiary corporation; and

(3) may deposit money received under subsection (a) in an account or fund that is:

(A) administered by the subsidiary corporation; and

(B) not part of the state treasury.

(c) The state board of accounts shall audit a subsidiary corporation established under this section.

As added by P.L.4-2005, SEC.34. Amended by P.L.181-2015, SEC.24.

IC 5-28-5-14

Fees and charges

Sec. 14. The corporation may fix and revise periodically, and charge and collect, fees and charges that the corporation determines to be reasonable in connection with:

(1) the corporation's loans, guarantees, advances, insurance, commitments, and servicing; and

(2) the use of the corporation's services or facilities.

As added by P.L.162-2007, SEC.21.

IC 5-28-5-15

Powers in the event of default

Sec. 15. The corporation may take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to an industrial development project when a guaranteed loan on the industrial development project is clearly in default and when in the opinion of the corporation such an acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial development project for any use.

As added by P.L.162-2007, SEC.22.

IC 5-28-6

Chapter 6. Duties

IC 5-28-6-1

Duties of the corporation

Sec. 1. The corporation shall do the following:

(1) Create and regularly update a strategic economic development plan that includes the following:

(A) Identification of specific economic regions within Indiana and methods by which the corporation will implement more regional collaboration between the corporation and the various local economic development organizations within these regions.

(B) Methods by which the corporation will implement more collaboration between the corporation and the various state economic development organizations within the states contiguous to Indiana.

(2) Establish strategic benchmarks and performance measures.

(3) Monitor and report on Indiana's economic performance.

(4) Market Indiana to businesses worldwide.

(5) Assist Indiana businesses that want to grow.

(6) Solicit funding from the private sector for selected initiatives.

(7) Provide for the orderly economic development and growth of Indiana.

(8) Establish and coordinate the operation of programs commonly available to all citizens of Indiana to implement a strategic plan for the state's economic development and enhance the general welfare.

(9) Evaluate and analyze the state's economy to determine the direction of future public and private actions, and report and make recommendations to the general assembly in an electronic format under IC 5-14-6 with respect to the state's economy. The report prepared under this subdivision must include recommendations for strategies and plans for collaboration by the corporation with:

(A) local economic development organizations within geographic regions in Indiana; and

(B) the various state economic development organizations within the states contiguous to Indiana.

As added by P.L.4-2005, SEC.34. Amended by P.L.114-2011, SEC.3; P.L.172-2011, SEC.23; P.L.6-2012, SEC.37; P.L.53-2014, SEC.69; P.L.121-2016, SEC.14.

IC 5-28-6-2

Additional powers and duties of corporation

Sec. 2. (a) The corporation shall develop and promote programs designed to make the best use of Indiana resources to ensure a

balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources, based on a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana, and encourage collaboration with local economic development organizations within geographic regions in Indiana and with the various state economic development organizations within the states contiguous to Indiana.

(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

(A) community economic development planning;

(B) implementation of programs designed to further community economic development; and

(C) the development and promotion of Indiana's tourist resources.

(5) Assist the secretary of agriculture and rural development in promoting and marketing of Indiana's agricultural products and provide assistance to the director of the Indiana state department of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

(8) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

(A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.

(B) A mechanism on the page whereby the public may request further information online about specific programs or incentives awarded.

(C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Assist in community economic development planning and the implementation of programs designed to further community economic development.

As added by P.L.4-2005, SEC.34. Amended by P.L.83-2005, SEC.9; P.L.1-2006, SEC.126; P.L.120-2008, SEC.3; P.L.114-2011, SEC.4; P.L.172-2011, SEC.24; P.L.6-2012, SEC.38.

IC 5-28-6-3
Repealed

(As added by P.L.191-2005, SEC.1. Amended by P.L.122-2006, SEC.1. Repealed by P.L.190-2014, SEC.11.)

IC 5-28-6-4
Job creation incentive package; weight given to areas with dislocated workers

Sec. 4. The board, the corporation, and the officers and employees of the board or corporation, when developing job creation incentive packages to locate companies in Indiana, shall give weight, in the awarding or approving of job creation incentives, to business entities that locate in an area where individuals have become dislocated workers due to a permanent closure of a plant or facility or a significant reduction in the workforce.

As added by P.L.110-2010, SEC.7.

IC 5-28-6-5
Job creation incentive; compliance officer

Sec. 5. The corporation shall designate an employee to serve as a compliance officer whose duties are to determine and report to the corporation whether each person that receives a job creation incentive granted by the corporation or another agency or instrumentality of the state (excluding any political subdivision or other unit of local government) complies with the terms and conditions of the person's incentive agreement.

As added by P.L.110-2010, SEC.8.

IC 5-28-6-6
Job creation incentive agreement; requirements; penalties

Sec. 6. The corporation shall require an applicant for a job creation incentive to be granted by the corporation after March 31, 2010, to enter into an agreement with the corporation as a condition of receiving the incentive. Subject to IC 5-28-28-8, the agreement must include the following:

(1) The applicant's agreement regarding the following:

(A) The number of individuals that are expected to be employed by the applicant, including the number of employees who will be hired, retained, or trained during the duration of the agreement.

(B) If a financial investment by an applicant is a condition for providing an incentive, the amount of the financial investment that the applicant expects to make in Indiana as a result of the project for which the incentive is granted.

(2) A requirement that the applicant shall file with the compliance officer an annual compliance report detailing the applicant's compliance, or progress toward compliance, with subdivision (1).

(3) A provision that notifies the applicant that the applicant is subject to a determination of the corporation under this subdivision. The corporation, after a finding that the applicant is employing fewer individuals than the applicant agreed to employ or that the applicant has not made the financial investment agreed to under subdivision (1), subject to any confidentiality laws, shall hold a hearing to determine if the applicant shall be required to pay back to the state a part of the incentive granted to the applicant under the agreement. The penalty imposed must be a matter of public record and must reflect in a fair and balanced way the amount of incentive received.

(4) A requirement that the applicant will pay back to the state the incentive that has been received by the applicant if the applicant moves or closes.

As added by P.L.110-2010, SEC.9. Amended by P.L.175-2013, SEC.3.

IC 5-28-6-7

Job creation incentive; requirement that dislocated workers be considered for jobs created

Sec. 7. The corporation shall establish a program to ensure that dislocated workers from Indiana are given consideration for jobs created by business entities receiving a job creation incentive from the state or an instrumentality of the state (excluding any political subdivision or other unit of local government). The corporation, including its board, shall condition job creation incentives awarded or approved by the corporation after March 31, 2010, on compliance with the corporation's program under this section. This requirement must be included in an agreement entered into by the recipient and the corporation.

As added by P.L.110-2010, SEC.10.

IC 5-28-6-8

Regional economic development areas; analysis; assessment

Sec. 8. (a) The corporation shall conduct an in depth assessment of Indiana's regional metropolitan areas, as determined by the corporation, and referred to as a "regional city" in this section.

(b) The assessment must include an analysis of at least the following with respect to each regional city:

(1) The economic potential of the regional city if certain initiatives or quality of life or other improvements are made or not made.

(2) The needs of each regional city.

(3) The potential of various initiatives and improvements for each regional city with a focus on determining those initiatives and improvements that will best lead to economic growth for the regional city.

(4) The successful and unsuccessful attempts at regional development within and outside Indiana.

(c) The staff of the corporation shall prepare and submit a report to the board before October 1, 2014. The report must include the following:

(1) Findings of the assessment.

(2) Recommendations on addressing the needs of each regional city, including any initiatives and quality of life or other improvements that could be made and that will best lead to economic growth for the regional city.

(3) Recommendations on options for financing any recommended initiatives and improvements by using a combination of public and private investment and financing that includes participation by financial institutions, private enterprise, local government, and state government.

As added by P.L.116-2014, SEC.1.

IC 5-28-7

Chapter 7. Training 2000 Program and Fund

IC 5-28-7-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Business" includes an entity that has the objective of supplying a service or an article of trade or commerce.

(2) "School corporation" has the meaning set forth in IC 20-18-2-16(a).

(3) "Charter school" has the meaning set forth in IC 20-18-2-2.5.

As added by P.L.4-2005, SEC.34. Amended by P.L.167-2014, SEC.1.

IC 5-28-7-2

Training program; policies; promotional materials; eligibility; continuing operations

Sec. 2. The corporation shall do the following:

(1) Establish policies to carry out a training assistance program, the purpose of which is to provide assistance to the following:

(A) New or expanding businesses, for the training or retraining of potential or incumbent employees and the retraining and upgrading of the skills of potential or incumbent employees.

(B) Businesses in Indiana, for the retraining and upgrading of employees' skills required to support new or existing capital investment.

(C) Businesses in Indiana, for the development of basic workforce skills of employees, including the following:

(i) Literacy.

(ii) Communication skills.

(iii) Computational skills.

(iv) Other transferable workforce skills approved by the corporation.

(D) School corporations and charter schools, to support career pathways for students through cooperative arrangements with businesses for the education and training of students in high wage, high demand jobs that require industry certifications.

(2) Provide promotional materials regarding the training program.

(3) Determine the eligibility of an industry for the training program.

(4) Require a commitment by a business receiving training assistance under this chapter to continue operations at a site on which the training assistance is used for at least five (5) years after the date the training assistance expires. If a business fails to comply with this commitment, the corporation shall require

the business to repay the training assistance provided to the business under this chapter.

As added by P.L.4-2005, SEC.34. Amended by P.L.67-2013, SEC.1; P.L.167-2014, SEC.2.

IC 5-28-7-3

Policies and guidelines; services and materials; training plans; evaluation; other entities

Sec. 3. The corporation may do the following:

(1) Adopt policies and guidelines necessary to carry out this chapter.

(2) Accept money and other things of value from all sources to carry out the purposes of the training program.

(3) Provide services and materials in order to carry out the purposes of the training program.

(4) Develop or assist in the development of training plans.

(5) Evaluate the training program with respect to the program's impact on the improvement of workforce skills, job creation, and job retention.

(6) Involve other entities, by contract or otherwise, in carrying out the purposes of the training program.

As added by P.L.4-2005, SEC.34.

IC 5-28-7-4

Participation; eligibility

Sec. 4. Participation in the training program is limited to entities that:

(1) meet the eligibility requirements of the corporation; and

(2) comply with this chapter.

As added by P.L.4-2005, SEC.34. Amended by P.L.167-2014, SEC.3.

IC 5-28-7-5

Training 2000 fund

Sec. 5. (a) The training 2000 fund is established within the state treasury to be used exclusively for the purposes of this chapter.

(b) The fund consists of appropriations from the general assembly.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) 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.

As added by P.L.4-2005, SEC.34.

IC 5-28-7-6

Grants supporting cooperative arrangements for training students

Sec. 6. (a) The corporation may award grants from the training 2000 fund to school corporations and charter schools to support cooperative arrangements with businesses for training students.

(b) A school corporation or a charter school must apply to the corporation for a grant under this section in the manner prescribed by the corporation.

(c) The corporation may consult with Indiana works councils to develop the application and eligibility requirements for grants awarded under this section.

As added by P.L.167-2014, SEC.4.

IC 5-28-8

Chapter 8. Economic Development Fund

IC 5-28-8-1

"Federal agency"

Sec. 1. As used in this chapter, "federal agency" means the Economic Development Administration of the United States Department of Commerce.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-2

"Federal program"

Sec. 2. As used in this chapter, "federal program" means a federal loan or grant program that promotes economic development.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-3

"Fund"

Sec. 3. As used in this chapter, "fund" refers to the economic development fund established by section 5 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-4

"Qualified entity"

Sec. 4. As used in this chapter, "qualified entity" means:

(1) the state;

(2) a political subdivision of the state;

(3) an agency of the state or a political subdivision of the state;

(4) a nonprofit corporation;

(5) the Indiana finance authority established under IC 4-4-10.9 and IC 4-4-11; or

(6) any of the following local economic development organizations:

(A) An urban enterprise association established under IC 5-28-15 (or IC 4-4-6.1 before its repeal).

(B) An economic development commission established under IC 36-7-12.

(C) A nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana.

(D) A regional planning commission established under IC 36-7-7.

(E) A nonprofit educational organization whose primary purpose is educating and developing local leadership for economic development initiatives.

(F) Other similar organizations whose purposes include

economic development and that are approved by the corporation.

As added by P.L.4-2005, SEC.34. Amended by P.L.235-2005, SEC.93; P.L.145-2016, SEC.6.

IC 5-28-8-5

Fund established; purpose

Sec. 5. (a) The economic development fund is established within the state treasury. The fund is a revolving fund to provide grants and loans for economic development activities in Indiana for the purposes of this chapter.

(b) The fund consists of appropriations from the general assembly and loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-6

Investment of fund by treasurer of state

Sec. 6. (a) 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.

(b) The treasurer of state shall also:

(1) receive cash receipts belonging to the fund, deposit these amounts in the fund, and submit a monthly report to the corporation of these transactions; and

(2) make payments on vouchers authorized by the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-7

Drawing of warrants

Sec. 7. The auditor of state shall draw warrants on the treasurer of state in payment of properly prepared vouchers signed by the president of the corporation or the president's designee.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-8

Guidelines for receipt of grants and loans

Sec. 8. (a) The corporation shall receive grants allocated by a federal program for the purposes specified in section 9(c) of this

chapter. Guidelines shall be prepared by the corporation enumerating the qualification procedures for receipt of grants and loans from the fund. These guidelines must be consistent with Indiana law and federal program requirements.

(b) The board, with the approval of the budget agency and the governor, shall allocate parts of the fund for the purposes specified in section 9(c) of this chapter. The corporation shall make allocations on the basis of the need of the qualified entity.

(c) The corporation shall keep complete sets of records showing all transactions by the fund in a manner that enables the corporation to prepare at the end of each fiscal year a complete report for the general assembly. The information in the report must be sufficient to permit a complete review and understanding of the operation and financial condition of the fund. The report must be submitted in electronic format under IC 5-14-6.

As added by P.L.4-2005, SEC.34.

IC 5-28-8-9

Applications for grants; approved projects

Sec. 9. (a) If federal money will not be used in conjunction with fund money, a qualified entity that wants a grant from the fund must submit an application for the grant to the corporation. The corporation shall review the application and may approve the application if the activities for which the grant money is to be used are activities:

(1) that the qualified entity has statutory authority to perform; and

(2) for which this chapter permits fund money to be used.

(b) When fund money is to be used to match federal money, a qualified entity that wants a grant must submit to the corporation an application for a grant under the federal program. The corporation shall review the application and shall submit the application to the federal agency if the corporation finds that the activities for which the grant money is to be used are activities:

(1) that the qualified entity has statutory authority to perform; and

(2) for which the federal program permits money to be used.

Before submitting an application to the federal agency, the corporation must also approve the completeness and technical accuracy of the qualified entity's application.

(c) Money from the fund and money from a federal program may be used for the following projects:

(1) Public works.

(2) Technical assistance.

(3) Economic adjustment assistance.

(4) Other economic development programs.

(d) If the qualified entity proposes to use its money for a loan program, the application from the qualified entity must contain the

conditions under which loans will be made and the interest rate that will be charged.
As added by P.L.4-2005, SEC.34.

IC 5-28-8-10
Applications for loans; repayment

Sec. 10. (a) A qualified entity may apply to the corporation for a loan from the fund to be used for economic development programs.

(b) An amount loaned to a qualified entity is an obligation of the qualified entity and shall be repaid to the corporation within a time to be fixed by the corporation, not to exceed three (3) years.

(c) The corporation shall determine interest rates for the loans to be made under this section.

(d) Final disbursements of money under this section must be made with the approval of the state board of finance.

(e) If a qualified entity fails to make repayment of money loaned under this section, the amount payable may be:

(1) withheld by the auditor of state from money payable to the qualified entity and transferred to the fund; or

(2) recovered in an action by the state on relation of the corporation, prosecuted by the attorney general, in the circuit or superior court of the county in which the qualified entity is located.

As added by P.L.4-2005, SEC.34.

IC 5-28-9

Chapter 9. Industrial Development Program and Fund

IC 5-28-9-1

"Enterprise zone"

Sec. 1. As used in this chapter, "enterprise zone" means an enterprise zone created under IC 5-28-15 (or IC 4-4-6.1 before its repeal).

As added by P.L.4-2005, SEC.34.

IC 5-28-9-2

"Governing body"

Sec. 2. As used in this chapter, "governing body" means the legislative body of a city, town, or county, an economic development commission, or a board administering the affairs of a special taxing district.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-3

"Industrial development program"

Sec. 3. As used in this chapter, "industrial development program" means a program designed to aid the growth of industry in Indiana and includes the:

(1) construction of airports, airport facilities, and tourist attractions;

(2) construction, extension, or completion of sewerlines, waterlines, streets, sidewalks, bridges, roads, highways, public ways, and information and high technology infrastructure;

(3) leasing or purchase of property, both real and personal; and

(4) preparation of surveys, plans, and specifications for the construction of publicly owned and operated facilities, utilities, and services.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-4

"Information and high technology infrastructure"

Sec. 4. As used in this chapter, "information and high technology infrastructure" includes, but is not limited to, fiber optic cable and other infrastructure that supports high technology growth and the purchase and installation of fiber optic cable and other infrastructure.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-5

"Minority enterprise small business investment company"

Sec. 5. As used in this chapter, "minority enterprise small business investment company" means an investment company licensed under 15 U.S.C. 681(D).

As added by P.L.4-2005, SEC.34.

IC 5-28-9-6
"Qualified entity"

Sec. 6. As used in this chapter, "qualified entity" means a city, a town, a county, an economic development commission, or a special taxing district.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-7
"Small business investment company"

Sec. 7. As used in this chapter, "small business investment company" means an investment company licensed under 15 U.S.C. 691 et seq. or a successor statute.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-8
Findings

Sec. 8. The general assembly finds that:

(1) areas in Indiana have insufficient employment opportunities and insufficient diversification of industry;

(2) these conditions are harmful to the health, prosperity, economic stability, and general welfare of these areas and, if not remedied, will be detrimental to the development of these areas; and

(3) the use of money under this chapter and the fostering of industrial development programs serves a public purpose.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-8.5
Legalization of certain loans, loan agreements, and similar arrangements of department of commerce and qualified entities

Sec. 8.5. (a) As used in this section, "department" refers to the department of commerce (before its abolition by P.L.4-2005) established by IC 4-4-3-2 (before its repeal).

(b) Notwithstanding any other law, all loans, loan agreements, or similar arrangements between the department and a qualified entity are legalized and declared valid if these loans, loan agreements, or similar arrangements have been delivered and the department has lent money pursuant to them before April 18, 1985. All proceedings had and actions taken under which these loans, loan agreements, or similar arrangements were undertaken are fully legalized and declared valid.

As added by P.L.220-2011, SEC.107.

IC 5-28-9-9
Fund established; purpose; administration

Sec. 9. (a) The industrial development fund is established within the state treasury. Loans may be made to qualified entities, small business investment companies, and minority enterprise small

business investment companies in accordance with this chapter and the policies and guidelines adopted under it.

(b) The fund consists of appropriations from the general assembly and loan repayments.

(c) The corporation and the state board of finance shall jointly administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) 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.

(f) The corporation, subject to the approval of the state board of finance, may adopt policies and guidelines for the proper administration of the fund and this chapter. The corporation may employ personnel necessary to efficiently administer this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-10

Loans for approved programs; amount restriction; limitations

Sec. 10. (a) Two million dollars ($2,000,000) in the industrial development fund does not revert to the state general fund but constitutes a revolving fund to be used exclusively for the purpose of this chapter. The corporation, subject to the approval of the state board of finance, may order the auditor of state to make an approved loan from the revolving fund to a qualified entity (including the purchase of bonds of the qualified entity), a small business investment company, or a minority enterprise small business investment company.

(b) A qualified entity may borrow funds from the corporation under this chapter and shall use the loan proceeds to institute and administer an approved industrial development program. The combined amount of outstanding loans to any one (1) program may not exceed one million dollars ($1,000,000). However, the one million dollar ($1,000,000) restriction in this subsection does not apply to an approved industrial development program in an economic development district established by a qualified entity under IC 6-1.1-39. A loan made under this chapter to an economic development commission is not a loan to or an obligation of the qualified entity that formed the commission, if the repayment of the loan is limited to a specified revenue source under section 15 of this chapter.

(c) A small business investment company or a minority enterprise small business investment company may use the loan proceeds for

any lawful purpose.

(d) Notwithstanding any other law (including IC 5-1-11), the loan to a qualified entity under this section may be directly negotiated with the corporation without public sale of bonds or other evidences of indebtedness of the qualified entity.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-11

Industrial development programs

Sec. 11. A qualified entity may institute and administer an industrial development program that is approved by ordinance or resolution adopted by the governing body of the qualified entity and approved by the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-12

Loans to qualified entities; conditions

Sec. 12. (a) The state board of finance and the corporation shall authorize the making of a loan to a qualified entity under this chapter only when all the following conditions exist:

(1) An application for the loan has been submitted by the qualified entity, in a verified petition, to the state board of finance and the corporation in the manner and form as the state board of finance and the corporation direct. The application must set forth all the following:

(A) The need for the program and the need for funds for instituting and administering the program.

(B) An engineering estimate of the cost of the proposed program acceptable to the state board of finance and the corporation.

(C) The amount of money needed.

(D) Other information that is requested by the state board of finance and the corporation.

(2) The proposed program has been approved by the state board of finance and the corporation, which they may do only if they have determined that the program is based on sound engineering principles and is in the interest of industrial development.

(3) The loan does not exceed one hundred percent (100%) of the cost to the qualified entity of an approved program, with the cost of the program to be based on an estimate made by a competent engineering authority and approved by the corporation.

(4) The qualified entity has agreed to furnish assurance, satisfactory to the state board of finance and the corporation, that the qualified entity will operate and maintain the program, after completion, in a satisfactory manner.

(b) The state board of finance and the corporation shall authorize a loan to a small business investment company or minority enterprise

small business investment company under this chapter only if:

(1) the small business investment company or minority enterprise small business investment company has loaned to or invested in a business located in an enterprise zone for a purpose directly related to the enterprise zone an amount that is at least twice the amount of the requested loan; and

(2) the small business investment company or minority enterprise small business investment company has submitted an application, before the beginning of the phase out period of the enterprise zone, to the state board of finance and the corporation that shows the amount of the loan requested and other information that is requested by the state board of finance and the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-13

Participation in program or project by entity; share of cost

Sec. 13. (a) The qualified entity may provide labor, equipment, and materials from any source at its disposal for such a program, and participation in accomplishment of the project or projects may be:

(1) evaluated by the state board of finance and the corporation; and

(2) computed as a part or all of the share of cost that the qualified entity is required to pay toward the total cost of the project or projects for which the loan is obtained.

(b) When participation as described in this section is authorized, the participation must be under direction of the governing body, and when cash amounts are included in the qualified entity's share of total cost, the cost amounts shall be provided in the usual and accepted manner for the financing of the affairs of the qualified entity. Costs of engineering and legal services to the borrower may be regarded as a part of the total cost of the project.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-14

Priority rating of applicant for loan

Sec. 14. (a) The state board of finance and the corporation shall determine and ascribe to an applicant for a loan a priority rating. The rating must be based primarily on the need of the qualified entity for a proposed program or on the need of the small business investment company or minority enterprise small business investment company for the loan as the need is related to the needs of other applicants for loans.

(b) The qualified entities, small business investment companies, or minority enterprise small business investment companies with the highest priority rating shall be given first consideration when loans are made under this chapter. The loans shall be made in descending order as shown by the priority ratings.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-15
Loans; restrictions; ordinance requirement

Sec. 15. (a) A loan made under this chapter is subject to the following restrictions:

(1) The repayment period may not exceed fifteen (15) years.

(2) The interest rate is to be set by the state board of finance at the time the loan is approved.

(3) Interest reverts to the industrial development fund established by this chapter.

(4) The loan must be repaid in installments, including interest on the unpaid balance, according to a repayment schedule approved by the state board of finance for that loan. However, on the approval of the state board of finance, the repayment of principal may be deferred for a period not to exceed two (2) years.

(5) Subject to subsection (b), the repayment of the loan may be limited to a specified revenue source of the qualified entity and, if limited, is not a general obligation of the unit and is payable solely from the specified revenue source.

(6) If the qualified entity levies a tax to repay the loan, the first installment of the loan is due from funds received from the first levy.

(7) If prepayment of the loan is made, a penalty may not be charged.

(b) A qualified entity may borrow money under this chapter only under an ordinance adopted under IC 36-1-3-6 as follows:

(1) If the qualified entity is a city, town, or county, by the qualified entity.

(2) If the qualified entity is an economic development commission, by the city, town, or county that established the economic development commission.

(3) If the qualified entity is a special taxing district established by the city, town, or county, by the city, town, or county that established the special taxing district.

(4) If the qualified entity is a special taxing district that was not established by a city, town, or county, by the county in which the special taxing district is located.

If repayment of the loan is to be from a specified revenue source under subsection (a)(5), the ordinance must state the revenue source and must state that the qualified entity is not obligated to pay the principal or interest on the loan except from the specified revenue source. An ordinance may not provide for repayment from a specified revenue source if the repayment would impair the qualified entity's contract with an owner of outstanding obligations payable from the specified revenue source.

(c) Notwithstanding any other law, the qualified entity may enter

into loans under this chapter without obtaining the approval of any other body.
As added by P.L.4-2005, SEC.34.

IC 5-28-9-16
Revenue to pay annual loan installment and interest; levy of tax

Sec. 16. A qualified entity receiving a loan under this chapter may levy an annual tax on personal and real property located within the qualified entity's geographical limits for industrial development purposes, in addition to any other tax authorized by statute to be levied for such purposes, at a rate that will produce sufficient revenue to pay the annual installment and interest on a loan made under this chapter. The tax may be in addition to the maximum annual rates prescribed by IC 6-1.1-18, IC 6-1.1-18.5, and other statutes.
As added by P.L.4-2005, SEC.34. Amended by P.L.2-2006, SEC.34; P.L.146-2008, SEC.40.

IC 5-28-9-17
Failure to repay money lent; action to recover

Sec. 17. (a) If a qualified entity fails to make repayment of money lent under this chapter or is in any way indebted to the industrial development fund for any amounts incurred or accrued, the amount payable may be:

(1) withheld by the auditor of state, as set forth in the loan agreement with the qualified entity, from any money payable to the qualified entity and transferred to the fund; or

(2) recovered in an action by the state on relation of the corporation, prosecuted by the attorney general, in the circuit or superior court of the county in which the qualified entity is located.

(b) If a small business investment company or a minority enterprise small business investment company fails to make repayment of money lent under this chapter or is in any way indebted to the industrial development fund for any amounts incurred or accrued, the amount payable may be recovered in an action by the state on relation of the company, prosecuted by the attorney general, in the circuit or superior court of the county in which the small business investment company or minority enterprise small business investment company is located.
As added by P.L.4-2005, SEC.34.

IC 5-28-9-18
Appropriation

Sec. 18. There is appropriated annually to the corporation from the state general fund, from money not otherwise appropriated, an amount sufficient to administer this chapter, subject to the approval of the budget committee.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-19
Sale of notes or other debt obligations by a county, city, or town; deposit and use of proceeds

Sec. 19. (a) The corporation, with the approval of the state board of finance, may sell to a person (including the board for depositories) the notes or other debt obligations issued by a county, city, or town under this chapter or IC 6-1.1-39 for any borrowing from the industrial development fund under this chapter.

(b) A sale by the corporation of a note or another debt obligation of a county, city, or town as authorized by subsection (a) shall be made:

(1) without recourse against the corporation, the state board of finance, or the industrial development fund; and

(2) on the other terms and conditions that the corporation, with the approval of the state board of finance, establishes.

(c) A purchaser of a note or another debt obligation succeeds to all the rights, entitlements, conditions, and limitations under the note or other debt obligation. However, section 17 of this chapter does not apply to a note or another debt obligation that has been sold under subsection (a).

(d) After a sale of a note or another debt obligation, the corporation, the state board of finance, and the industrial development fund have no right, title, or interest in or to the note or debt obligation.

(e) The proceeds from a sale of a note or another debt obligation shall be deposited in the industrial development fund to be used exclusively for the purpose of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-9-20
Loan with simultaneous or successive sale of note or other obligation; legal investments

Sec. 20. (a) For industrial development projects (as defined in IC 4-4-10.9-11(a)) that have a cost of the project (as defined in IC 4-4-10.9-5) greater than one hundred million dollars ($100,000,000), the corporation may coordinate a loan to a county, city, or town under this chapter that is to be funded under IC 6-1.1-39 with a simultaneous or successive sale of the note or other debt obligation issued or to be issued by the county, city, or town to evidence the borrowing under this chapter. For such a coordinated or simultaneous lending and sale, the sale proceeds may be applied to the funding of the loan to the county, city, or town.

(b) Notes or other debt obligations of a county, city, or town that may be sold by the corporation under this section or section 19 of this chapter are declared to be legal investments for:

(1) all insurance companies and associations and other persons

carrying on an insurance business; and

(2) all banks, bankers, banking associations, trust companies, savings associations including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business.

These entities may invest their funds, including capital, in the notes or other debt obligations, notwithstanding any law to the contrary.

As added by P.L.4-2005, SEC.34. Amended by P.L.1-2006, SEC.127.

IC 5-28-10

Chapter 10. Technology Development Grant Fund

IC 5-28-10-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the technology development grant fund established by section 7 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-2

"Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-3

"Redevelopment commission"

Sec. 3. As used in this chapter, "redevelopment commission" refers to a redevelopment commission established under IC 36-7-14-3 or a commission (as defined in IC 36-7-15.1-3) that establishes a technology park.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-4

"Targeted employment"

Sec. 4. As used in this chapter, "targeted employment" means employment in any of the following business activities:

(1) Advanced manufacturing, including the following:
- (A) Automotive and electronics.
- (B) Aerospace technology.
- (C) Robotics.
- (D) Engineering design technology.

(2) Life sciences, including the following:
- (A) Orthopedics or medical devices.
- (B) Biomedical research or development.
- (C) Pharmaceutical manufacturing.
- (D) Agribusiness.
- (E) Nanotechnology or molecular manufacturing.

(3) Information technology, including the following:
- (A) Informatics.
- (B) Certified network administration.
- (C) Software development.
- (D) Fiber optics.

(4) Twenty-first century logistics, including the following:
- (A) High technology distribution.
- (B) Efficient and effective flow and storage of goods, services, or information.
- (C) Intermodal ports.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-5
"Technology park"

Sec. 5. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-6
"Technology product"

Sec. 6. As used in this chapter, "technology product" means a product that involves high technology activity or otherwise involves targeted employment.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-7
Establishment and purpose of fund

Sec. 7. The technology development grant fund is established within the state treasury to provide the necessary money for grants to redevelopment commissions under this chapter and the administration of this program.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-8
Appropriations from general assembly

Sec. 8. The fund consists of appropriations from the general assembly.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-9
Administration of fund

Sec. 9. The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.
(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-10
Investment of money in fund

Sec. 10. 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 are invested. Interest that accrues from these investments shall be deposited in the state general fund.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-11
Nonreversion

Sec. 11. 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.4-2005, SEC.34.

IC 5-28-10-12
Establishment of grant application procedure
Sec. 12. The corporation shall establish a grant application procedure for redevelopment commissions.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-13
Qualification for grant
Sec. 13. To qualify for a grant under this chapter, a redevelopment commission must:
(1) submit an application in the form prescribed by the corporation;
(2) demonstrate that:
(A) the redevelopment commission has established a technology park; and
(B) the grant being applied for under this chapter will assist the redevelopment commission in accomplishing the goals of the technology park under IC 36-7-32; and
(3) provide other information required by the corporation.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-14
Provision of grants
Sec. 14. The corporation shall provide grants on a competitive basis from the fund to businesses that apply for a grant under this chapter. The corporation may select and fund part or all of an application request that:
(1) is submitted during an application period; or
(2) was submitted in a prior application period but not fully funded in that application period.
As added by P.L.4-2005, SEC.34.

IC 5-28-10-15
"Operating expenditures"; amount and use of grants
Sec. 15. (a) For purposes of this section, "operating expenditures" includes the following:
(1) Business plans.
(2) Marketing studies.
(3) Mentor identification.
(4) Securitization of capital.
(5) Legal services.
(6) Other necessary services.
(b) The total of all grants provided under this chapter for a technology park may not exceed the following:

(1) Two million dollars ($2,000,000) for the leasing, construction, or purchase of capital assets.

(2) Two million dollars ($2,000,000) for operating expenditures, and, subject to subsection (d), with not more than five hundred thousand dollars ($500,000) being distributed in any one (1) fiscal year.

(c) This subsection applies to a grant provided under subsection (b)(1) for the leasing of a capital asset. The grant may be applied only to lease payments made during:

(1) the fiscal year; or

(2) each of the three (3) fiscal years immediately following the fiscal year;

in which the grant is provided.

(d) The annual distribution of a grant under subsection (b)(2) may not exceed the following:

(1) Eighty percent (80%) of total operating expenditures in the fiscal year in which the grant is provided.

(2) Sixty percent (60%) of total operating expenditures in the fiscal year after the fiscal year in which the grant is provided.

(3) Forty percent (40%) of total operating expenditures in the second fiscal year after the fiscal year in which the grant is provided.

(4) Twenty percent (20%) of total operating expenditures in the third fiscal year after the fiscal year in which the grant is provided.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-16

Matching amounts for capital expenditure grants

Sec. 16. A capital expenditure grant under this chapter shall require that the lesser of:

(1) two million dollars ($2,000,000); or

(2) fifty percent (50%) of the total capital costs;

of the project being funded by the grant be matched from other sources.

As added by P.L.4-2005, SEC.34.

IC 5-28-10-17

Grants to political subdivisions

Sec. 17. The corporation may, under rules established by the department of local government finance and the procedures established by the corporation, award grants from the fund to one (1) or more political subdivisions to reimburse the political subdivisions for ad valorem property taxes allocated to an allocation area as a result of a resolution adopted under IC 36-7-32-15.

As added by P.L.4-2005, SEC.34.

IC 5-28-11
Repealed
(Repealed by P.L.145-2016, SEC.7.)

IC 5-28-11.5

Chapter 11.5. New Business Recruitment Grants for Local Economic Development Organizations

IC 5-28-11.5-1

"Economically disadvantaged area"

Sec. 1. As used in this chapter, "economically disadvantaged area" means a county that has an unemployment rate exceeding the state unemployment rate by at least two percent (2%).

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-2

"Local economic development organization"

Sec. 2. As used in this chapter, "local economic development organization" (referred to as "organization") includes the following:

(1) An urban enterprise association established under IC 5-28-15 (or IC 4-4-6.1 before its repeal).

(2) An economic development commission established under IC 36-7-12.

(3) A nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana.

(4) A regional planning commission established under IC 36-7-7.

(5) A nonprofit educational organization whose primary purpose is educating and developing local leadership for economic development initiatives.

(6) Other similar organizations whose purposes include economic development and that are approved by the corporation.

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-3

"Program"

Sec. 3. As used in this chapter, "program" refers to the new business recruitment grant program established by section 4 of this chapter.

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-4

New business recruitment grant program established

Sec. 4. (a) The new business recruitment grant program is established.

(b) The program is administered by the corporation.

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-5
Indiana economic development corporation authorized to make grants to local economic development organizations

Sec. 5. (a) The purpose of the program is to assist the local economic development organizations that serve economically disadvantaged areas in the recruitment of new businesses.

(b) The corporation must find that an applicant for a grant under this chapter serves an economically disadvantaged area before approving the grant application.

(c) The corporation may provide a grant under the program to an organization to assist the organization in recruiting new business enterprises to the county or counties served by the organization. The grant may not be used by the organization to pay expenses for which the organization has received a grant under IC 5-28-11 (before its repeal).

(d) A grant under this chapter may not be used by the organization to provide direct financial assistance to a business or specific development project.

As added by P.L.35-2009, SEC.1. Amended by P.L.145-2016, SEC.8.

IC 5-28-11.5-6
Maximum grant amounts

Sec. 6. A grant under this chapter may not exceed:

(1) fifty thousand dollars ($50,000), in the case of a grant to an organization that serves only one (1) county; or

(2) seventy-five thousand dollars ($75,000), in the case of a grant to an organization that serves at least two (2) counties.

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-7
Policies and procedures

Sec. 7. The corporation may adopt policies and guidelines governing application criteria and procedures for organizations applying for grants under this chapter.

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-8
Administrative costs

Sec. 8. Money appropriated for the program may be used for the costs of administering this chapter.

As added by P.L.35-2009, SEC.1.

IC 5-28-11.5-9
Local economic development organization recruitment fund established; uses; revenue sources; administration; investments; nonreverting fund

Sec. 9. (a) The local economic development organization recruitment fund is established within the state treasury as a

dedicated fund. Money in the fund must be spent by the corporation exclusively for grants and other purposes described in this chapter.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) interest deposited into the fund under subsection (d); and

(3) any money available for the purposes of this chapter from Indiana's apportionment of general state assistance grants provided to the states under the federal American Recovery and Reinvestment Act of 2009 or another federal economic stimulus law enacted in 2009.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Grants made under this chapter.

(2) Expenses of administering the fund.

(3) The corporation's nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) 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.

(e) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.35-2009, SEC.1.

IC 5-28-12
Repealed
(Repealed by P.L.133-2012, SEC.43.)

IC 5-28-13

Chapter 13. Permit Assistance Center

IC 5-28-13-1

"Center"

Sec. 1. As used in this chapter, "center" refers to the permit assistance center established by section 4 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-13-2

"Permit"

Sec. 2. As used in this chapter, "permit" means any state agency permit, license, certificate, approval, registration, or similar form of approval required by a statute or an administrative rule.

As added by P.L.4-2005, SEC.34.

IC 5-28-13-3

"State agency"

Sec. 3. As used in this chapter, "state agency" has the meaning set forth in IC 4-13-1-1.

As added by P.L.4-2005, SEC.34.

IC 5-28-13-4

Establishment of center; duties

Sec. 4. The permit assistance center is established within the corporation. The center has the following duties:

(1) Providing comprehensive information on permits required for business activities in Indiana and making this information available to any person.

(2) Assisting applicants in obtaining timely and efficient permit review and the resolution of issues arising from permit review.

(3) Encouraging the participation of federal and local government agencies in permit coordination.

As added by P.L.4-2005, SEC.34.

IC 5-28-13-5

Information file on permit requirements

Sec. 5. The center shall establish an information file on all state agency permit requirements that affect business activities in Indiana. The center shall:

(1) develop methods for maintaining, updating, and providing ready access to the information file;

(2) use the information file to provide comprehensive information concerning permit requirements affecting business activities; and

(3) use the information file to provide the Indiana archives and records administration with information that will enable the administration to consolidate, simplify, expedite, or otherwise

improve permit procedures.
As added by P.L.4-2005, SEC.34. Amended by P.L.171-2015, SEC.41.

IC 5-28-13-6
Publications; preparation and distribution
Sec. 6. The center may prepare and distribute publications and other materials that:
(1) serve the convenience of permit applicants; and
(2) explain permit requirements affecting business activities.
As added by P.L.4-2005, SEC.34.

IC 5-28-13-7
Federal and local government permit agencies; use of center services; advice to applicants
Sec. 7. The center may encourage federal and local government permit agencies to use the services provided by the center to make information available to permit applicants. The center may advise permit applicants of federal and local permit requirements and may maintain an information file on permits for which the state has delegated issuance authority to local governmental agencies.
As added by P.L.4-2005, SEC.34.

IC 5-28-13-8
Fees
Sec. 8. The center may not charge a fee for services provided under this chapter. However, this section does not relieve a permit applicant of any part of the fees or charges established by a state agency for the review and approval of permit applications.
As added by P.L.4-2005, SEC.34.

IC 5-28-13-9
Authority of state agencies
Sec. 9. This chapter does not affect the authority of a state agency to approve or deny a permit in the manner provided by any other law.
As added by P.L.4-2005, SEC.34.

IC 5-28-13-10
Assistance of state agencies
Sec. 10. Upon request of the center, each state agency shall provide the assistance and data necessary to enable the center to perform its duties under this chapter.
As added by P.L.4-2005, SEC.34.

IC 5-28-13-11
Policies and guidelines
Sec. 11. The corporation may adopt policies and guidelines to implement this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-14

Chapter 14. Promotion of Trade Shows

IC 5-28-14-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the trade promotion fund established by section 6 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-2

"Small business concern"

Sec. 2. As used in this chapter, "small business concern" means a small business concern as defined in 15 U.S.C. 632.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-3

"Trade mission"

Sec. 3. As used in this chapter, "trade mission" means a planned tour of business locations, all of which are:

(1) located in or outside the United States; and

(2) recommended by:

(A) the United States Department of Commerce Foreign Commercial Service;

(B) the United States Department of Agriculture Foreign Agriculture Service; or

(C) the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-4

"Trade show"

Sec. 4. As used in this chapter, "trade show" means an exhibition, an exposition, or a fair:

(1) located in or outside the United States; and

(2) recommended by:

(A) the United States Department of Commerce Foreign Commercial Service; or

(B) the United States Department of Agriculture Foreign Agriculture Service.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-5

Corporation's duties

Sec. 5. (a) The corporation shall promote the participation of small business concerns in trade shows and trade missions.

(b) Before promoting participation in trade shows and trade missions, the corporation must:

(1) conduct market research to determine the presence and extent of overseas markets for Indiana small business concerns;

and

(2) determine the market areas offering Indiana small business concerns the best export opportunities.

(c) In promoting participation in trade shows and trade missions, the corporation shall emphasize trade shows and trade missions considered to offer Indiana small business concerns the best export opportunities for products produced in Indiana.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-6

Trade promotion fund

Sec. 6. (a) The trade promotion fund is established within the state treasury as a dedicated fund. Money in the fund must be spent by the corporation exclusively for the purposes described in this chapter.

(b) The fund consists of appropriations from the general assembly.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) 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 state general fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-7

Reimbursement for booth rental fees

Sec. 7. The corporation may provide financial assistance to a small business concern by reimbursing the small business concern solely for booth rental fees related to its participation in a trade show or trade mission.

As added by P.L.4-2005, SEC.34.

IC 5-28-14-8

Reimbursement limitations and amount

Sec. 8. (a) Reimbursement for booth rental fees incurred by a small business concern under section 7 of this chapter for participation in one (1) trade show or trade mission may not exceed the lesser of:

(1) five thousand dollars ($5,000); or

(2) the amount determined in subsection (b).

(b) The amount to be used in subsection (a)(2) is the amount determined under the following STEPS:

STEP ONE: Determine the total booth rental fees incurred by the small business concern under section 7 of this chapter.

STEP TWO: Subtract from the amount determined in STEP

ONE any amounts received by the small business concern from a trade show promotion program or trade mission program, other than the program established by this chapter.

(c) The maximum financial assistance that may be provided to a small business concern during a state fiscal year may not exceed ten thousand dollars ($10,000).

As added by P.L.4-2005, SEC.34.

IC 5-28-14-9

Qualification for assistance

Sec. 9. To qualify for financial assistance under this chapter, a small business concern must:

(1) apply to the corporation for approval to participate in a trade show or trade mission in the form and by the time specified by the corporation;

(2) establish to the satisfaction of the corporation that participation in the trade show or trade mission will enhance the export opportunities of products produced in Indiana by the small business concern;

(3) maintain adequate records of the expenses incurred by the small business concern to participate in a trade show or trade mission;

(4) certify to the corporation the amount of financial assistance, if any, received by the small business concern from a trade show promotion program or trade mission program other than the program established by this chapter; and

(5) provide to the corporation, on request:

(A) the records of the expenses related to the small business concern's participation in a trade show or trade mission; and

(B) information regarding the effectiveness of the program established by this chapter in enhancing the export opportunities of the small business concern.

As added by P.L.4-2005, SEC.34. Amended by P.L.145-2016, SEC.9.

IC 5-28-14-10

Policies and guidelines

Sec. 10. The corporation may adopt policies and guidelines to implement this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15

Chapter 15. Enterprise Zones

IC 5-28-15-0.2

Application of certain amendments to prior statute

Sec. 0.2. The addition of IC 4-4-6.1-1.7 (before its repeal, now codified in section 4 of this chapter) by P.L.25-1995 applies to property taxes first due and payable after December 31, 1996.

As added by P.L.220-2011, SEC.108.

IC 5-28-15-0.3

Certain actions of zone business considered compliance with prior statute

Sec. 0.3. (a) As used in this section, "zone business" refers to a business that accesses at least one (1) tax credit or exemption incentive under IC 4-4-6.1 (before its repeal).

(b) Notwithstanding IC 4-4-6.1-2.5 (before its repeal), as amended by P.L.8-1994, a zone business that after August 2, 1993, and on or before December 31, 1993, tendered to the enterprise zone board created under IC 4-4-6.1-1 (before its repeal):

(1) a verified summary of the amount of tax credits and exemptions claimed by the business in the preceding year, as required under IC 4-4-6.1-2.5(a)(1) (before its repeal); and

(2) payment of registration fees, as required under IC 4-4-6.1-2.5(a)(2) (before its repeal);

is deemed to have complied with IC 4-4-6.1-2.5(a) (before its repeal) and may not be denied any of the incentives granted to a zone business if the zone business resubmits the verified summary and the zone business' registration fee and pays an additional civil penalty equal to the greater of twenty-five dollars ($25) or fifteen percent (15%) of its registration fees to the enterprise zone board on or before May 1, 1994.

As added by P.L.220-2011, SEC.109.

IC 5-28-15-0.4

Certain actions of zone business considered compliance with prior statute; state and political subdivision authorized to take certain actions; fees and payments

Sec. 0.4. (a) As used in this section, "board" refers to the enterprise zone board established by IC 4-4-6.1-1 (before its repeal).

(b) A zone business that:

(1) submitted to the board, on a form prescribed by the board, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and

(2) tendered payment of the amount specified in IC 4-4-6.1-2(4)(A) (before its repeal) to the board;

in compliance with IC 4-4-6.1-2.5(a) (before its repeal and as effective June 1, 1995) after May 31, 1995, and before June 16,

1995, shall be treated for the purposes of IC 4-4-6.1-2.5 (before its repeal and as effective June 1, 1995), as if the zone business had complied with IC 4-4-6.1-2.5 (before its repeal and as effective June 1, 1995) before June 1, 1995.

(c) An official of the state or a political subdivision is authorized to take the actions necessary to:

(1) reinstate the credits and exemptions that would have been waived without this section;

(2) reinstate, effective retroactively to May 31, 1995, a business that is described by this section as a zone business without requiring the business to petition for readmission or to pay any civil penalties; and

(3) refund any civil penalties paid under IC 4-4-6.1-2.5 (before its repeal), as effective June 1, 1995.

(d) Notwithstanding any other statute or rule, a payment or fee that is required from a zone business identified in subsection (b) to qualify the zone business for the credits and exemptions that would have been waived without this section may be paid by the zone business before June 1, 1996.

As added by P.L.220-2011, SEC.110.

IC 5-28-15-0.5

Treatment of certain persons as having qualified for incentives

Sec. 0.5. A person that:

(1) did not qualify in any taxable year beginning in 1995, 1996, or 1997 for enterprise zone incentives under IC 4-4-6.1-1.7 (before its amendment by P.L.14-1997 and before its repeal);

(2) would have qualified for the enterprise zone incentives under IC 4-4-6.1-1.7 (as amended by P.L.14-1997 and before its repeal); and

(3) received enterprise zone incentives for taxable years beginning in 1995, 1996, or 1997;

shall be treated for each of the years described in subdivision (1) as having qualified for the incentives to the same extent as if the amendment by P.L.14-1997 to IC 4-4-6.1-1.7 (before its repeal) had been enacted before the enterprise zone incentives accrued to the person.

As added by P.L.220-2011, SEC.111.

IC 5-28-15-1

"High technology business operations"; "advanced computing"; "advanced materials"; "biotechnology"; "electronic device technology"; "environmental technology"; "medical device technology"

Sec. 1. (a) As used in this chapter, "high technology business operations" means the operations in Indiana of a business engaged in the following:

(1) Advanced computing.

(2) Creation of advanced materials.
(3) Biotechnology.
(4) Electronic device technology.
(5) Environmental technology.
(6) Medical device technology.

(b) For purposes of this section, "advanced computing" means technology used in the designing and developing of computing hardware and software, including innovations in designing the full range of hardware from hand held calculators to supercomputers and peripheral equipment.

(c) For purposes of this section, "advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value added metals, electronic materials, composites, polymers, and biomaterials.

(d) For purposes of this section, "biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and subatomic levels, as well as novel products, services, technologies, and subtechnologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge.

(e) For purposes of this section, "electronic device technology" means technology involving any of the following:

(1) Microelectronics.
(2) Semiconductors.
(3) Electronic equipment.
(4) Instrumentation.
(5) Radio frequency waves.
(6) Microwaves.
(7) Millimeter electronics.
(8) Optical and optic electrical devices.
(9) Data and digital communications.
(10) Imaging devices.

(f) For purposes of this section, "environmental technology" means any of the following:

(1) The assessment and prevention of threats or damage to human health or the environment.
(2) Environmental cleanup.
(3) The development of alternative energy sources.

(g) For purposes of this section, "medical device technology" means technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value or diagnostic value and is regulated by the federal Food and Drug Administration.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-2

"U.E.A."

Sec. 2. As used in this chapter, "U.E.A." refers to an urban enterprise association established under section 13 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-3

"Zone business"

Sec. 3. As used in this chapter, "zone business" means an entity that accesses at least one (1) tax credit, deduction, or exemption incentive available under this chapter, IC 6-1.1-45, IC 6-3-3-10, IC 6-3.1-7, or IC 6-3.1-10.

As added by P.L.4-2005, SEC.34. Amended by P.L.214-2005, SEC.7; P.L.146-2008, SEC.41.

IC 5-28-15-4

Incentives not available to certain licensees; exceptions

Sec. 4. (a) Except as provided in subsection (b):

(1) a package liquor store that holds a liquor dealer's permit under IC 7.1-3-10; or

(2) any other entity that is required to operate under a license issued under IC 7.1;

is not eligible for incentives available to zone businesses.

(b) Subsection (a) does not apply to the recipient of an incentive if:

(1) the recipient entered into a written agreement concerning the incentive under IC 4-4-6.1-8 (transferred to section 17 of this chapter) before July 1, 1995;

(2) the recipient is described in:

(A) IC 7.1-3-3-1;

(B) IC 7.1-3-8-1;

(C) IC 7.1-3-13-1; or

(D) IC 7.1-5-7-11; or

(3) the recipient:

(A) holds a license under IC 7.1; and

(B) receives at least sixty percent (60%) of the recipient's annual revenue from retail food sales.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-5

Powers of board; assistance by zone businesses

Sec. 5. (a) The board has the following powers, in addition to other powers that are contained in this chapter:

(1) To review and approve or reject all applicants for enterprise zone designation, according to the criteria for designation that this chapter provides.

(2) To waive or modify rules as provided in this chapter.

(3) To adopt rules for the disqualification of a zone business from eligibility for any or all incentives available to zone

businesses, if that zone business does not do one (1) of the following:

(A) If all its incentives, as contained in the summary required under section 7 of this chapter, exceed one thousand dollars ($1,000) in any year, pay a registration fee to the corporation in an amount equal to one percent (1%) of all its incentives.

(B) Use all its incentives, except for the amount of the registration fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(4) After a recommendation from a U.E.A., to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 9 of this chapter.

(5) To employ staff and contract for services.

(b) In addition to a registration fee paid under subsection (a)(3)(A), each zone business that receives an incentive described in section 3 of this chapter shall assist the zone U.E.A. in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist a U.E.A., the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body disqualifies a zone business under this subsection, the legislative body shall notify the corporation, the department of local government finance, and the department of state revenue in writing not more than thirty (30) days after the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is adopted.

As added by P.L.4-2005, SEC.34. Amended by P.L.214-2005, SEC.8; P.L.146-2008, SEC.42; P.L.288-2013, SEC.1; P.L.145-2016, SEC.10.

IC 5-28-15-5.5 Version a

Powers of corporation; zone businesses

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 5.5. The corporation has the following powers, in addition to the other powers that are contained in this chapter:

(1) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.

(2) To disqualify a zone business from eligibility for any or all of the incentives available to zone businesses.

(3) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.
(4) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites.
(5) To make determinations under IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by that chapter in appropriate cases.

As added by P.L.145-2016, SEC.11.

IC 5-28-15-5.5 Version b
Powers of the corporation

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 5.5. The corporation has the following powers, in addition to the other powers that are contained in this chapter:
(1) To provide a procedure by which enterprise zones may be monitored and evaluated on an annual basis.
(2) To disqualify a zone business from eligibility for any or all of the incentives available to zone businesses.
(3) To receive funds from any source and expend the funds for the administration and promotion of the enterprise zone program.
(4) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites.
(5) To enter into agreements under IC 6-3.1-11 with an applicant for a tax credit under that chapter.

As added by P.L.145-2016, SEC.11. Amended by P.L.204-2016, SEC.9.

IC 5-28-15-6
Enterprise zone fund

Sec. 6. (a) The enterprise zone fund is established within the state treasury.
(b) The fund consists of:
(1) the revenue from the registration fee required under section 5 of this chapter; and
(2) appropriations from the general assembly.
(c) The corporation shall administer the fund. The fund may be used to:
(1) pay the expenses of administering the fund;
(2) pay nonrecurring administrative expenses of the enterprise zone program;
(3) provide grants to U.E.A.s for brownfield remediation in enterprise zones; and
(4) pay administrative expenses of urban enterprise associations.

However, money in the fund may not be expended unless it has been

appropriated by the general assembly and allotted by the budget agency.

(d) 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 state general fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund. The corporation shall develop appropriate applications and may develop grant allocation guidelines, without complying with IC 4-22-2, for awarding grants under this subsection. The grant allocation guidelines must take into consideration the competitive impact of brownfield redevelopment plans on existing zone businesses.

As added by P.L.4-2005, SEC.34. Amended by P.L.214-2005, SEC.9.

IC 5-28-15-7

Annual summary of tax credits and exemptions claimed; extension of time; denial of incentives and disqualification from program for noncompliance

Sec. 7. (a) Subject to subsections (c) and (d), a zone business that claims any of the incentives available to zone businesses shall, before June 1 of each year:

(1) submit to the corporation and to the zone U.E.A., on a form prescribed by the corporation, a verified summary concerning the amount of tax credits and exemptions claimed by the business in the preceding year; and

(2) pay the amount specified in section 5(a)(3) of this chapter to the corporation.

(b) In order to determine the accuracy of the summary submitted under subsection (a), the corporation is entitled to obtain copies of a zone business's tax records directly from the department of state revenue, the department of local government finance, or a county official, notwithstanding any other law. A summary submitted to the corporation or a zone U.E.A., or a record obtained by the corporation under this section is confidential. A U.E.A. member, an agent of a U.E.A. member, or an employee of the corporation who knowingly or intentionally discloses information that is confidential under this section commits a Class A misdemeanor.

(c) The corporation may grant one (1) extension of the time allowed to comply with subsection (a) under the provisions of this subsection. To qualify for an extension, a zone business must apply to the corporation before June 1. The application must be in the form specified by the corporation. The extension may not exceed forty-five (45) days under rules adopted by the board under IC 4-22-2.

(d) If a zone business that did not comply with subsection (a) before June 1 and did not file for an extension under subsection (c) before June 1 complies with subsection (a) before July 16, the

amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business are waived, unless the zone business pays to the corporation a penalty of:

(1) an amount not to exceed seven percent (7%), for the first instance of noncompliance; or

(2) fifteen percent (15%), for the second instance of noncompliance and each subsequent instance;

of the amount of the tax credit and exemption incentives for the preceding year that were otherwise available to the zone business because the business was a zone business. A zone business that pays a penalty under this subsection for a year must pay the penalty to the corporation before July 16 of that year. The corporation shall deposit any penalty payments received under this subsection in the enterprise zone fund.

(e) This subsection is in addition to any other sanction imposed by subsection (d) or any other law. If a zone business fails to comply with subsection (a) before July 16 and does not pay any penalty required under subsection (d) before July 16 of that year, the zone business is:

(1) denied all the tax credit and exemption incentives available to a zone business because the business was a zone business for that year; and

(2) disqualified from further participation in the enterprise zone program under this chapter until the zone business:

(A) petitions the board for readmission to the enterprise zone program under this chapter; and

(B) pays a civil penalty of one hundred dollars ($100).

As added by P.L.4-2005, SEC.34. Amended by P.L.171-2015, SEC.42; P.L.145-2016, SEC.12.

IC 5-28-15-8

Request for records; confidentiality of records

Sec. 8. (a) This section applies to records and other information, including records and information that are otherwise confidential, maintained by the following:

(1) The board.

(2) A U.E.A.

(3) The department of state revenue.

(4) The corporation.

(5) The department of local government finance.

(6) A county auditor.

(7) A township assessor (if any).

(8) A county assessor.

(b) A person or an entity listed in subsection (a) may request a second person or entity described in subsection (a) to provide any records or other information maintained by the second person or entity that concern an individual or a business that is receiving a tax

deduction, exemption, or credit related to an enterprise zone. Notwithstanding any other law, the person or entity to whom the request is made under this section must comply with the request. A person or entity receiving records or information under this section that are confidential must also keep the records or information confidential.

(c) A person or an entity that receives confidential records or information under this section and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor.

As added by P.L.4-2005, SEC.34. Amended by P.L.146-2008, SEC.43.

IC 5-28-15-9

Designation of enterprise zones; applications; evaluation criteria and factors

Sec. 9. (a) The board may designate up to ten (10) enterprise zones, in addition to any enterprise zones the federal government may designate in Indiana. The board may by seven (7) affirmative votes increase the number of enterprise zones above ten (10), but it may not add more than two (2) new zones each year (excluding any zone that may be added by the board in a municipality in which a previously designated zone has expired) and may not add any new zones after December 31, 2015. There may not be more than one (1) enterprise zone in any municipality.

(b) After approval by resolution of the legislative body, the executive of any municipality that is not an included town under IC 36-3-1-7 may submit one (1) application to the corporation to have one (1) part of the municipality designated as an enterprise zone. If an application is denied, the executive may submit a new application. The corporation shall provide application procedures.

(c) The corporation shall evaluate an enterprise zone application if it finds that the following threshold criteria exist in a proposed zone:

(1) A poverty level in which twenty-five percent (25%) of the households in the zone are below the poverty level as established by the most recent United States census or an average rate of unemployment for the most recent eighteen (18) month period for which data is available that is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) A population of more than two thousand (2,000) but less than ten thousand five hundred (10,500).

(3) An area of more than three-fourths (3/4) of a square mile but less than four (4) square miles, with a continuous boundary (using natural, street, or highway barriers when possible) entirely within the applicant municipality. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

(B) has an area of at least twenty-five (25) acres;

the area of the zone may be increased above the four (4) square mile limitation by an amount not to exceed the area of the municipally owned parcel.

(4) Property suitable for the development of a mix of commercial, industrial, and residential activities.

(5) The appointment of a U.E.A. that meets the requirements of section 13 of this chapter.

(6) A statement by the applicant indicating its willingness to provide certain specified economic development incentives.

(d) If an applicant has met the threshold criteria of subsection (c), the board shall evaluate the application, arrive at a decision based on the following factors, and either designate a zone or reject the application:

(1) Level of poverty, unemployment, and general distress of the area in comparison with other applicant and nonapplicant municipalities and the expression of need for an enterprise zone over and above the threshold criteria of subsection (c).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including but not limited to the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The proposed managerial structure of the zone and the capacity of the U.E.A. to carry out the goals and purposes of this chapter.

As added by P.L.4-2005, SEC.34. Amended by P.L.145-2016, SEC.13.

IC 5-28-15-10 Version a

Expiration of enterprise zone; renewal

Note: This version of section effective until 7-1-2016. See also following version of this section, effective 7-1-2016.

Sec. 10. (a) Subject to subsection (b), an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this

section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (d) and (e). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the board:

(1) before August 1, 2009, in the case of an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009; or

(2) at least thirty (30) days before the expiration date of the enterprise zone, in the case of an enterprise zone scheduled to expire after August 31, 2009.

If an enterprise zone is renewed under this subsection after having been renewed under subsection (e), the enterprise zone may not be renewed after the expiration of this final five (5) year period, except under subsection (c).

(c) An enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located:

(1) has adopted a resolution renewing the enterprise zone under subsection (b); and

(2) adopts a resolution renewing the enterprise zone for an additional one (1) year period beginning on the date on which the enterprise zone would otherwise expire under the resolution adopted under subdivision (1).

An enterprise zone may be renewed for an additional one (1) year period under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (d) and (e). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the corporation at least thirty (30) days before the expiration date of the enterprise zone. If an enterprise zone is renewed for an additional one (1) year period under this subsection after having been renewed under subsection (e), the enterprise zone may not be renewed after the expiration of this final one (1) year period.

(d) The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the following criteria and may, with the consent of the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

(1) Increases in capital investment in the zone.

(2) Retention of jobs and creation of jobs in the zone.

(3) Increases in employment opportunities for residents of the zone.

(e) If an enterprise zone is renewed under subsection (d), the two (2) year period immediately before the day on which the enterprise

zone expires is another phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the criteria set forth in subsection (d) and, with the consent of the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

As added by P.L.4-2005, SEC.34. Amended by P.L.182-2009(ss), SEC.80; P.L.1-2010, SEC.19; P.L.202-2016, SEC.5.

IC 5-28-15-10 Version b

Expiration of enterprise zone; renewal

Note: This version of section effective 7-1-2016. See also preceding version of this section, effective until 7-1-2016.

Sec. 10. (a) Subject to subsection (b), an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (d) and (e). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the corporation:

(1) before August 1, 2009, in the case of an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009; or

(2) at least thirty (30) days before the expiration date of the enterprise zone, in the case of an enterprise zone scheduled to expire after August 31, 2009.

If an enterprise zone is renewed under this subsection after having been renewed under subsection (e), the enterprise zone may not be renewed after the expiration of this final five (5) year period, except under subsection (c).

(c) An enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located:

(1) has adopted a resolution renewing the enterprise zone under subsection (b); and

(2) adopts a resolution renewing the enterprise zone for an additional one (1) year period beginning on the date on which the enterprise zone would otherwise expire under the resolution adopted under subdivision (1).

An enterprise zone may be renewed for an additional one (1) year period under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (d) and (e). A municipal fiscal body may adopt a renewal resolution and submit a

copy of the resolution to the corporation at least thirty (30) days before the expiration date of the enterprise zone. If an enterprise zone is renewed for an additional one (1) year period under this subsection after having been renewed under subsection (e), the enterprise zone may not be renewed after the expiration of this final one (1) year period.

(d) The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the following criteria and may, with the consent of the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

(1) Increases in capital investment in the zone.

(2) Retention of jobs and creation of jobs in the zone.

(3) Increases in employment opportunities for residents of the zone.

(e) If an enterprise zone is renewed under subsection (d), the two (2) year period immediately before the day on which the enterprise zone expires is another phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the criteria set forth in subsection (d) and, with the consent of the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

As added by P.L.4-2005, SEC.34. Amended by P.L.182-2009(ss), SEC.80; P.L.1-2010, SEC.19; P.L.202-2016, SEC.5; P.L.145-2016, SEC.14.

IC 5-28-15-11

Closed or inactive military base

Sec. 11. (a) Notwithstanding any other provision of this chapter, one (1) or more units (as defined in IC 36-1-2-23) may declare all or any part of a military base or another military installation that is inactive, closed, or scheduled for closure as an enterprise zone. The declaration shall be made by a resolution of the legislative body of the unit that contains the geographic area being declared an enterprise zone. The legislative body must include in the resolution that a U.E.A. is created or designate another entity to function as the U.E.A. under this chapter. The resolution must also be approved by the executive of the unit.

(b) If the resolution is approved, the executive shall file the resolution and the executive's approval with the corporation. If an entity other than a U.E.A. is designated to function as a U.E.A., the entity's acceptance must be filed with the corporation along with the resolution. The enterprise zone designation is effective on the first day of the month following the day the resolution is filed with the corporation.

(c) Establishment of an enterprise zone under this section is not subject to the limit of two (2) new enterprise zones each year under section 9(a) of this chapter.
As added by P.L.4-2005, SEC.34. Amended by P.L.145-2016, SEC.15.

IC 5-28-15-12
Enlargement of enterprise zone
Sec. 12. The board may not approve the enlargement of an enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in section 9(c)(1) of this chapter.
As added by P.L.4-2005, SEC.34.

IC 5-28-15-13
Urban enterprise associations; establishment
Sec. 13. (a) There is established in each applicant for designation as an enterprise zone and in each enterprise zone an urban enterprise association (U.E.A). The twelve (12) members of the U.E.A. shall be chosen as follows:
(1) The governor shall appoint the following:
(A) One (1) state legislator whose district includes all or part of the enterprise zone.
(B) One (1) representative of the corporation, who is not a voting member of the U.E.A.
(2) The executive of the municipality in which the zone is located shall appoint the following:
(A) One (1) representative of the plan commission having jurisdiction over the zone, if any exists.
(B) One (1) representative of the municipality's department that performs planning or economic development functions.
(C) Two (2) representatives of businesses located in the zone, one (1) of whom shall be from a manufacturing concern, if any exists in the zone.
(D) One (1) resident of the zone.
(E) One (1) representative of organized labor from the building trades that represent construction workers.
(3) The legislative body of the municipality in which the zone is located shall appoint, by majority vote, the following:
(A) One (1) member of the municipality's legislative body whose district includes all or part of the zone.
(B) One (1) representative of a business located in the zone.
(C) Two (2) residents of the zone, who must not be members of the same political party.
(b) Members of the U.E.A. serve four (4) year terms. The appointing authority shall fill any vacancy for the balance of the vacated term.
(c) Members may be dismissed only by the appointing authority

and only for just cause.

(d) The members shall elect a chairperson, a vice chairperson, and a secretary by majority vote. This election shall be held every two (2) years in the same month as the first meeting or whenever a vacancy occurs. The U.E.A. shall meet at least once every three (3) months. The secretary shall notify members of meetings at least two (2) weeks in advance of meetings. The secretary shall provide a list of members to each member and shall notify members of any changes in membership.

(e) If an applicant for designation as an enterprise zone does not receive that designation, the U.E.A. in that municipality is dissolved when the application is rejected.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-14

Powers and duties of association

Sec. 14. (a) A U.E.A. shall do the following:

(1) Coordinate zone development activities.

(2) Serve as a catalyst for zone development.

(3) Promote the zone to outside groups and individuals.

(4) Establish a formal line of communication with residents and businesses in the zone.

(5) Act as a liaison between residents, businesses, the municipality, and the board for any development activity that may affect the zone or zone residents.

(b) A U.E.A. may do the following:

(1) Initiate and coordinate any community development activities that aid in the employment of zone residents, improve the physical environment, or encourage the turnover or retention of capital in the zone. These additional activities include but are not limited to recommending to the municipality the manner and purpose of expenditure of funds generated under IC 36-7-14-39(g) or IC 36-7-15.1-26(g).

(2) Recommend that the board modify a zone boundary or disqualify a zone business from eligibility for one (1) or more benefits or incentives available to zone businesses.

(3) Incorporate as a nonprofit corporation. Such a corporation may continue after the expiration of the zone in accordance with the general principles established by this chapter. A U.E.A. that incorporates as a nonprofit corporation under this subdivision may purchase or receive real property from a redevelopment commission under IC 36-7-14-22.2 or IC 36-7-15.1-15.2.

(c) The U.E.A. may request, by majority vote, that the legislative body of the municipality in which the zone is located modify or waive any municipal ordinance or regulation that is in effect in the zone. The legislative body may, by ordinance, waive or modify the operation of the ordinance or regulation, if the ordinance or

regulation does not affect health (including environmental health), safety, civil rights, or employment rights.

(d) The U.E.A. may request, by majority vote, that the board waive or modify any state rule that is in effect in the zone. The board shall review the request and may approve, modify, or reject the request. Approval or modification by the board shall take place after review by the appropriate state agency. A modification may include but is not limited to establishing different compliance or reporting requirements, timetables, or exemptions in the zone for a business or an individual, to the extent that the modification does not adversely affect health (including environment health), safety, employment rights, or civil rights. An approval or a modification of a state rule by the board takes effect upon the approval of the governor. In no case are the provisions of IC 22-2-2 and IC 22-7-1-2 mitigated by this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-15

Eligibility of businesses relocating non-zone businesses; determination; hearing panel; order; criteria; exceptions; objections; final determination

Sec. 15. (a) Any business that substantially reduces or ceases an operation located in Indiana and outside an enterprise zone (referred to as a nonzone operation) in order to relocate in an Indiana enterprise zone is disqualified from benefits or incentives available to zone businesses. Determinations under this section shall be made by a hearing panel composed of the chairperson of the board or the chairperson's designee, the commissioner of the department of state revenue or the commissioner's designee, and the commissioner of the department of local government finance or the commissioner's designee. The panel, after an evidentiary hearing held subsequent to the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order shall be based on the following criteria and subsection (b):

(1) A site specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees shall be considered a business operation.

(2) With respect to a nonzone operation, any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nonzone operation to the enterprise zone as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of:

(i) one hundred (100) employees; or

(ii) twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and incentives available to zone businesses if each of the following conditions is met:

(1) The business relocates its nonzone operation for any of the following reasons:

(A) The lease on property necessary for the nonzone operation has been involuntarily lost through no fault of the business.

(B) The space available at the location of the nonzone operation cannot accommodate planned expansion needed by the business.

(C) The building for the nonzone operation has been certified as uninhabitable by a state or local building authority.

(D) The building for the nonzone operation has been totally destroyed through no fault of the business.

(E) The renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the zone, as certified by three (3) independent estimates.

A business is eligible for benefits and incentives under clause (C) or (D) only if renovation and construction costs at the location of the nonzone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the zone. These costs must be certified by three (3) independent estimates.

(2) The business has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nonzone operation without the consent of the employees.

(c) The hearing panel shall cause to be delivered to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and these persons shall be considered parties for purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, not later than ten (10) days after the party's receipt of the recommended order, file written

objections with the board. If the objections are filed, the board shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, may amend or modify the recommendations, or may make an order or determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the proposed findings of fact and recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-16

Job training; residents of enterprise zone

Sec. 16. Whenever federal or state money is available for job training purposes, considerations shall, to the extent possible, be given to training residents of enterprise zones in industry specific skills relevant to a resident's particular zone.

As added by P.L.4-2005, SEC.34.

IC 5-28-15-17

State pledge and agreement

Sec. 17. The state pledges to and agrees with the direct recipient of any enterprise zone incentive under this chapter that the state will not limit or alter the rights vested in the U.E.A. to fulfill the terms of any agreements it makes with those recipients or in any way impair the rights and remedies of those recipients until the terms of the incentive are fulfilled. The board may include this pledge and agreement of the state in any agreement it makes with the recipient.

As added by P.L.4-2005, SEC.34.

IC 5-28-16

Chapter 16. Indiana Twenty-First Century Research and Technology Fund

IC 5-28-16-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the Indiana twenty-first century research and technology fund established by section 2 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-16-2

Fund established; purposes; administration; budget committee review of programs, initiatives, and investment policies; reporting requirements; budget agency review and approval of available funding

Sec. 2. (a) The Indiana twenty-first century research and technology fund is established within the state treasury to provide grants or loans to support proposals for economic development in one (1) or more of the following areas:

(1) To increase the capacity of Indiana postsecondary educational institutions, Indiana businesses, and Indiana nonprofit corporations and organizations to compete successfully for federal or private research and development funding.

(2) To stimulate the transfer of research and technology into marketable products.

(3) To assist with diversifying Indiana's economy by focusing investment in biomedical research and biotechnology, information technology, development of alternative fuel technologies, development and production of fuel efficient vehicles, and other high technology industry clusters requiring high skill, high wage employees.

(4) To encourage an environment of innovation and cooperation among universities and businesses to promote research activity.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) proceeds of bonds issued by the Indiana finance authority under IC 4-4-11.4 for deposit in the fund; and

(3) loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The budget committee shall review programs and initiatives

and corresponding investment policies established by the board. The corporation shall report semiannually to the budget committee on activity within the fund. The budget agency shall review each recommendation to verify and approve available funding and compliance with the established investment policy. Money in the fund may not be used to provide a recurring source of revenue for the normal operating expenditures of any project.

(f) 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 state general fund.

(g) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

As added by P.L.4-2005, SEC.34. Amended by P.L.1-2006, SEC.128; P.L.2-2007, SEC.108; P.L.127-2007, SEC.1; P.L.213-2015, SEC.71.

IC 5-28-16-3

Application for grant or loan from fund

Sec. 3. (a) An application requesting a grant or loan from the fund must be targeted to one (1) or more of the areas listed in section 2 of this chapter.

(b) A successful applicant for a grant or loan from the fund must meet the requirements of this section and be approved by the board. An application for a grant or loan from the fund must be made on an application form prescribed by the corporation. An applicant shall provide all information that the board finds necessary to make the determinations required by this chapter.

(c) All applications for a grant or loan from the fund must include the following:

(1) A fully elaborated technical research or business plan, whichever applies, that is appropriate for review by outside experts as provided in this chapter.

(2) A detailed financial analysis that includes the commitment of resources by other entities that will be involved in the project.

(3) A statement of the economic development potential of the project, such as:

(A) a statement of the way in which support from the fund will lead to significantly increased funding from federal or private sources and from private sector research partners; or

(B) a projection of the jobs to be created.

(4) The identity, qualifications, and obligations of the applicant.

(5) Any other information that the board considers appropriate.

An applicant for a grant or loan from the fund may request that certain information that is submitted by the applicant be kept confidential. However, an applicant's projection of the jobs to be created by a project may not be kept confidential. The corporation shall make a determination of confidentiality as soon as is

practicable. If the corporation determines that the information should not be kept confidential, the applicant may withdraw the application, and the corporation must return the information before making it part of any public record.

(d) An application for a grant or loan from the fund submitted by an academic researcher must be made through the office of the president of the researcher's academic institution with the express endorsement of the institution's president. An application for a grant or loan from the fund submitted by a private researcher must be made through the office of the highest ranking officer of the researcher's institution with the express endorsement of the institution. Any other application must be made through the office of the highest ranking officer of the entity submitting the application. In the case of an application for a grant or loan from the fund that is submitted jointly by one (1) or more researchers or entities, the application must be endorsed by each institution or entity as required by this subsection. *As added by P.L.4-2005, SEC.34. Amended by P.L.137-2012, SEC.11; P.L.145-2016, SEC.16.*

IC 5-28-16-4
Powers and duties of board

Sec. 4. (a) The board has the following powers:

(1) To accept, analyze, and approve applications under this chapter.

(2) To contract with experts for advice and counsel.

(3) To employ staff to assist in carrying out this chapter, including providing assistance to applicants who wish to apply for a grant or loan from the fund, analyzing proposals, working with experts engaged by the board, and preparing reports and recommendations for the board.

(4) To approve applications for grants or loans from the fund, subject to budget agency review under section 2(e) of this chapter.

(5) To establish programs and initiatives with corresponding investment policies.

(b) The board shall give priority to applications for grants or loans from the fund that:

(1) have the greatest economic development potential; and

(2) require the lowest ratio of money from the fund compared with the combined financial commitments of the applicant and those cooperating on the project.

(c) The board shall make final funding determinations for applications for grants or loans from the fund, subject to budget agency review under section 2(e) of this chapter. In making a determination on a proposal intended to obtain federal or private research funding, the board shall be advised by a peer review panel and shall consider the following factors in evaluating the proposal:

(1) The scientific merit of the proposal.

(2) The predicted future success of federal or private funding for the proposal.

(3) The ability of the researcher to attract merit based scientific funding of research.

(4) The extent to which the proposal evidences interdisciplinary or interinstitutional collaboration among two (2) or more Indiana postsecondary educational institutions or private sector partners, as well as cost sharing and partnership support from the business community.

The purposes for which grants and loans may be made include erecting, constructing, reconstructing, extending, remodeling, improving, completing, equipping, and furnishing research and technology transfer facilities.

(d) The peer review panel shall be chosen by and report to the board. In determining the composition and duties of a peer review panel, the board shall consider the National Institutes of Health and the National Science Foundation peer review processes as models. The members of the panel must have extensive experience in federal research funding. A panel member may not have a relationship with any private entity or postsecondary educational institution in Indiana that would constitute a conflict of interest for the panel member.

(e) In making a determination on any other application for a grant or loan from the fund involving a proposal to transfer research results and technologies into marketable products or commercial ventures, the board shall consult with experts as necessary to analyze the likelihood of success of the proposal and the relative merit of the proposal.

(f) A grant or loan from the fund may not be submitted for review by the budget agency under section 2(e) of this chapter unless the grant or loan has received a positive recommendation from a peer review panel described in this section.

(g) The corporation shall report quarterly to the budget committee concerning grants and loans made under this chapter.

As added by P.L.4-2005, SEC.34. Amended by P.L.1-2006, SEC.129; P.L.2-2007, SEC.109; P.L.213-2015, SEC.72; P.L.145-2016, SEC.17.

IC 5-28-16-5

Administrative expenses

Sec. 5. The corporation may use money in the fund to cover administrative expenses incurred in carrying out the requirements of this chapter.

As added by P.L.4-2005, SEC.34. Amended by P.L.145-2016, SEC.18.

IC 5-28-16-6

Annual report

Sec. 6. The corporation shall submit an annual report to the

legislative council before September 1. The report must be in an electronic format under IC 5-14-6 and must contain the following information concerning fund activity in the preceding state fiscal year:

(1) The name of each entity receiving a grant from the fund.

(2) The location of each entity sorted by:

(A) county, in the case of an entity located in Indiana; or

(B) state, in the case of an entity located outside Indiana.

(3) The amount of each grant awarded to each entity.

As added by P.L.4-2005, SEC.34. Amended by P.L.145-2016, SEC.19.

IC 5-28-17

Chapter 17. Small Business Development

IC 5-28-17-1

Powers and duties of corporation

Sec. 1. (a) The corporation shall do the following to carry out this chapter:

(1) Contribute to the strengthening of the economy of Indiana by encouraging the organization and development of new business enterprises, including technologically oriented enterprises.

(2) Approve and administer loans from the small business development fund established by IC 5-28-18.

(3) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.

(4) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(5) Assist small businesses in obtaining state and federal tax incentives.

(b) The corporation may do the following to carry out this chapter:

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(7) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(8) Approve and administer loans from the small business development fund established by IC 5-28-18.

(9) Coordinate state funded programs that assist the organization and development of new enterprises.

As added by P.L.4-2005, SEC.34. Amended by P.L.56-2009, SEC.3; P.L.87-2011, SEC.3; P.L.133-2012, SEC.44; P.L.187-2014, SEC.13.

IC 5-28-17-2
Debts of small business development corporation

Sec. 2. Debts incurred by the small business development corporation under authority of IC 4-3-12 (before its repeal) do not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes. The corporation may not incur debt under this chapter. However, the corporation shall assume the debt of the small business development corporation that is outstanding on the date the small business development corporation is abolished.

As added by P.L.4-2005, SEC.34.

IC 5-28-17-3
Access to small business division

Sec. 3. If the corporation maintains a small business division described in IC 5-28-5-6.5, the corporation shall provide free access to the office's services through:

(1) a toll free telephone number; and

(2) an Internet web page maintained on the corporation's web site.

As added by P.L.56-2009, SEC.4. Amended by P.L.145-2016, SEC.20.

IC 5-28-17-4
Application of chapter

Sec. 4. This chapter may not be construed to limit the corporation's ability to carry out its responsibilities under this chapter with respect to a business that:

(1) the corporation considers to be a small business; and

(2) does not meet the definition of a small business set forth in IC 5-28-2-6.

As added by P.L.56-2009, SEC.5.

IC 5-28-17-5
Repealed

(As added by P.L.110-2010, SEC.11. Repealed by P.L.187-2014, SEC.14.)

IC 5-28-18

Chapter 18. Small Business Development Fund

IC 5-28-18-1

"Federal income poverty level"

Sec. 1. As used in this chapter, "federal income poverty level" means the nonfarm income official poverty line as determined annually by the federal Office of Management and Budget.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the small business development fund established by section 7 of this chapter.

As added by P.L.4-2005, SEC.34. Amended by P.L.87-2011, SEC.4.

IC 5-28-18-3

"Local board"

Sec. 3. As used in this chapter, "local board" means the:

(1) governing body of an eligible entity described in section 12 of this chapter; or

(2) board of directors of a corporation described in section 13 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-4

"Local pool"

Sec. 4. As used in this chapter, "local pool" includes both a local investment pool established under section 12 of this chapter and a local opportunity pool established under section 13 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-5

"Nontraditional entrepreneur"

Sec. 5. As used in this chapter, "nontraditional entrepreneur" means a person who operates or seeks to establish a business in Indiana and who is described in one (1) or more of the following categories:

(1) Persons whose employment has been terminated or who have been laid off and who have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which they reside.

(2) Persons who are employed but whose family income is not greater than one hundred twenty-five percent (125%) of the federal income poverty level for the same size family.

(3) Single parents whose family income is not greater than one hundred twenty-five percent (125%) of the federal income poverty level for the same size family.

(4) Minorities.
(5) Women.
(6) Persons who are at least sixty-five (65) years of age.
(7) Persons who are at least eighteen (18) years of age but less than twenty-four (24) years of age.
(8) Welfare recipients.
(9) Owners or operators of existing businesses with less than twenty-five (25) employees.
(10) Persons who by reason of physical or mental disability are unable to achieve full vocational participation.
(11) Members of family farms undergoing economic adjustment and seeking sources of income in addition to the farm.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-6
Findings of fact; state policy

Sec. 6. (a) The general assembly makes the following findings of fact:

(1) There exists in Indiana an inadequate amount of locally managed, pooled investment capital in the private sector available to invest in new and existing business ventures, including business ventures by nontraditional entrepreneurs.
(2) Investing capital and business management advice in new and existing business ventures, including business ventures by nontraditional entrepreneurs, will enhance economic development and create and retain employment in Indiana. This investment will enhance the health and general welfare of the people of Indiana, and it constitutes a public purpose.
(3) Nontraditional entrepreneurs have not engaged in entrepreneurship and self-employment to the extent found in the mainstream of Indiana's population. Realizing the potential of these nontraditional entrepreneurs will enhance Indiana's economic vitality.

(b) It is the policy of the state to promote economic development and entrepreneurial talent of Indiana's inhabitants by the creation of the small business development fund for the public purpose of promoting opportunities for gainful employment and business opportunities.

As added by P.L.4-2005, SEC.34. Amended by P.L.87-2011, SEC.5.

IC 5-28-18-7
Fund established; administration; investment; reversion; audit

Sec. 7. (a) The small business development fund is established within the state treasury. The fund is a revolving fund to:

(1) provide loans approved by the corporation under this chapter and IC 5-28-17; and
(2) provide loans or loan guarantees under the small and minority business financial assistance program established by

IC 5-28-20-9.

(b) The fund consists of appropriations from the general assembly and loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter and IC 5-28-20.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) 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 state general fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The fund is subject to audit by the state board of accounts. The fund shall bear the full costs of the audit.

(h) With respect to loans or loan guarantees made from the fund before July 1, 2011, references in law or loan documents made to the microenterprise partnership program fund before July 1, 2011, shall be construed after June 30, 2011, as references to the small business development fund.

As added by P.L.4-2005, SEC.34. Amended by P.L.87-2011, SEC.6; P.L.181-2015, SEC.25.

IC 5-28-18-8

Powers and duties of corporation

Sec. 8. (a) The corporation shall perform the following duties:

(1) Establish and implement the policies and procedures to be used by the corporation in the administration of the fund.

(2) Subject to section 10 of this chapter, establish criteria for awarding loans from the fund.

(3) Review and approve or disapprove applications for loans from the fund.

(4) Establish the terms of loans from the fund, which must include the conditions set forth in section 11 of this chapter.

(5) Award the loans approved under this chapter.

(6) Provide the staff and other resources necessary to implement this chapter.

(7) Prepare and distribute to appropriate entities throughout Indiana requests for proposals for the organization and operation of local pools.

(8) Conduct conferences and seminars concerning the fund.

(b) The corporation may enter into contracts necessary for the administration of this chapter, including contracts for servicing loans from the fund.

As added by P.L.4-2005, SEC.34. Amended by P.L.133-2012,

SEC.45.

IC 5-28-18-9
Loan application; requirements

Sec. 9. A local board may apply for a loan from the fund. A local board's application for a loan must include the following information:

(1) The total amount of the loan requested from the fund.

(2) The total amount of matching funds to be provided from the local pool operated by the local board and the sources of those matching funds.

(3) A detailed description of the local pool, including its investment criteria.

(4) The impact of the proposed loan on job production in the area served by the local pool.

(5) Any other information requested by the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-10
Loan award criteria

Sec. 10. The corporation's criteria for awarding loans from the fund to a local board must include the following factors:

(1) The extent to which local financial institutions invest and participate in the local pool.

(2) The extent to which the local pool is used as a secondary source of financing that complements conventional financing provided by existing financial institutions.

(3) The local board's knowledge of successful business practices.

(4) The extent to which the local board will target the proceeds of the loan toward nontraditional entrepreneurs.

(5) The extent to which the local board intends to use the loan proceeds for investment in debt, equity, debt with equity attributes, or other forms of creative financing.

(6) The extent to which the local board's proposed program will encourage clustering of small business programs through proximity to small business incubators and other sources of small business assistance and technology transfer.

(7) Other criteria established by the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-11
Loan conditions

Sec. 11. A loan from the fund to a local board is subject to the following conditions:

(1) The local board may use the loan from the fund only to make and service grants, equity investments, loans, and loan guarantees to persons who are establishing or operating

businesses in Indiana. However, the local board may not spend any part of the loan from the fund to defray the expenses of servicing grants, loans, and loan guarantees unless that expenditure is specifically authorized in the loan agreement with the corporation.

(2) The term of the loan may not exceed twenty (20) years.

(3) The loan must require the local board to provide matching funds in an amount determined by the corporation. However, the total of the loan plus the matching funds must be at least:

(A) one million dollars ($1,000,000) for a local investment pool established under section 12 of this chapter; or

(B) five hundred thousand dollars ($500,000) for a local opportunity pool established under section 13 of this chapter.

(4) The corporation may forgive or defer payment of all or part of the interest and principal on the loan.

(5) The loan agreement must require the local board, through its staff or consultants, to perform the following duties with respect to recipients of financial assistance from the local pool:

(A) Provide training in business and financial management techniques.

(B) Oversee the fiscal operations of the recipients of financial assistance for at least one (1) year following the receipt of that assistance.

(C) Provide fiscal management assistance to recipients of financial assistance when necessary for at least one (1) year following the receipt of the assistance, including assistance in the preparation and filing of federal and state tax returns.

(6) The local board must make a report concerning the local pool to the corporation before September 1 of each year. The report must include detailed information concerning the structure, operation, and financial condition of the local pool.

(7) Any other conditions that the corporation considers appropriate.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-12

"Eligible entity"; establishment of local investment pool; requirements of articles of incorporation or bylaws

Sec. 12. (a) As used in this section, "eligible entity" means any partnership, unincorporated association, corporation, or limited liability company, whether or not operated for profit, that is established for the purpose of establishing a local investment pool.

(b) A local investment pool may be established only by an eligible entity. A political subdivision may participate in the establishment of an eligible entity but may not be the sole member of the eligible entity.

(c) The articles of incorporation or bylaws of the eligible entity,

as appropriate, must provide the following:

(1) The exclusive purpose of the eligible entity is to establish a local investment pool to:

(A) attract private equity investment to provide grants, equity investments, loans, and loan guarantees for the establishment or operation of businesses in Indiana; and

(B) provide a low to moderate rate of return to investors in the short term, with higher rates of return in the long term.

(2) The governing body of the eligible entity must include:

(A) persons who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and

(B) representatives of nontraditional entrepreneurs.

(3) The eligible entity may receive funds from:

(A) equity investors;

(B) grants and loans from local units of government;

(C) grants and loans from the federal government;

(D) donations; and

(E) loans from the fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-13

Establishment of local opportunity pool; requirements of articles of incorporation or bylaws

Sec. 13. (a) A local opportunity pool may be established only by a nonprofit corporation or a for-profit corporation established for that purpose. A political subdivision may participate in the establishment of such a corporation but may not be the sole member of the corporation.

(b) The articles of incorporation or bylaws of a corporation described in subsection (a), as appropriate, must provide the following:

(1) The exclusive purpose of the corporation described in subsection (a) is to establish a local opportunity pool to:

(A) attract sources of funding other than private equity investment to provide grants, loans, and loan guarantees for the establishment or operation of nontraditional entrepreneurial endeavors in Indiana; and

(B) enter into financing agreements that seek the return of the principal amounts advanced by the pool, with the potential for a greater return.

(2) The board of directors of the corporation described in subsection (a) must include:

(A) persons who are actively engaged in Indiana in private enterprise, organized labor, or state or local governmental agencies and who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and

(B) representatives of nontraditional entrepreneurs.

(3) The corporation described in subsection (a) may receive funds from:

(A) philanthropic foundations;

(B) grants and loans from local units of government;

(C) grants and loans from the federal government;

(D) donations;

(E) bequests; and

(F) loans from the fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-18-14

Loans not lending of state credit

Sec. 14. The making of loans from the fund does not constitute the lending of credit by the state for purposes of any other statute or the Constitution of the State of Indiana.

As added by P.L.4-2005, SEC.34.

IC 5-28-19
Repealed
(Repealed by P.L.87-2011, SEC.8.)

IC 5-28-20

Chapter 20. Small and Minority Business Financial Assistance Program

IC 5-28-20-1

"Approved lender"

Sec. 1. As used in this chapter, "approved lender" means any:

(1) lending institution; or

(2) bank, trust company, building and loan association, or credit union;

that is approved by the corporation as a lender under this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the small business development fund established by IC 5-28-18-7.

As added by P.L.4-2005, SEC.34. Amended by P.L.87-2011, SEC.7.

IC 5-28-20-3

"Loan"

Sec. 3. As used in this chapter, "loan" means a direct loan from the fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-4

"Minority business"

Sec. 4. As used in this chapter, "minority business" means an individual, a partnership, a corporation, a limited liability company, or a joint venture of any kind that is owned and controlled by one (1) or more persons who are:

(1) United States citizens; and

(2) members of a minority group.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-5

"Minority group"

Sec. 5. As used in this chapter, "minority group" means:

(1) blacks;

(2) American Indians;

(3) Hispanics;

(4) Asian Americans; and

(5) other similar racial minority groups.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-6

"Owned and controlled"

Sec. 6. As used in this chapter, "owned and controlled" means

having:

(1) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(2) control over the management and being active in the day to day operations of the business; and

(3) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-7
"Program"

Sec. 7. As used in this chapter, "program" refers to the small and minority business financial assistance program established by section 9 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-8
"Small business"

Sec. 8. As used in this chapter, "small business" has the meaning set forth in IC 5-22-14-1. The term includes an independently owned and operated business that is operating under a franchise from another business.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-9
Program established; purpose

Sec. 9. The small and minority business financial assistance program is established to provide loans and loan guarantees under this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-10
Duties of corporation

Sec. 10. The corporation shall do the following:

(1) Establish and implement the policies and procedures to be used in the administration of this chapter.

(2) Enter into contracts and guarantee agreements, as necessary, with approved lenders, state governmental agencies, corporations, and United States governmental agencies, including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers.

(3) Establish criteria for awarding loans and loan guarantees from the fund, and require that any loan or loan guarantee under this chapter be disbursed and repaid in the manner that the corporation prescribes.

(4) Accept, use, and disburse federal funds made available to the corporation by the federal government for the purposes

described in this section.

(5) Take, hold, and administer, on behalf of any loan program and for purposes of this chapter, property and money and the interest and income derived from the property and money either absolutely or in trust.

(6) Accept gifts, grants, bequests, devises, and loans for purposes of this chapter.

(7) Adopt bylaws to implement this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-11

Obligation of program not a debt of state; loans from fund not lending of state credit

Sec. 11. (a) An obligation of the program for losses on loans resulting from death, default, bankruptcy, or total or permanent disability of borrowers is not a debt of the state but is payable solely from the fund.

(b) The making of loans from the fund does not constitute the lending of credit by the state for purposes of any other statute or the Constitution of the State of Indiana.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-12

Loans and loan guarantees; conditions

Sec. 12. From the fund, the corporation shall:

(1) guarantee loans made by approved lenders upon conditions prescribed under this chapter to small or minority businesses to assist them in the operation or expansion of their businesses; and

(2) make loans upon conditions prescribed under this chapter to small or minority businesses for the purpose of assisting them in the operation and expansion of their businesses.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-13

Loans; training requirements

Sec. 13. In making loans from the fund, the corporation shall require that the recipients of the loans receive training in business and financial management skills, including the preparation and filing of state and federal tax returns.

As added by P.L.4-2005, SEC.34.

IC 5-28-20-14

Training consultants; standards; duties

Sec. 14. (a) The training required by section 13 of this chapter may be provided by consultants or staff members of the corporation. The corporation shall establish standards for the training.

(b) The duties of the consultants or staff members are as follows:

(1) To provide training in business and financial management techniques to the recipients of loans under this chapter when directed by the corporation.

(2) To oversee the fiscal operations of recipients of loans under this chapter for at least one (1) year following the receipt of the loan.

(3) To provide fiscal management assistance when necessary for at least one (1) year following the receipt of the loan, including assisting recipients in filing state and federal tax returns.

As added by P.L.4-2005, SEC.34.

IC 5-28-21

Chapter 21. Small Business Incubator Program

IC 5-28-21-1

"Economically disadvantaged area"

Sec. 1. As used in this chapter, "economically disadvantaged area" has the meaning set forth in IC 6-3.1-9-1.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the small business incubator fund established by section 6 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-3

"Incubator"

Sec. 3. As used in this chapter, "incubator" means a facility in which space may be leased by a tenant and in which management provides access to business development services for use by tenants.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-4

"Sponsor"

Sec. 4. As used in this chapter, "sponsor" means an organization that enters into a written agreement with the corporation to:

(1) establish, operate, and administer a small business incubator; or

(2) provide funding to an organization that operates a small business incubator.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-5

"Tenant"

Sec. 5. As used in this chapter, "tenant" means a sole proprietorship, partnership, limited liability company, or corporation operating a business and occupying space in an incubator.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-6

Establishment of fund; purpose; repayments of loans; nonreversion

Sec. 6. (a) The small business incubator fund is established within the state treasury. The fund is a revolving fund. The fund shall be used to provide grants, loans, and loan guarantees under this chapter.

(b) The fund consists of appropriations from the general assembly and loan repayments.

(c) The corporation shall administer the fund. The following may

be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) 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 state general fund.

(e) Repayments of loans from the fund, including interest, shall be deposited in the fund.

(f) 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.4-2005, SEC.34.

IC 5-28-21-7

Application for grant, loan, or loan guarantee; requirements

Sec. 7. A political subdivision (as defined in IC 36-1-2-13), a nonprofit organization, or a for-profit organization may submit an application to the corporation to obtain a grant, loan, or loan guarantee to establish a small business incubator. The application must:

(1) describe the facility that is to be converted to an incubator;

(2) specify the cost of the conversion;

(3) demonstrate the ability of the applicant to directly provide or arrange for the provision of business development services (including financial consulting assistance, management and marketing assistance, and physical services) for tenants of the incubator;

(4) demonstrate a potential for sustained use of the incubator by eligible tenants through a market study or other means;

(5) demonstrate the ability of the applicant to operate the incubator in accordance with section 19 of this chapter;

(6) state that the applicant will not discriminate against an employee or applicant for employment on the basis of race, religion, color, national origin, sex, or age; and

(7) include any other information required by the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-8

Award of grants, loans, and loan guarantees; criteria

Sec. 8. The corporation shall award grants, loans, and loan guarantees based on the following criteria:

(1) The ability of the applicant to comply with section 19 of this chapter.

(2) The economic impact of the incubator on the community.

(3) Conformance with any areawide and local economic development plans.

(4) The location of the incubator, in order to encourage

geographic distribution of incubators throughout Indiana.

(5) Other criteria established by the corporation.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-9

Use of grants and loans

Sec. 9. Grants and loans awarded or guaranteed under this chapter may be used only for the following purposes, when necessary for the creation and operation of an incubator:

(1) The acquisition and leasing of land and existing buildings.

(2) The construction or rehabilitation of buildings or other facilities.

(3) The purchase of equipment and furnishings.

(4) The payment of operating expenses of the incubator during the first twenty-four (24) months of its operation.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-10

Grant amount limits

Sec. 10. A grant under this chapter may not exceed the lesser of:

(1) fifty percent (50%) of the total eligible project costs; or

(2) two hundred fifty thousand dollars ($250,000).

As added by P.L.4-2005, SEC.34.

IC 5-28-21-11

Grant use limit

Sec. 11. An applicant for a grant may only use the grant in an economically disadvantaged area.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-12

Loan or loan guarantee amount limits

Sec. 12. A loan or loan guarantee under this chapter may not exceed the lesser of:

(1) fifty percent (50%) of the total eligible project costs; or

(2) five hundred thousand dollars ($500,000).

As added by P.L.4-2005, SEC.34.

IC 5-28-21-13

Combined grant and loan or loan guarantee amount limits

Sec. 13. An applicant may apply for both a grant and a loan or loan guarantee, but the combined grant and loan or loan guarantee may not exceed five hundred thousand dollars ($500,000).

As added by P.L.4-2005, SEC.34.

IC 5-28-21-14

Loan security

Sec. 14. (a) A loan under this chapter must be secured by liens on

collateral at the highest level of priority that can accommodate the borrower's ability to raise sufficient debt and equity capital.

(b) A financial institution holding an obligation that is guaranteed under this chapter must adequately secure the obligation.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-15

Leased facilities; conditions

Sec. 15. A grant, loan, or loan guarantee for an incubator in a facility that is leased may be made only if the applicant intends to buy the facility. A loan or loan guarantee must be secured by a leasehold mortgage.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-16

Deferral of principal and interest

Sec. 16. The corporation may defer payment of interest and principal on a loan under this chapter for not more than two (2) years.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-17

Loan interest rate; determination

Sec. 17. In order to establish a rate of interest for a loan under this chapter, the corporation shall select a nationally recognized index of municipal bond averages and a date not less than one (1) month nor more than two (2) months before the granting of the loan. The rate of interest on the loan must be one percent (1%) less than the average published on the date closest to the selected date by the selected nationally recognized index, rounded to the next lowest whole percent. The corporation may determine that the rounding down should be to a fraction of a percent that is a multiple of either one-tenth of one percent (0.1%) or one-fourth of one percent (0.25%).

As added by P.L.4-2005, SEC.34.

IC 5-28-21-18

Loan or loan guarantee time limits

Sec. 18. A loan or loan guarantee under this chapter may not exceed the lesser of:

(1) ten (10) years; or

(2) the useful life of the property for which the loan is granted or guaranteed, as determined by the United States Department of the Treasury.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-19

Duties of sponsors or assistance recipients

Sec. 19. A sponsor or an organization receiving assistance through a sponsor has the following duties in establishing and operating a small business incubator with assistance under this chapter:

(1) Securing title to the facility or leasing the facility with the intent to secure title.

(2) Managing the physical development of the incubator facility, including the provision of common conference or meeting space.

(3) Furnishing and equipping the facility to provide business services to the tenants.

(4) Marketing the facility and securing eligible tenants.

(5) Providing or arranging for the provision of financial consulting, assistance in accessing private financial markets, and marketing and management assistance services for the tenants.

(6) Establishing rental and service fees.

(7) Encouraging the sharing of ideas among tenants and aiding the tenants in an innovative manner while they are within the incubator.

(8) Establishing policies for the:

(A) acceptance of tenants into the incubator; and

(B) termination of occupancy by tenants.

(9) Encouraging the establishment of small business incubators in economically disadvantaged areas. However, if the small business incubator secures only a loan or loan guarantee under this chapter, this subdivision does not limit the establishment of the small business incubator to economically disadvantaged areas.

(10) Establishing a local advisory committee to assist in the performance of the duties listed in this section. Advisory committee members must represent fields that can contribute to the sound operation of the incubator, such as accounting, finance, law, education, and small business. Advisory committee members may not vote on projects of sponsors or tenants with whom the member is financially affiliated.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-20

Duties of corporation

Sec. 20. The corporation has the following duties under this chapter:

(1) Making grants, loans, and loan guarantees to sponsors for small business incubators.

(2) Ensuring that sponsors receiving grants, loans, or loan guarantees meet the conditions of this chapter.

(3) Receiving and evaluating annual reports from sponsors. These reports must include a financial statement for the incubator, evidence that all the tenants in the incubator are

eligible under the terms of this chapter, a list of tenants in the incubator, and any other information required by the corporation.

(4) Establishing policies to implement this chapter. These policies must include provisions permitting greater flexibility with respect to the establishment and operation of incubators in the areas described in section 19(9) of this chapter, including more flexible tenant policies.

As added by P.L.4-2005, SEC.34.

IC 5-28-21-21
Repealed

(As added by P.L.4-2005, SEC.34. Repealed by P.L.133-2012, SEC.46.)

IC 5-28-21-22
Advisory committees

Sec. 22. The corporation may establish one (1) or more advisory committees to assist the corporation in implementing this chapter. Advisory committee members may not be affiliated financially with a sponsor or tenant and must represent fields that can contribute to the sound operation of the incubator program (such as accounting, finance, law, education, and small business).

As added by P.L.4-2005, SEC.34.

IC 5-28-22

Chapter 22. Film Industry Development

IC 5-28-22-1

Encouragement of filming in Indiana

Sec. 1. The corporation shall encourage the filming of:

(1) motion pictures at sites in Indiana; and

(2) television shows, commercials, and other audiovisual communications in Indiana.

As added by P.L.4-2005, SEC.34.

IC 5-28-22-2

Corporation duties

Sec. 2. (a) The corporation shall:

(1) establish a close working relationship with film industry representatives in the United States and abroad, if appropriate;

(2) coordinate locational activities in Indiana;

(3) provide liaison activities during actual film production;

(4) perform all appropriate research and background work related to the determination of film industry plans and requirements; and

(5) establish an aggressive promotional and informational effort designed to attract film producers to Indiana.

(b) The corporation and its staff members may work closely with other agencies of state government or with any other individual, institution, or group to accomplish the responsibilities enumerated in subsection (a).

As added by P.L.4-2005, SEC.34.

IC 5-28-23

Chapter 23. Business Modernization and Technology

IC 5-28-23-1

Powers and duties of corporation

Sec. 1. (a) The corporation shall contribute to the strengthening of the economy of Indiana through the development of science and technology and to promote the modernization of Indiana businesses by supporting the transfer of science, technology, and quality improvement methods to the workplace.

(b) The corporation may do the following:

(1) Receive money from any source, borrow money, enter into contracts, and expend money for activities appropriate to its purpose under this chapter.

(2) Do things necessary or incidental to carrying out the functions listed in this chapter.

(3) Establish a statewide business modernization network to assist Indiana businesses in identifying ways to increase productivity and market competitiveness.

(4) Identify scientific and technological problems and opportunities related to the economy of Indiana and formulate proposals to overcome those problems or realize those opportunities.

(5) Identify specific areas in which scientific research and technological investigation will contribute to the improvement of productivity of Indiana manufacturers and farmers.

(6) Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Indiana could be improved or increased if state resources were made available to assist in financing activities.

(7) Assist in establishing cooperative associations of postsecondary educational institutions in Indiana and of private enterprises to coordinate research and development programs that will, consistent with the primary educational function of the postsecondary educational institutions, aid in the creation of new jobs in Indiana.

(8) Assist in financing the establishment and continued development of technology intensive businesses in Indiana.

(9) Advise postsecondary educational institutions of the research needs of Indiana businesses and improve the exchange of scientific and technological information for the mutual benefit of postsecondary educational institutions and private businesses.

(10) Coordinate programs established by postsecondary educational institutions to provide Indiana businesses with scientific and technological information.

(11) Establish programs in scientific education that will support

the accelerated development of technology intensive businesses in Indiana.

(12) Provide financial assistance through contracts, grants, and loans to programs of scientific and technological research and development.

(13) Determine how state educational institutions can increase income derived from the sale or licensure of products or processes having commercial value that are developed as a result of state educational institution sponsored research programs.

As added by P.L.4-2005, SEC.34. Amended by P.L.2-2007, SEC.110; P.L.133-2012, SEC.47.

IC 5-28-23-2

Debts of business modernization and technology corporation

Sec. 2. Debts incurred by the business modernization and technology corporation under authority of IC 4-3-1 (before its repeal) do not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes. The corporation may not incur debt under this chapter. However, the corporation shall assume the debt of the business modernization and technology corporation that is outstanding on the date the business modernization and technology corporation is abolished.

As added by P.L.4-2005, SEC.34.

IC 5-28-23-3

Consideration of projects

Sec. 3. The corporation shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

As added by P.L.4-2005, SEC.34.

IC 5-28-24

Chapter 24. Investment Incentive Program

IC 5-28-24-1

"Municipality"

Sec. 1. As used in this chapter, "municipality" means a city or town.

As added by P.L.4-2005, SEC.34.

IC 5-28-24-2

Establishment by corporation; purpose

Sec. 2. The corporation shall establish policies to carry out an investment incentive program. The purpose of the program is to provide grants and loans to counties and municipalities that will, in turn, be loaned to certain new or expanding businesses for construction or for the purchase of real or personal property.

As added by P.L.4-2005, SEC.34.

IC 5-28-24-3

Award of grants and loans to counties and municipalities; criteria

Sec. 3. (a) The corporation shall adopt policies and guidelines to establish the criteria for awarding grants and loans to counties and municipalities.

(b) The criteria for awarding the grants and loans must include the:

(1) economic need of the county or municipality;

(2) impact of the new or expanding business on employment and output in the county or municipality;

(3) importance of state participation to the investment decision;

(4) impact of state assistance to job production in the county or municipality; and

(5) extent of other public and private participation.

As added by P.L.4-2005, SEC.34.

IC 5-28-24-4

Loans to businesses by counties and municipalities; criteria; approval of loans by corporation

Sec. 4. (a) The corporation shall establish criteria to guide counties and municipalities in making loans to businesses.

(b) The terms of the loans must include provisions stating that:

(1) loans shall be restricted to enterprises that create new and permanent jobs;

(2) loans may not exceed the greater of:

(A) ten percent (10%) of the total investment; or

(B) two hundred fifty thousand dollars ($250,000); and

(3) the principal and interest on the loan must be repaid to the county or municipality.

(c) All loans by a county or municipality under this chapter are

subject to approval by the corporation.
As added by P.L.4-2005, SEC.34.

IC 5-28-24-5
Powers of corporation

Sec. 5. The corporation may:

(1) adopt policies and guidelines to carry out this chapter;
(2) accept money and other things of value from all sources;
(3) provide services and materials to carry out the purposes of the program;
(4) evaluate the program; and
(5) involve other entities, by contract or otherwise, in carrying out the purposes of the program.

As added by P.L.4-2005, SEC.34.

IC 5-28-24-6
Use of repayment proceeds; corporation approval

Sec. 6. (a) The repayment proceeds of a loan made from a grant under this chapter shall be used by the county or municipality for any economic or community development activity, including:

(1) making loans to businesses; and
(2) the construction or reconstruction of any street, sewer, or other capital improvement that will promote economic development in the community or the repayment of bonds used to finance the construction or reconstruction.

(b) All uses of repaid loan proceeds by a county or municipality under this chapter are subject to approval by the corporation.
As added by P.L.4-2005, SEC.34.

IC 5-28-24-7
Grants from state appropriated funds

Sec. 7. The corporation may not make a grant from state appropriated funds to a county or municipality under this chapter unless the county or municipality agrees to lend to the new or expanding business an amount greater than or equal to the state grant.
As added by P.L.4-2005, SEC.34.

IC 5-28-24-8
Loan not general obligation of county or municipality; determination of reasonable assurance of repayment

Sec. 8. (a) A loan to a county or municipality made under this chapter is not a general obligation of the county or municipality and is payable solely from revenues derived from the new or expanding business.

(b) Before making a loan to a county or municipality, the corporation shall determine that there is reasonable assurance that the loan will be repaid. In making this determination, the corporation

shall consider:

(1) the financial condition of the business;

(2) the financial feasibility of the expansion being undertaken by the business;

(3) the adequacy of collateral for the loan; and

(4) any other information that the corporation considers relevant to its determination.

As added by P.L.4-2005, SEC.34.

IC 5-28-24-9

Establishment and purpose of investment incentive fund; administration

Sec. 9. (a) The investment incentive fund is established within the state treasury to provide grants and loans to counties and municipalities.

(b) The fund consists of appropriations from the general assembly and loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited the fund.

(e) 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 state general fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-25

Chapter 25. Industrial Development Grant Fund

IC 5-28-25-1

"Eligible entity"

Sec. 1. As used in this chapter, "eligible entity" means:

(1) a city;

(2) a town;

(3) a county;

(4) a special taxing district;

(5) an economic development commission established under IC 36-7-12;

(6) a nonprofit corporation;

(7) a corporation established under IC 23-7-1.1 (before its repeal on August 1, 1991) or IC 23-17 to distribute water for domestic and industrial use;

(8) a regional water, sewage, or solid waste district;

(9) a conservancy district that includes in its purpose the distribution of domestic water or the collection and treatment of waste; or

(10) the Indiana finance authority established under IC 4-4-11.

As added by P.L.4-2005, SEC.34. Amended by P.L.235-2005, SEC.94.

IC 5-28-25-2

"Fund"

Sec. 2. As used in this chapter, "fund" refers to the industrial development grant fund established by section 4 of this chapter.

As added by P.L.4-2005, SEC.34.

IC 5-28-25-3

"Industrial development program"

Sec. 3. As used in this chapter, "industrial development program" means a program designed to aid economic development in Indiana and includes:

(1) the construction of airports, airport facilities, and tourist attractions;

(2) the construction, extension, or completion of:

(A) sanitary sewerlines, storm sewers, and other related drainage facilities;

(B) waterlines;

(C) roads and streets;

(D) sidewalks;

(E) rail spurs and sidings; and

(F) information and high technology infrastructure (as defined in IC 5-28-9-4);

(3) the leasing, purchase, construction, repair, and rehabilitation of property, both real and personal; and

(4) the preparation of surveys, plans, and specifications for the construction of publicly owned and operated facilities, utilities, and services.

As added by P.L.4-2005, SEC.34.

IC 5-28-25-4

Fund established; powers of corporation; administration

Sec. 4. (a) The industrial development grant fund is established within the state treasury. Grants may be made from the fund to eligible entities in accordance with this chapter and the rules adopted under this chapter.

(b) The corporation may receive and accept, for purposes of the fund, grants, gifts, and contributions from public and private sources, including, on behalf of the state, grants from agencies and instrumentalities of the United States.

(c) The fund consists of appropriations from the general assembly.

(d) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

(f) 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 state general fund.

As added by P.L.4-2005, SEC.34.

IC 5-28-25-5

Grants; use of grants

Sec. 5. (a) The secretary of commerce, subject to the approval of the governor and budget director, may direct the auditor of state to make an approved grant from the fund to an eligible entity.

(b) The money granted must be used by the recipient to institute and administer an approved industrial development program.

As added by P.L.4-2005, SEC.34.

IC 5-28-26

Chapter 26. Global Commerce Center Pilot Program

IC 5-28-26-0.3

Findings relating to certain counties; legislation particular to counties required

Sec. 0.3. (a) The counties served by the Eastern Indiana Economic Development District comprise an area that:

(1) is at a competitive disadvantage for economic development due to the area's rural character;

(2) faces unique challenges because the area borders another state;

(3) consistently ranks among the highest areas in unemployment in Indiana; and

(4) is served by an interstate highway and rail infrastructure that is well suited for the development of a proposed global commerce center.

(b) These special circumstances require legislation particular to the counties.

As added by P.L.220-2011, SEC.112.

IC 5-28-26-1

"Base assessed value"

Sec. 1. As used in this chapter, "base assessed value" means:

(1) the net assessed value of all the taxable property located in a global commerce center as finally determined for the assessment date immediately preceding the effective date of the allocation provision of a resolution adopted under section 18 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.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-2

"District"

Sec. 2. As used in this chapter, "district" means the Eastern Indiana Economic Development District.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-3

"High technology activity"

Sec. 3. As used in this chapter, "high technology activity" has the meaning set forth in IC 36-7-32-7.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-4
"Hub"

Sec. 4. As used in this chapter, "hub" means a regional economic development project that is:

(1) selected by a district for development as a global commerce center; and

(2) designated as a global commerce center under this chapter.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-5 Version a
"Income tax base period amount"

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 5. As used in this chapter, "income tax base period amount" means the total amount of the following taxes paid by employees employed in the territory comprising a global commerce center with respect to wages and salary earned for work in the global commerce center for the state fiscal year that precedes the date on which the global commerce center was designated under section 12 of this chapter:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-5 Version b
"Income tax base period amount"

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 5. As used in this chapter, "income tax base period amount" means the total amount of local income tax (IC 6-3.6) paid by employees employed in the territory comprising a global commerce center with respect to wages and salary earned for work in the global commerce center for the state fiscal year that precedes the date on which the global commerce center was designated under section 12 of this chapter.

As added by P.L.203-2005, SEC.2. Amended by P.L.197-2016, SEC.5.

IC 5-28-26-6 Version a
"Income tax incremental amount"

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 6. As used in this chapter, "income tax incremental amount" means the remainder of:

(1) the total amount of county adjusted gross income tax, county option income taxes, and county economic development income taxes paid by employees employed in the territory

comprising the global commerce center with respect to wages and salary earned for work in the territory comprising the global commerce center for a particular state fiscal year; minus

(2) the income tax base period amount;

as determined by the department of state revenue.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-6 Version b

"Income tax incremental amount"

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 6. As used in this chapter, "income tax incremental amount" means the remainder of:

(1) the total amount of local income tax (IC 6-3.6) paid by employees employed in the territory comprising the global commerce center with respect to wages and salary earned for work in the territory comprising the global commerce center for a particular state fiscal year; minus

(2) the income tax base period amount;

as determined by the department of state revenue.

As added by P.L.203-2005, SEC.2. Amended by P.L.197-2016, SEC.6.

IC 5-28-26-7

"Public facilities"

Sec. 7. As used in this chapter, "public facilities" includes a street, a road, a bridge, a storm water or sanitary sewer, a sewage treatment facility, a facility designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, a drainage system, a retention basin, a pretreatment facility, a waterway, a waterline, a water storage facility, a rail line, an electric, gas, telephone or other communications line or any other type of utility line or pipeline, or another similar or related structure or improvement, together with necessary easements for the structure or improvement. Except for rail lines, utility lines, or pipelines, the structures or improvements described in this section must be either owned or used by a public agency, functionally connected to similar or supporting facilities owned or used by a public agency, or designed and dedicated for use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity. Any road, street, or bridge must be continuously open to public access. A public facility must be located on public property or in a public, utility, or transportation easement or right-of-way.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-8

"Spoke"

Sec. 8. As used in this chapter, "spoke" means an economic development project that is:

(1) located within the area served by a district;

(2) undertaken to support the activities of a hub; and

(3) treated as a global commerce center under this chapter upon the approval of the district board and fiscal body of the county in which the project is located.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-9

"Tax increment revenues"

Sec. 9. As used in this chapter, "tax increment revenues" means the property taxes attributable to the assessed value of property located in a global commerce center in excess of the base assessed value.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-10

"Unit"

Sec. 10. As used in this chapter, "unit" means a county, city, or town.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-11

Powers of corporation

Sec. 11. The corporation may do the following:

(1) Designate a global commerce center pilot program under section 12 of this chapter.

(2) Establish a procedure by which the global commerce center pilot program may be monitored and evaluated on an annual basis.

(3) Promote the global commerce center pilot program.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-12

Designation of global commerce center

Sec. 12. (a) If a district applies to the corporation to have part of the area served by the district designated as a global commerce center, the corporation may approve the district's application if the corporation determines that the district's proposed global commerce center meets the following criteria:

(1) The proposed global commerce center is well suited for the development of a hub and its supporting spokes.

(2) The proposed global commerce center has the support of the surrounding community.

(3) The proposed global commerce center is well suited for the development of at least one (1) of the following:

(A) A high technology activity.

(B) Advanced manufacturing.
(C) Transportation, distribution, and logistics.
(D) Agribusiness.

(b) The corporation may adopt rules under IC 4-22-2 specifying application procedures.

(c) A global commerce center designated under this section must include a hub. The boundaries of the global commerce center are not required to be contiguous. Only one (1) global commerce center pilot program may be designated under this section.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-13

Addition of spokes to global commerce center

Sec. 13. If a global commerce center is designated under section 12 of this chapter, an unlimited number of spokes may be added to the global commerce center at the discretion of the fiscal bodies of the counties served by the district and the district board.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-14

List of employers in global commerce center

Sec. 14. (a) After a global commerce center is designated under section 12 of this chapter, the district shall send to the department of state revenue:

(1) a certified copy of the designation of the global commerce center under section 12 of this chapter; and
(2) a complete list of the employers in the global commerce center and the street names and the range of street numbers of each street in the global commerce center.

The district shall update the list provided under subdivision (2) before July 1 of each year.

(b) Not later than sixty (60) days after receiving a copy of the designation of the global commerce center, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-15

Deadline for calculation of income tax incremental amount; taxpayer reporting

Sec. 15. (a) Before the first business day in October of each year, the department of state revenue shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each global commerce center designated under this chapter.

(b) Taxpayers operating in the global commerce center shall report annually, in the manner and in the form prescribed by the department, information that the department determines necessary to

calculate the income tax incremental amount and the gross retail incremental amount.

(c) A taxpayer operating in the global commerce center that files a consolidated tax return with the department also shall file annually an informational return with the department for each business location of the taxpayer within the global commerce center.

(d) If a taxpayer fails to report the information required by this section or file an informational return required by this section, the department shall use the best information available in calculating the income tax incremental amount and the gross retail incremental amount.

As added by P.L.203-2005, SEC.2. Amended by P.L.261-2013, SEC.1.

IC 5-28-26-16 Version a

Establishment of incremental tax financing fund; deposits; distributions

Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.

Sec. 16. (a) The treasurer of state shall establish an incremental tax financing fund for each global commerce center designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The total amount of the following taxes paid by employees employed in the global commerce center with respect to wages earned for work in the global commerce center shall be deposited in the incremental tax financing fund established for a global commerce center until the amount deposited equals the income tax incremental amount:

(1) The county adjusted gross income tax.

(2) The county option income tax.

(3) The county economic development income tax.

(c) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a global commerce center shall be distributed to the district that administers the global commerce center for deposit in the regional economic development fund established under section 19 of this chapter.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-16 Version b

Establishment of incremental tax financing fund; deposits; distributions

Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.

Sec. 16. (a) The treasurer of state shall establish an incremental tax financing fund for each global commerce center designated under this chapter. The fund shall be administered by the treasurer of state.

Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The total amount of local income tax (IC 6-3.6) paid by employees employed in the global commerce center with respect to wages earned for work in the global commerce center shall be deposited in the incremental tax financing fund established for a global commerce center until the amount deposited equals the income tax incremental amount.

(c) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a global commerce center shall be distributed to the district that administers the global commerce center for deposit in the regional economic development fund established under section 19 of this chapter.

As added by P.L.203-2005, SEC.2. Amended by P.L.197-2016, SEC.7.

IC 5-28-26-17

Allocation of tax increment revenues to district

Sec. 17. (a) A county fiscal body in which a hub or spoke is located may allocate three percent (3%) of the tax increment revenues attributable to the hub or spoke to the district if the county fiscal body adopts a resolution under subsection (b).

(b) The county fiscal body may adopt a resolution designating a hub or spoke as an allocation area for purposes of the allocation and distribution of the amount of property taxes described in subsection (a).

(c) After adoption of the resolution under subsection (b), the county fiscal body 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 global commerce center is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the global commerce center, including the following:

(i) The estimated economic benefits and costs incurred by the global commerce center, 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 global commerce center and must state that written remonstrances may be filed with the county fiscal body until the time designated for the hearing. The notice must also name the place, date, and time when the county fiscal body will receive and hear remonstrances and objections from persons interested in or affected by the proceedings pertaining to the

proposed allocation area and will determine the public utility and benefit of the proposed allocation area. The county fiscal body 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 county, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and orders of the county fiscal body affecting the allocation area if the county fiscal body gives the notice required by this section.

(d) At the hearing, which may be recessed and reconvened periodically, the county fiscal body 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 county fiscal body shall take final action in determining the public utility and benefit of the proposed allocation area confirming, modifying and confirming, or rescinding the resolution. The final action taken by the county fiscal body shall be recorded and is final and conclusive.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-18

Bonding to provide public facilities in global commerce center

Sec. 18. (a) A unit may issue bonds for the purpose of providing public facilities under this chapter.

(b) The bonds are payable from any funds available to the unit.

(c) The bonds shall be authorized by a resolution of the unit.

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

(e) The bonds must mature within:

(1) fifty (50) years, for bonds issued before July 1, 2008; or

(2) twenty-five (25) years, for bonds issued after June 30, 2008.

(f) The unit shall sell the bonds at public or private sale upon terms determined by the district.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of providing public facilities within a global commerce center, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include the cost of:

(1) planning and development of the public facilities 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 public facilities suitable for use and operation;

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

(5) incidental expenses in connection with the issuance and sale of bonds;
(6) reserves for principal and interest;
(7) interest during construction and for a period thereafter determined by the district, but not 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, for, and interest on, the bonds being refunded or refinanced.

(h) A unit that issues bonds under this section may enter an interlocal agreement with any other unit located in the area served by the district in which the global commerce center is designated. A party to an agreement under this section may pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, to the bonds or lease rental obligations of another party to the agreement.
As added by P.L.203-2005, SEC.2. Amended by P.L.146-2008, SEC.44.

IC 5-28-26-19
Establishment of regional economic development fund; permitted uses

Sec. 19. (a) The district shall establish a regional economic development fund.

(b) The fund consists of:
(1) revenues received under section 16 of this chapter;
(2) property taxes allocated to the district under section 17 of this chapter; and
(3) any other funds made available to the district for the purposes of economic development within a global commerce center.

(c) Money in the fund may be used to:
(1) provide rent subsidies to businesses locating in the global commerce center; and
(2) maintain, improve, and expand economic development projects located in a global commerce center and the surrounding communities.

As added by P.L.203-2005, SEC.2.

IC 5-28-26-20
Expiration of global commerce center designation

Sec. 20. A global commerce center expires fifteen (15) years after it is designated by the corporation.
As added by P.L.203-2005, SEC.2.

IC 5-28-26-21

Corporation discretion to revoke global commerce center designation

Sec. 21. (a) The corporation may revoke the corporation's designation of a global commerce center pilot program at the discretion of the corporation.

(b) Notwithstanding a revocation made under subsection (a), a debt or an obligation incurred during the period in which the global commerce center pilot program was in effect remains valid and payable.

As added by P.L.203-2005, SEC.2.

IC 5-28-27
Repealed
(Repealed by P.L.175-2009, SEC.48.)

IC 5-28-28

Chapter 28. State Economic Incentives and Compliance Report

IC 5-28-28-1

Applicability

Sec. 1. This chapter applies to grants, loans, and tax credits:

(1) applied for; and

(2) awarded;

after June 30, 2005.

As added by P.L.222-2007, SEC.1. Amended by P.L.175-2013, SEC.4.

IC 5-28-28-2

"Grant"

Sec. 2. As used in this chapter, "grant" refers to a grant given by the corporation.

As added by P.L.222-2007, SEC.1.

IC 5-28-28-3

"Loan"

Sec. 3. As used in this chapter, "loan":

(1) refers to a loan made by the corporation, regardless of whether the loan is forgivable; and

(2) includes a loan guarantee made by the corporation.

As added by P.L.222-2007, SEC.1.

IC 5-28-28-4

"Tax credit"

Sec. 4. As used in this chapter, "tax credit" means a state tax liability credit under any of the following:

(1) IC 6-3.1-7.

(2) IC 6-3.1-13.

(3) IC 6-3.1-26.

(4) IC 6-3.1-30.

(5) IC 6-3.1-31.9.

As added by P.L.222-2007, SEC.1. Amended by P.L.133-2012, SEC.48; P.L.175-2013, SEC.5; P.L.288-2013, SEC.2; P.L.190-2014, SEC.12.

IC 5-28-28-5

Corporation to publish an economic incentives and compliance report

Sec. 5. (a) The corporation shall:

(1) submit an economic incentives and compliance report to:

(A) the governor; and

(B) the legislative council in an electronic format under IC 5-14-6; and

(2) publish the report on the corporation's Internet web site; on the schedule specified in subsection (b).

(b) The corporation shall submit and publish before February 1 of each year an incentives and compliance report that provides updated information for active incentive agreements approved and awarded after January 1, 2005, through the immediately preceding calendar year.

As added by P.L.222-2007, SEC.1. Amended by P.L.175-2013, SEC.6; P.L.145-2016, SEC.21.

IC 5-28-28-6

Economic incentives and compliance report; required elements

Sec. 6. The economic incentives and compliance report required under section 5 of this chapter must include at least the following:

(1) The total for each of the following:

(A) The number and amount of tax credits, loans, and grants contractually awarded by the corporation.

(B) The amount of investments made by the recipients of the tax credits, loans, and grants.

(C) The number of actual jobs created and the number of jobs expected through the reporting year, as reviewed by an independent auditing firm chosen by the corporation.

(D) The amount of recaptured incentives for the reporting year and the total number of recipients.

(E) The number and amount of tax credits claimed for the reporting year, as reported by the department of state revenue to the corporation by December 31 of each year.

(2) With respect to each recipient of a tax credit, loan, or grant referred to in subdivision (1), the following:

(A) The name, county, and municipality (if any) of the recipient.

(B) The amount of tax credits certified to the recipient, and the amount of grants and loans actually paid out, during the term of the agreement.

(C) The purpose of the tax credit, loan, or grant.

(D) The performance goals for the reporting year, including the following:

(i) Numbers of employees to be hired, retained, or trained.

(ii) If a financial investment by the recipient was a condition for providing an incentive, the amount of the financial investment that the recipient expects to make in Indiana as a result of the project for which the incentive was granted.

(E) Certification by the corporation that the recipient is complying with the terms of the incentive agreement.

As added by P.L.222-2007, SEC.1. Amended by P.L.175-2013, SEC.7; P.L.2-2014, SEC.17.

IC 5-28-28-7

Investigating failure to comply with incentive agreement; reclaiming grants, loans, or incentives

Sec. 7. (a) If, in the course of compiling information to complete a report required by section 5 of this chapter or upon the receipt of any other information concerning noncompliance with the terms and conditions of an incentive granted by the corporation, the corporation determines that a recipient of an incentive awarded by the corporation has not complied with the terms of the incentive agreement, the corporation shall take the actions required under subsections (b) and (d).

(b) If the incentive is a grant or loan awarded before April 1, 2010, the corporation shall determine:

(1) whether there was good cause for the noncompliance; and

(2) whether the recipient is in default.

If in the judgment of the corporation there is not good cause for any noncompliance discovered under subsection (a), the corporation may seek a refund or arrange other methods of reclaiming the grant or loan from the recipient. If the corporation does seek a refund or otherwise reclaims a grant or loan from the recipient under this section, the amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation.

(c) Subsection (b) does not apply to a recipient of a grant or loan if:

(1) the grant or loan has been disbursed on a pro rata basis; and

(2) in the judgment of the corporation, the recipient's performance in relation to the recipient's performance goals equals or exceeds the ratio of the amount of the recipient's actual benefit from the grant or loan to the total amount of the grant or loan originally contemplated in the grant or loan award.

(d) If the incentive granted by the corporation was awarded after March 31, 2010, the corporation shall seek a refund or arrange other methods of reclaiming the value of the incentive granted by the corporation from the recipient. The amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation.

As added by P.L.222-2007, SEC.1. Amended by P.L.110-2010, SEC.12; P.L.175-2013, SEC.8.

IC 5-28-28-8

Incentive recapture; waiver or modification

Sec. 8. (a) As used in this section, "recapture provision" means language that requires the recipient of an incentive to repay some part of the incentive.

(b) The corporation may waive or modify a recapture provision of this article or an agreement made with a person to whom the corporation has awarded an incentive if the corporation determines

that the recipient of an incentive awarded by the corporation has failed to meet a condition for receiving the incentive because of circumstances beyond the recipient's control, including:

(1) natural disaster;

(2) unforeseen industry trends;

(3) lack of available labor force;

(4) loss of a major supplier or market; or

(5) another circumstance beyond the recipient's control, as determined by the corporation.

As added by P.L.110-2010, SEC.13.

IC 5-28-28-9

Economic incentives and compliance report; statistical summary required

Sec. 9. (a) The economic incentives and compliance report required under section 5 of this chapter must include an annual report containing summary statistics on the effectiveness of and compliance with all incentives granted by the corporation. The report required by this section must describe:

(1) the overall compliance with the terms and conditions of incentives provided; and

(2) penalties imposed for failure to comply with the terms and conditions of incentives provided.

The report must also be submitted to the general assembly in an electronic format under IC 5-14-6.

(b) Upon request, the corporation shall make available:

(1) information specifying each person's compliance with its incentive agreement and any incentive that had to be reduced or paid back as a result of noncompliance with an incentive agreement;

(2) information stating, for each incentive recipient, the total incentive provided for each job created, computed from the date the incentive is granted through June 30 of the year of the report;

(3) information concerning all waivers or modifications under section 8 of this chapter; and

(4) information describing all hearings and determinations under IC 5-28-6-6.

As added by P.L.110-2010, SEC.14. Amended by P.L.145-2016, SEC.22.

IC 5-28-28-10

Economic incentives and compliance report

Sec. 10. In addition to the other requirements of this chapter, the economic incentives and compliance report must also include a detailed report on the following programs, resources, or activities for which the corporation is responsible:

(1) Small business development under IC 5-28-17.

(2) The small business development fund established under IC 5-28-18-7.

(3) The small business incubator program under IC 5-28-21.

(4) Efforts to promote business modernization of and the adoption of technology by Indiana businesses under IC 5-28-23.

As added by P.L.133-2012, SEC.49.

IC 5-28-28.4

Chapter 28.4. Shovel Ready Site Development Center

IC 5-28-28.4-1

Establishment; duties

Sec. 1. (a) As used in this section, "permit" means any state agency permit, license, certificate, approval, registration, or similar form of approval required by a statute or administrative rule.

(b) The shovel ready site development center is established within the corporation. The center has the following duties:

(1) Providing comprehensive information on permits required for business activities in Indiana, and making this information available to any person.

(2) Working with other state government offices, departments, and administrative entities in assisting applicants in obtaining timely and efficient permit review and the resolution of issues arising from permit review.

(3) Encouraging the participation of federal and local government agencies in permit coordination.

As added by P.L.162-2007, SEC.23.

IC 5-28-28.4-2

Programs to assist political subdivisions

Sec. 2. (a) As used in this section, "permit" means any local, state, or federal agency permit, license, certificate, approval, registration, or similar form of approval required by statute, administrative rule, regulation, ordinance, or resolution.

(b) In addition to the duties set forth in section 1 of this chapter, the shovel ready site development center shall, in cooperation with political subdivisions, create programs to enable political subdivisions to obtain all or part of any permits to create sites that are ready for economic development.

As added by P.L.162-2007, SEC.23.

IC 5-28-28.5

Chapter 28.5. Broadband Ready Communities Development Center

IC 5-28-28.5-1

"Center"

Sec. 1. As used in this chapter, "center" refers to the broadband ready communities development center established by section 5 of this chapter.

As added by P.L.18-2015, SEC.1.

IC 5-28-28.5-2

"Permit"

Sec. 2. As used in this chapter, "permit" means any local, state, or federal agency permit, license, certificate, approval, registration, or similar form of approval required by statute, administrative rule, regulation, ordinance, or resolution with respect to a project.

As added by P.L.18-2015, SEC.1.

IC 5-28-28.5-3

"Project"

Sec. 3. As used in this chapter, "project" means the construction or deployment of wireline or wireless communications facilities to provide communications services (as defined in IC 8-1-32.5-3) in a unit.

As added by P.L.18-2015, SEC.1.

IC 5-28-28.5-4

"Unit"

Sec. 4. As used in this chapter, "unit" means a county, city, or town.

As added by P.L.18-2015, SEC.1.

IC 5-28-28.5-5

Broadband ready communities development center established; duties

Sec. 5. The broadband ready communities development center is established within the corporation. The center has the following duties:

(1) Providing comprehensive information concerning permits required for projects and related business activities in Indiana and making this information available to any person.

(2) Working with other state and local government offices, departments, and administrative entities to encourage timely and efficient issuance of permits and resolution of related issues.

(3) Encouraging local and federal government agencies to coordinate activities related to approving applications and

issuing permits for projects.

As added by P.L.18-2015, SEC.1.

IC 5-28-28.5-6

Certification of unit as broadband ready community; application; approval

Sec. 6. (a) In addition to the duties set forth in section 5 of this chapter, the center shall create a program to certify a unit as a broadband ready community.

(b) A unit may apply for certification as a broadband ready community. The application must be in a form and manner prescribed by the corporation. The corporation shall approve an application and certify a unit as a broadband ready community if the corporation determines that the unit has:

(1) established a permit procedure that complies with section 7 of this chapter; and

(2) complied with any other requirements of the corporation.

As added by P.L.18-2015, SEC.1.

IC 5-28-28.5-7

Procedure for reviewing applications and issuing permits for projects

Sec. 7. (a) A unit that wishes to be certified as a broadband ready community must establish a procedure to review applications and issue permits for projects. The procedure must contain the following components:

(1) A single point of contact for all matters related to a project.

(2) A guarantee that all applications related to a project will be reviewed and either approved or rejected within ten (10) business days after an application is submitted.

(3) An assurance that all inspections, including necessary approvals, related to a project will occur in a timely and expeditious manner.

(4) An authorization for all forms, applications, and documentation related to a project to be filed and signed by electronic means.

(b) A procedure established under subsection (a) may not do the following:

(1) Require an applicant to designate a final contractor to complete a project.

(2) Impose a fee to review an application or issue a permit for a project.

(3) Impose a seasonal moratorium on the issuance of permits for a project.

(4) Discriminate among communications service providers or utilities with respect to any action described in this section or otherwise related to a project, including granting access to public rights-of-way, infrastructure and poles, river and bridge

crossings, and any other physical assets owned or controlled by the unit.

As added by P.L.18-2015, SEC.1.

IC 5-28-29

Chapter 29. Capital Access Program

IC 5-28-29-1

"Agreement"

Sec. 1. As used in this chapter, "agreement" means an agreement between a lender and the corporation under which a lender may participate in the program.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-2

"Amount"; "proceeds"

Sec. 2. As used in this chapter in connection with a loan, "amount" and "proceeds" refer only to the amount covered under an agreement, unless the context clearly requires otherwise.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-3

"Borrower"

Sec. 3. As used in this chapter, "borrower" means the recipient of a loan that is, has been, or will be filed by the lender for enrollment under the program and meets the following requirements:

(1) The borrower is a corporation, limited liability company, partnership, joint venture, sole proprietorship, cooperative, or other entity, whether profit or nonprofit, that is authorized to conduct business in Indiana.

(2) The borrower is not an executive officer, a director, or a principal shareholder of the lender, a member of the immediate family of an executive officer, a director, or a principal shareholder of the lender, or an entity controlled by an executive officer, a director, a principal shareholder, or a member of the immediate family.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-4

"Capital access account"

Sec. 4. As used in this chapter, "capital access account" means an account created by the corporation for the purposes of the capital access program.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-5

"Claim"

Sec. 5. As used in this chapter, "claim" means a claim filed by the lender under section 29 of this chapter.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-6

"Early loan"

Sec. 6. As used in this chapter, "early loan" means an enrolled loan when at the time of its enrollment the total amount of previously enrolled loans made by the lender under the program was less than five million dollars ($5,000,000).

As added by P.L.162-2007, SEC.24.

IC 5-28-29-7

"Eligible loan"

Sec. 7. As used in this chapter, "eligible loan" means a loan made by the lender to a borrower that meets the requirements of sections 17 and 18 of this chapter.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-8

"Enrolled loan"

Sec. 8. As used in this chapter, "enrolled loan" means a loan enrolled by the corporation under the terms of section 19 of this chapter.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-9

"Lender"

Sec. 9. As used in this chapter, "lender" means a financial institution (as defined in IC 5-13-4-10) that has entered into an agreement with the corporation to participate in the program.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-10

"Passive real estate ownership"

Sec. 10. As used in this chapter, "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rentals, except that the term does not include the following:

(1) Ownership of that part of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) Ownership of real estate for the purpose of construction or renovation until the completion of the construction or renovation phase.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-11

"Program"

Sec. 11. As used in this chapter, "program" refers to the capital access program created by this chapter.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-12
"Reserve fund"

Sec. 12. As used in this chapter, "reserve fund" means an account established by the corporation with funds accumulated under this chapter and to cover claims made by the lender under this chapter.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-13
Establishment; purpose

Sec. 13. The capital access program is established. The purpose of the program is to provide capital to businesses, particularly small and medium-sized businesses, to foster economic development in Indiana. Loans made under the program must be slightly riskier than conventional loans, but still offer a high degree of soundness in connection with the program.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-14
Duties

Sec. 14. The corporation shall do the following:

(1) Administer the program.

(2) Market the program to businesses and other persons in Indiana in cooperation with financial institutions and statewide associations representing financial institutions.

(3) If the reserve funds are not maintained in an account with the lender, upon execution of an agreement between the lender and the corporation, the corporation shall establish a reserve fund account at the corporation for the lender for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the corporation under this chapter. If the reserve funds are maintained in an account with the lender, upon execution of an agreement between the lender and the corporation, the corporation shall establish a reserve fund account with the lender in the name of the corporation for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the corporation under this chapter.

(4) Develop the program, in cooperation with financial institutions and statewide associations representing financial institutions, so that the degree of flexibility for the corporation and the participating lenders is maximized, the state oversight of individual loans is minimized, and the fiscal integrity of the program is maintained.

(5) Enter into any contracts necessary to carry out the program.

(6) Take any action reasonably necessary to ensure compliance with the program.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-15
Lender eligibility

Sec. 15. A lender is eligible to participate in the program upon entering into an agreement with the corporation governing the duties of the corporation and the lender under the program. The lender shall provide the corporation with information regarding the lender's participation in the program that the corporation reasonably requires. Upon notice to the lender, the corporation may inspect the files of the lender relating to any loans enrolled under the program during normal business hours of the lender.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-16
Corporation has no legal or equitable interest; consent of corporation unnecessary to amend documents

Sec. 16. Except upon the exercise of the corporation's right of subrogation under section 32 of this chapter, the corporation has no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the program, and the corporation's consent is not necessary for any amendment to the lender's loan documents.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-17
Eligible loans

Sec. 17. (a) The following types of loans are eligible loans under the program:

(1) Loans for industrial or commercial purposes.

(2) Loans to refinance loans made for the purposes in subdivision (1).

(3) Loans for line of credit agreements established between the lender and borrower that are used for the purposes in subdivision (1).

(b) Eligible loans must meet the following criteria:

(1) The lender has not made the loan to enroll in the program prior debt that is not covered under the program and that is or was owed by the borrower to the lender.

(2) The proceeds of the loan will not be used for that part of a project or development devoted to housing.

(3) The proceeds of the loan will not be used to finance passive real estate ownership.

(4) The proceeds of the loan will be used to finance a project or enterprise that is located in Indiana and that will foster economic development in Indiana.

(c) An eligible loan may provide for an interest rate, fees, and other terms and conditions agreed to by the lender and borrower. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is

the maximum amount available to the borrower under the agreement.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-18
Loan enrollment; lender actions

Sec. 18. (a) To enroll a loan under the program, the lender must file a completed loan enrollment form with the corporation. The lender must also certify the following to the corporation as part of the filing:

(1) The lender has no substantial reason to believe that the loan is being made to a borrower who does not meet the requirements of section 3 of this chapter.

(2) The lender has received from the borrower a written representation, warranty, pledge, and waiver stating that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established to cover losses sustained by the lender on enrolled loans.

(3) The loan being filed for enrollment is an eligible loan under section 17 of this chapter.

(4) Premium charges required of the borrower and lender under this chapter have been deposited in the reserve fund.

(b) The lender shall file the loan enrollment form within ten (10) business days after the lender makes the loan. The date on which the lender makes a loan is the earlier of the date on which the lender first disburses proceeds of the loan to the borrower or the date on which the loan documents have been executed and the lender has obligated itself to disburse proceeds of the loan. The filing date of a loan enrollment form is the date on which the lender does any of the following:

(1) Delivers the required documentation to the corporation.

(2) Delivers the document to a professional courier service for delivery to the corporation.

(3) Mails the document to the corporation by certified mail.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-19
Loan enrollment; corporation actions

Sec. 19. When the corporation receives a loan enrollment form, the corporation shall enroll the loan if the information provided under section 18 of this chapter indicates that the loan is an eligible loan. Within five (5) business days after receipt of a loan enrollment form for an eligible loan, the corporation shall deliver to the lender an acknowledgment of enrollment signed by the corporation or the corporation's designee, including documentation of the amount being transferred by the corporation into the reserve fund under this chapter.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-20
Loan enrollment; partial coverage under the program

Sec. 20. When filing a loan enrollment form, the lender may specify an amount to be covered under the program. The amount may be less than the total amount of the loan.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-21
Refinancing

Sec. 21. (a) In the case of a loan to refinance a loan previously made to the borrower by the lender that was not enrolled under the program, the lender may obtain coverage under the program for an amount not exceeding the amount of additional financing.

(b) If an enrolled loan is refinanced and the total amount to be covered under the program does not exceed the covered amount of the loan as previously enrolled, the refinanced loan may continue as an enrolled loan without payment of additional premium charges or transfers by the corporation to the reserve fund.

(c) If an enrolled loan is refinanced in an amount exceeding the amount of the loan as previously enrolled, the lender may obtain coverage of the amount of the refinanced loan that exceeds the amount covered when the loan was previously enrolled by refiling the loan for enrollment under section 18 of this chapter.

(d) Fluctuations in the outstanding balance of a line of credit, without increasing the enrolled amount under the program, are not a refinancing of the loan.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-22
Effect of zero balances; effect of recovery under the bankruptcy laws

Sec. 22. (a) If the outstanding balance of an enrolled loan that is not a line of credit is reduced to zero (0), the loan is no longer an enrolled loan. If an enrolled loan that is a line of credit has an outstanding balance of zero (0) for a twelve (12) month period, the line of credit is no longer an enrolled loan, unless, before the expiration of the twelve (12) month period, the lender reaffirms in writing to the borrower that the line of credit will remain open and the borrower acknowledges the reaffirmation in writing.

(b) Notwithstanding subsection (a), any amount recovered from a lender by a trustee in bankruptcy (or a similar representative of creditors) as a preference under 11 U.S.C. 547 remains an enrolled loan for the purpose of filing a claim against the reserve fund.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-23
Creation of reserve fund accounts

Sec. 23. Upon execution of an agreement between the lender and

the corporation, the corporation shall establish a reserve fund account with the lender in the name of the corporation for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the corporation under this chapter.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-24
Sufficient funds required

Sec. 24. The corporation may not accept loans for enrollment in the program if the corporation does not have sufficient funds to make the necessary transfer from the corporation to the reserve fund under section 25 of this chapter.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-25
Premium charges

Sec. 25. The lender shall determine the premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment. The premium paid by the borrower may not be less than one and one-half percent (1.5%) or greater than three and one-half percent (3.5%) of the amount of the loan. The premium paid by the lender must be equal to the amount of the premium paid by the borrower. The lender may recover the cost of the lender's premium payment from the borrower in any manner on which the lender and borrower agree. When enrolling a loan, the corporation must transfer into the reserve fund from the account premium amounts determined as follows:

(1) If the amount of a loan, plus the amount of loans previously enrolled by the lender, is less than two million dollars ($2,000,000), the premium amount transferred must be equal to one hundred fifty percent (150%) of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(2) If, before the enrollment of the loan, the amount of loans previously enrolled by the lender is equal to or greater than two million dollars ($2,000,000), the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(3) If the total amount of all loans previously enrolled by the lender is less than two million dollars ($2,000,000), but the enrollment of a loan will cause the total amount of all enrolled loans made by the lender to exceed two million dollars ($2,000,000), the corporation shall transfer into the reserve fund an amount equal to a percentage of the combined premiums paid into the reserve fund by the lender and the borrower. The percentage is determined as follows:

STEP ONE: Multiply by one hundred fifty (150) that part of

the loan that when added to the total amount of all loans previously enrolled by the lender totals two million dollars ($2,000,000).

STEP TWO: Multiply the remaining balance of the loan by one hundred (100).

STEP THREE: Add the STEP ONE product to the STEP TWO product.

STEP FOUR: Divide the STEP THREE sum by the total amount of the loan.

The corporation may transfer two (2) times the amount determined under this section to the reserve fund if the borrower is a disadvantaged business enterprise (as defined in IC 5-16-6.5-1). The corporation may transfer three (3) times the amount determined under this section to the reserve fund if the borrower is a high growth company with high skilled jobs (as defined in IC 5-28-30-4). The corporation may transfer to the reserve fund three (3) times the amount determined under this section if the borrower is a child care facility. Unless money is paid out of the reserve fund according to the specific terms of this chapter, all money paid into the reserve account by the lender must remain in that account.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-26

Reserve fund; corporation control

Sec. 26. (a) All money credited to the reserve fund is under the exclusive control of the corporation. The corporation may not withdraw money from the reserve fund, except as specifically provided in this chapter.

(b) If money in the reserve fund is not deposited by the corporation in an account with the lender, the money must be invested or reinvested by the corporation in one (1) of the following:

(1) Direct obligations of the United States, the principal and interest of which are unconditionally guaranteed by the United States.

(2) A deposit account at a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration.

(c) All interest earned in a reserve fund account shall be credited to that account. Fifty percent (50%) of the interest earned may be withdrawn by the corporation from that account and used for any purpose.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-27

Reserve fund; corporation pledges

Sec. 27. The corporation shall pledge the following to the lender:

(1) The money in the reserve fund will be available to pay claims under section 29 of this chapter.

(2) The lender will have a first security interest in the money in the reserve fund to pay the claims.

(3) The corporation will not encumber or pledge the money to any other party.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-28

Reserve fund; transaction reports; records

Sec. 28. (a) If the reserve fund is not maintained with the lender, the corporation shall provide to the lender quarterly transaction reports indicating the following:

(1) The balance in the reserve fund.

(2) Payments and transfers into the reserve fund.

(3) Withdrawals from the reserve fund.

(4) Interest or income earned on money credited to the reserve fund.

(b) The records of the corporation with respect to all:

(1) payments and transfers into the reserve fund;

(2) withdrawals from the reserve fund; and

(3) interest or income earned on the money credited to the reserve fund;

are available to the lender at the offices of the corporation during normal business hours.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-29

Claims; filing

Sec. 29. (a) If the lender charges off all or part of an enrolled loan, the lender may file a claim with the corporation. The claim must be filed contemporaneously with the charge-off.

(b) The lender's claim may include, in addition to the amount of principal charged off plus accrued interest, one-half (1/2) of the reasonable documented out-of-pocket expenses incurred in pursuing collection efforts, including preservation of collateral. The amount of principal included in the claim may not exceed the principal amount covered under the program. The amount of accrued interest included in the claim may not exceed the accrued interest attributable to the covered principal amount.

(c) The lender shall determine when and how much to charge off on an enrolled loan in a manner consistent with the lender's normal method for making these determinations on similar loans that are not enrolled loans.

(d) If the lender files two (2) or more claims contemporaneously and there are insufficient funds in the reserve fund at that time to cover the entire amount of the claims, the lender may designate the order of priority in which the corporation shall pay the claims.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-30
Claims; processing

Sec. 30. (a) Upon receipt by the corporation of a claim filed by the lender, the corporation shall, within ten (10) business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the corporation reasonably determines that:

(1) the information provided by the lender to the corporation under this chapter was known by the lender to be false; or

(2) the lender is not otherwise in substantial compliance with this chapter or the agreement with the corporation.

(b) If there is insufficient money in the reserve fund to cover the entire amount of the lender's claim, the corporation shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund, and the following apply:

(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.

(2) If the enrolled loan for which the claim has been filed is an early loan, the corporation, upon request of the lender, shall, out of any future funds that are transferred into the reserve fund on subsequently enrolled loans, pay the remaining balance of the claim upon finding that:

(A) the partial payment has not satisfied the lender's claim; and

(B) the remaining balance of the claim is not greater than seventy-five percent (75%) of the balance in the reserve fund at the time the request for payment by the lender is received by the corporation.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-31
Claims; subsequent lender recovery

Sec. 31. If, after payment of a claim by the corporation, the lender recovers from a borrower any amount for which payment of the claim was made, the following apply:

(1) If the recovered amount, when added to the claim previously paid by the corporation in connection with an enrolled loan, exceeds the lender's loss on that enrolled loan, the lender shall promptly pay to the corporation for deposit in the reserve fund the amount of the excess.

(2) For purposes of this section and section 32 of this chapter, the lender's loss on an enrolled loan shall be the amount of principal charged off by the lender plus accrued interest plus one-half (1/2) of the reasonable and documented out-of-pocket expenses incurred by the lender in pursuing collection efforts.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-32
Claims; subrogation

Sec. 32. (a) If the payment of a claim has fully covered the lender's loss on an enrolled loan or if the payment of a claim when combined with any recovery from the borrower has fully covered the lender's loss, the corporation, upon request, is subrogated to the rights of the lender with respect to any collateral, security, or other right of recovery in connection with the loan that has not been realized by the lender. The lender thereafter shall assign to the corporation any right, title, or interest to any collateral, security, or other right of recovery in connection with the loan.

(b) If an assignment has been made under subsection (a), the corporation is not required to undertake the obligations of the lender under the lender's loan documents, except for obligations directly related to the corporation's assigned rights of recovery in connection with the loan. The lender shall fulfill any other obligations the lender has under the loan documents in the same manner and to the same degree as would be required if the assignment had not been made. The lender shall provide the corporation with all reasonable assistance the corporation requests in proceeding with respect to any collateral, security, or other right of recovery, except that the lender does not need to incur any out-of-pocket expenses.

(c) If the corporation desires to exercise the right of subrogation in connection with an enrolled loan, and would be entitled to exercise that right except that the lender's loss has not been fully covered, the corporation, at the corporation's option, may pay from funds in the reserve fund an amount sufficient to result in the lender's loss being fully covered. A payment under this subsection may cover a principal amount not covered under the program or not included in the lender's claim. Upon making a payment under this subsection, the corporation is subrogated to the rights of the lender in accordance with subsection (a).

(d) Notwithstanding any other provision of this section, the corporation may not exercise the right of subrogation unless the corporation determines, in the corporation's discretion, that the lender has not exercised reasonable care and diligence in collection activities with respect to the loan, or that there is a reasonable basis for believing that the lender will not exercise reasonable care and diligence in the future with respect to those collection activities.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-33
Reporting

Sec. 33. (a) Before July 16, October 16, January 16, and April 16 of each year, the lender shall file a quarterly report with the corporation indicating the number and total outstanding balances of all enrolled loans for the period of the three (3) preceding calendar months. A quarterly report is not required for a quarter that ends with

a balance in the reserve fund of zero (0), except that a year-end report must be filed before July 16 for the preceding twelve (12) calendar months ending June 30. In computing the total outstanding balance of all enrolled loans, the balance of a loan may not be greater than the covered amount of the loan as enrolled.

(b) If a year-end report filed under this section indicates that, for the immediately preceding twelve (12) calendar month period ending June 30, the balance in the reserve fund continuously exceeded fifty percent (50%) of the total outstanding balance of all enrolled loans, including unfunded parts of enrolled loans that are lines of credit, the corporation may make a withdrawal from the reserve fund. The amount of the withdrawal may not be greater than the minimum amount of any excess as continuously maintained over the immediately preceding twelve (12) calendar month period ending June 30. Withdrawals of excess reserve funds by the corporation under this section may be used for any purpose.

(c) If a year-end report is not filed within thirty (30) days after the original due date of the report, the corporation may make a withdrawal from the reserve fund based on the corporation's determination from an inspection of the lender's files that, for the immediately preceding twelve (12) calendar month period ending June 30, the balance in the reserve fund continuously exceeded fifty percent (50%) of the aggregate outstanding balance of all enrolled loans, including unfunded parts of enrolled loans that are lines of credit. The amount of the withdrawal may not be greater than the minimum amount of any excess as continuously maintained over the immediately preceding twelve (12) calendar month period ending June 30. Withdrawals of excess reserve funds by the corporation under this section may be used for any purpose.

(d) The right of the corporation to make a withdrawal from the reserve fund under subsection (b) or (c) is subject to the following provisions:

(1) If a year-end report is filed by July 16 or not more than thirty (30) days after July 16, the corporation has the right of withdrawal for a period of ninety (90) days from the date of the filing of the report with the corporation.

(2) If a year-end report is not filed by July 16 or not more than thirty (30) days after July 16, the corporation has the right of withdrawal for a period of ninety (90) days from the date the corporation determines from an inspection of the lender's files that the corporation is entitled to make a withdrawal from the reserve fund under this section.

As added by P.L.162-2007, SEC.24.

IC 5-28-29-34

Terminating the obligation to enroll loans

Sec. 34. The corporation may terminate the obligation to a lender to enroll loans under the program if the corporation determines that

the lender is not in substantial compliance with the requirements of the program or the requirements of section 23 of this chapter. The termination takes effect on the date specified in the notice of termination, except that the termination does not apply to a loan made on or before the date on which the notice of termination is received by the lender. If the corporation is terminating the enrollment of loans for all participating lenders under the program, the corporation shall provide at least ninety (90) days notice to the lender. A termination under this section is prospective only and does not apply to a loan previously refinanced. After termination, the amount covered under the program may not be increased beyond the covered amount as previously enrolled.
As added by P.L.162-2007, SEC.24.

IC 5-28-29-35
Capital access account

Sec. 35. (a) The corporation shall establish a capital access account. The corporation shall use the capital access account to carry out the provisions of the capital access program. The capital access account consists of all money that is:

(1) appropriated by the general assembly;

(2) transferred by the corporation from the industrial development guaranty fund; or

(3) transferred by the corporation from the general funds of the corporation.

(b) The expenses of the corporation attributable and allocated by the corporation to the capital access program shall be paid from the capital access account.
As added by P.L.162-2007, SEC.24.

IC 5-28-30

Chapter 30. Industrial Development Loan Guaranty Program

IC 5-28-30-1

"Broadband development project"

Sec. 1. As used in this chapter, "broadband development project" means a project authorized by the broadband development program under IC 8-1-33.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-1.5

"Developer"

Sec. 1.5. As used in this chapter, "developer" means a person who proposes to enter, or has entered, into a financing agreement with the corporation for an industrial development project and who has entered into a separate agreement with some other persons for the substantial use of the facilities financed.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-2

"Guaranty fund"

Sec. 2. As used in this chapter, "guaranty fund" refers to the industrial development project guaranty fund created by section 9 of this chapter.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-3

"Guaranty program"

Sec. 3. As used in this chapter, "guaranty program" means the program described in section 10 of this chapter under which the corporation guarantees parts of particular mortgages, security agreements, leases, or loans for working capital with funds available from the guaranty fund.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-4

"High growth company with high skilled jobs"

Sec. 4. As used in this chapter, "high growth company with high skilled jobs" means a company that satisfies all the following conditions:

(1) The company:

(A) had at least a fifteen percent (15%) average annual growth in company earnings during the past three (3) years;

(B) is entering a new product or process area; or

(C) is classified in an industry that had at least a fifteen percent (15%) average annual growth in earnings during the past three (3) years.

(2) The company has a substantial number of employees in

jobs:

(A) requiring postsecondary education or its equivalent; or

(B) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor.

(3) The company has a substantial number of employees that earn at least one hundred fifty percent (150%) of Indiana per capita personal income.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-5
"Industrial development project"

Sec. 5. As used in this chapter, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (including information and high technology infrastructure (as defined in IC 5-28-9-4)), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

(1) A pollution control facility (as defined in IC 4-4-10.9-24).

(2) A manufacturing enterprise.

(3) A business service enterprise involved in:

(A) computer and data processing services; or

(B) commercial testing services.

(4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.

(5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.

(6) An agricultural enterprise in which:

(A) the enterprise operates under a producer or growout agreement; and

(B) the output of the enterprise is processed predominantly in Indiana.

(7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.

(8) A recycling market development project.

(9) A high growth company with high skilled jobs.

(10) A broadband development project.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-6
"Maturity date"

Sec. 6. As used in this chapter, "maturity date" means the date on which the mortgage or security agreement indebtedness, or lease obligations, would be extinguished if paid in accordance with periodic payments provided for in the mortgage, security agreement, or lease.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-7
"Mortgage"
Sec. 7. As used in this chapter, "mortgage" means a mortgage on an industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, or the unpaid purchase price of real estate under the laws of this state, together with the credit instruments, if any, secured thereby, including but not limited to a financing agreement as defined in IC 4-4-10.9-8 or a financing agreement within the meaning of IC 36-7-12 in connection with real property.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-8
"Security agreement"
Sec. 8. As used in this chapter, "security agreement" means an agreement which creates or provides for a security interest in equipment, including, but not limited to, an equipment lease under the guaranty program or within the meaning of IC 36-7-12, and any successor provisions related to equipment.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-8.5
"User"
Sec. 8.5. As used in this chapter, "user" means a person who has entered into a financing agreement with the corporation or lender or a contract for use with the developer or lender in contemplation of its use of an industrial development project.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-9
Industrial development project guaranty fund
Sec. 9. There is created an industrial development project guaranty fund which shall be used by the corporation as a nonlapsing, revolving fund for carrying out the provisions of the guaranty program. The corporation may expend money from the guaranty fund as the authority considers appropriate to carry out the purposes of this chapter and IC 4-4-11. The guaranty fund consists of the money, if any, appropriated by the general assembly. To this sum shall be charged those expenses of the corporation attributable and allocated by the corporation to the guaranty program, including interest, principal, and lease payments required by loan or lease

defaults under the guaranty program, and to the sum shall be credited that income of the corporation attributable and allocated by the corporation to the guaranty program, including guarantee premiums.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-10
Power to guarantee loans and leases

Sec. 10. Subject to the conditions set forth in section 11 of this chapter and the other provisions of this chapter, if the corporation makes a written finding that:

(1) the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the loan or lease; and

(2) the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms;

the corporation may, under the guaranty program, guarantee the loan or lease upon the terms and conditions prescribed by the corporation.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-11
Conditions

Sec. 11. The conditions referred to in section 10 of this chapter are as follows:

(1) A new or additional guarantee of a loan or lease under section 10, 12, or 17 of this chapter may not be entered into if the guarantee would cause the outstanding total guarantee obligations with respect to all loans and leases guaranteed under sections 10, 12, and17 of this chapter to exceed eight (8) times the amount of money in the guaranty fund.

(2) The amount of all guarantees by the corporation of loans or leases to or for the benefit of any single industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products may not exceed two million dollars ($2,000,000), less the outstanding total principal balance under any loans made and owed to the corporation under section 17 of this chapter to or for the benefit of the project or operation.

(3) A guarantee of either a loan secured by real estate or a real estate lease may not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, or ninety percent (90%) of the appraised fair market value of the real estate, whichever is less.

(4) A guarantee of a loan secured by personal property or of a personal property lease may not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, or seventy-five percent (75%) of the fair market value of the personal property, whichever is less.

(5) A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property.

(6) To be eligible for a guarantee under section 10 of this chapter, a loan or lease must:

(A) be one that is to be made to and held by a lender or lessor approved by the corporation as responsible and able to service the loan or lease properly;

(B) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the corporation;

(C) have a maturity or term satisfactory to the corporation but in no case later than twenty (20) years from the date of the guarantee;

(D) contain payment terms satisfactory to the corporation requiring periodic payments by the developer or user, including principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and any guarantee premiums required by the corporation; and

(E) contain any terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters that the corporation may prescribe.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-12

Power to guarantee an unsecured loan

Sec. 12. The corporation may guarantee an unsecured loan for:

(1) working capital purposes, if the corporation determines, under criteria that it establishes, that the loan for working capital:

(A) is for an industrial development project, a mining operation, or an agricultural operation that involves the processing of agricultural products; and

(B) will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government, private businesses, or individuals, or through exports to foreign

markets; or

(2) capital expenditures, if the corporation determines, under criteria that the corporation establishes, that the loan is for an industrial development project described in IC 5-28-30-5(7).

The loan guarantee may not exceed five hundred thousand dollars ($500,000) for any single project or operation, and may be in addition to any other guarantees of the corporation under this chapter. The guarantee terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The corporation may impose any additional terms it considers appropriate for any particular project or operation.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-13

Premiums; fees; charges

Sec. 13. The corporation may establish:

(1) guarantee premiums for a guarantee under section 10 of this chapter of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into; and

(2) loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the corporation's powers under section 17 of this chapter.

These premiums, fees, or charges are payable in amounts or based upon formulas established by the corporation and may be payable, at the election of the corporation, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the corporation. These premiums, fees, or charges shall be payable by the developer or user to the corporation in a manner prescribed by the corporation.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-14

Letters of credit

Sec. 14. Any guarantee made by the corporation under this chapter may be effected or enhanced, in whole or in part, through the provision by the corporation of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligations of the corporation under the credit instrument, as the same may be effective from time to time, is the amount of the guarantee or portion of the guarantee made under this chapter, and for purposes of the limitations on the amount of guarantees under this chapter, and the term of any letter of credit may not exceed the respective terms established for guarantees or loans under this chapter.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-15
Legal investments

Sec. 15. Notwithstanding any other law, loans or leases guaranteed or made by the corporation are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-16
Power to allow subordination

Sec. 16. To further the purposes of this chapter, and subject to this chapter, the corporation may also use any part of the guaranty fund to guarantee any bonds issued by the Indiana finance authority under IC 4-4-11 or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are guaranteed by the corporation, the corporation may permit a subordination of any:

(1) security agreement;
(2) mortgage;
(3) combination of security agreements and mortgages; or
(4) other appropriate documents securing the direct obligations;

if the corporation in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project undertaken by the authority.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-17
Power to make direct loans

Sec. 17. To further the purposes of this chapter, and in addition to the corporation's other powers under this chapter, the corporation may, upon a written finding as described in section 10 of this chapter, make direct loans from money in the guaranty fund to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, upon the terms and conditions that the corporation prescribes. Loans made under this section are subject to the following conditions:

(1) A new or additional loan may not be made if the loan would cause the then outstanding total guarantee obligations with respect to all loans and leases guaranteed under this section and the other provisions of this chapter to exceed eight (8) times the amount of money then in the guaranty fund, or would cause the then outstanding total principal balance of all loans made under this section and then owing to the corporation to exceed twenty percent (20%) of the amount of money then in the guaranty fund.

(2) The principal amount of such a loan to or for the benefit of a project or operation may not exceed one million dollars ($1,000,000), less the then outstanding total guarantee obligations with respect to any loans or leases guaranteed under this chapter to or for the benefit of that project or operation.

(3) With respect to any loan made under this section, a loan agreement with the corporation must contain the following terms:

(A) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this chapter.

(B) The term of the loan, which may not be later than twenty (20) years from the date of the loan.

(C) The repayment schedule.

(D) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the corporation in making the loan.

(E) Any other terms and provisions that the corporation requires.

(4) A loan agreement under this section may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor, and a requirement of any other type or types of security or collateral that the corporation considers reasonable or necessary.

(5) A loan made under this section may be sold by the corporation, and the corporation may permit other lenders to participate in a loan made under this section, at the time or times and upon the terms and conditions that the corporation considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the corporation, upon terms and conditions established by the corporation.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-18
Proceeds of sales

Sec. 18. All proceeds received by the corporation or the Indiana finance authority from the disposal by sale or in some other manner of property acquired in connection with the guaranty program or otherwise under this chapter shall be credited to the guaranty fund.

As added by P.L.162-2007, SEC.25.

IC 5-28-30-19
Expense; reimbursement by borrower

Sec. 19. Upon the issuance of a loan or a guarantee of a loan or lease, any expenses incurred by the corporation in connection with the loan or guarantee or the projects or operations for which the loan or guarantee is being made shall be reimbursed to the corporation by

the borrower, in the case of a loan (to the extent not provided for under section 13 of this chapter), or by the borrower, lender, lessee, or lessor, in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-20
Transfer of funds to the capital access account

Sec. 20. To further the purposes of this chapter and IC 4-4-11, and in addition to the corporation's other powers under this chapter, the corporation may transfer funds from the guaranty fund to the capital access account established under IC 5-28-29-35.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-21
Exemption from securities registration laws

Sec. 21. Any guarantees by the corporation under the guaranty program are exempt from the registration and other requirements of IC 23-19 and any other securities registration laws.
As added by P.L.162-2007, SEC.25. Amended by P.L.1-2009, SEC.25.

IC 5-28-30-22
Power to procure insurance

Sec. 22. The corporation may procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States, for insurance or reinsurance on amounts paid from the guaranty fund.
As added by P.L.162-2007, SEC.25.

IC 5-28-30-23
Powers in the event of default

Sec. 23. The corporation may take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan on the project is clearly in default and when in the opinion of the authority such an acquisition is necessary to safeguard the guaranty fund, and sell, or on a temporary basis, lease or rent the project for any use.
As added by P.L.162-2007, SEC.25.

IC 5-28-31

Chapter 31. Agricultural Loan and Rural Development Project Guarantee Fund

IC 5-28-31-1

"Agriculture"; "agricultural enterprise"

Sec. 1. As used in this chapter, "agriculture" or "agricultural enterprise" includes:

(1) the real and personal property constituting farms;

(2) acquiring, enlarging, or improving farms, including farm buildings, land and water development, use, and conservation;

(3) recreational uses and facilities when incidental to farming;

(4) enterprises incidental to farming needed to supplement farm income;

(5) purchasing livestock, poultry, and farm equipment;

(6) purchasing feed, seed, fertilizer, insecticides, and farm supplies and other essential farm operating expenses including cash rent; and

(7) other farm and home needs, including farm subsistence.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-2

"Authority"

Sec. 2. As used in this chapter, "authority" refers to the Indiana finance authority created by IC 4-4-11.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-3

"Bonds"

Sec. 3. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-4

"Borrower"

Sec. 4. As used in this chapter, "borrower" means a person who receives a loan under this chapter.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-5

"Contracting party"

Sec. 5. As used in this chapter, "contracting party" means a party to a lease, sales contract, or loan agreement except the authority.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-6

"Equipment"

Sec. 6. As used in this chapter, "equipment" means a capital item.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-7
"Guarantee fund"

Sec. 7. As used in this chapter, "guarantee fund" refers to the agricultural loan and rural development project guarantee fund established by section 32 of this chapter.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-8
"Guarantee program"

Sec. 8. As used in this chapter, "guarantee program" means the program of the corporation described in this chapter under which the corporation guarantees certain portions of particular mortgages, security agreements, or leases with funds available from its agricultural loan and rural development project guarantee fund.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-9
"Lease"

Sec. 9. As used in this chapter, "lease" means a lease containing:

(1) an option to purchase the agricultural enterprise for a nominal sum upon payment in full or provision for payment in full of all bonds issued in connection with the agricultural enterprise or rural development project, all interest on the bonds, and all other expenses in connection with the agricultural enterprise or rural development project; and

(2) a lease containing an option to purchase the agricultural enterprise or rural development project at any time, as provided in the lease, upon payment of the purchase price sufficient to pay all bonds issued in connection with the agricultural enterprise or rural development project, all interest on the bonds, and all other expenses incurred in connection with the agricultural enterprise or rural development project but under which payment may be made in the form of one (1) or more notes, debentures, or other secured or unsecured debt obligations of the lessee providing for timely payments, including interest on the notes, debentures, or debt obligations sufficient for these purposes and delivered to the authority or to the trustee under the indenture under which the bonds were issued.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-10
"Lender"

Sec. 10. As used in this chapter, "lender" means:

(1) a federal or state chartered bank;

(2) the Federal Land Bank;

(3) a production credit association;
(4) bank for cooperatives;
(5) a savings association;
(6) a small business investment company; or
(7) an institution qualified within Indiana to originate and service loans, including an insurance company, credit union, or mortgage loan company.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-11
"Loan"

Sec. 11. As used in this chapter, "loan" means a lease, loan agreement, or sale contract.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-12
"Loan agreement"

Sec. 12. As used in this chapter, "loan agreement" means an agreement providing for:

(1) the corporation, or a lender with which the corporation has contracted, to loan the proceeds derived from the issuance of bonds by the authority to one (1) or more contracting parties to be used for agriculture or agricultural enterprises or rural development projects; and
(2) the repayment of the loan by the contracting party or parties.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-13
"Loan insurer"

Sec. 13. As used in this chapter, "loan insurer" means:

(1) an agency, a department, an administration, or an instrumentality, corporate or otherwise, of or in the United States Department of Housing and Urban Development;
(2) the Farmers Home Administration of the United States Department of Agriculture;
(3) the United States Department of Veterans Affairs;
(4) a private mortgage insurance company; or
(5) a public or private agency that insures or guarantees loans.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-14
"Maturity date"

Sec. 14. As used in this chapter, "maturity date" means the date on which the mortgage or security agreement indebtedness, or lease obligations, would be extinguished if paid in accordance with periodic payments provided for in the mortgage, security agreement, or lease.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-15
"Mortgage"

Sec. 15. As used in this chapter, "mortgage" refers to a mortgage on an agricultural enterprise or rural development project, or the unpaid purchase price of real estate under the laws of this state, together with the credit instruments, if any, that have been secured, including a financing agreement or a financing agreement within the meaning of IC 36-7-12 in connection with real property.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-16
"Mortgagee"

Sec. 16. As used in this chapter, "mortgagee" means the original lender under a mortgage and the original lender's successors and assigns approved by the corporation, including insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees, and other fiduciaries, such as pensions and retirement funds.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-17
"Mortgage payments"

Sec. 17. As used in this chapter, "mortgage payments" means periodic payments called for by the mortgage that cover interest, installments of principal, taxes and assessments, mortgage insurance premiums, and hazard insurance premiums.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-18
"Mortgagor"

Sec. 18. As used in this chapter, "mortgagor" means the original borrower under a mortgage and the original borrower's successors and assigns.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-19
"Person"

Sec. 19. As used in this chapter, "person" means an individual, a partnership, a firm, an association, a joint venture, a limited liability company, or a corporation.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-20
"Rural development project"

Sec. 20. As used in this chapter, "rural development project" includes:

(1) the acquisition of land;
(2) interests in land;

(3) site improvements;
(4) infrastructure improvements;
(5) buildings;
(6) structures;
(7) rehabilitation, renovation, and enlargement of buildings and structures;
(8) machinery;
(9) equipment;
(10) furnishings; or
(11) facilities;

or any combination of these, comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, agribusiness, or otherwise) for which the development is determined by the corporation to promote, further, enhance, or assist in the growth or maintenance of rural areas in Indiana and to serve the public purposes of the corporation and the authority set forth in this chapter and IC 4-4-11.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-21
"Sale contract"

Sec. 21. As used in this chapter, "sale contract" means a contract providing for the sale of one (1) or more agricultural enterprises consisting of real or personal property to one (1) or more contracting parties and includes a contract providing for payment of the purchase price in one (1) or more installments.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-22
"Security agreement"

Sec. 22. As used in this chapter, "security agreement" means an agreement which creates or provides for security interest in equipment, including an equipment lease under that program or within the meaning of IC 36-7-12, and a successor provision related to equipment.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-23
"Taxable bonds"

Sec. 23. As used in this chapter, "taxable bonds" means bonds the interest on which will not be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-24
"Tax exempt bonds"

Sec. 24. As used in this chapter, "tax exempt bonds" means bonds the interest on which will be excluded from the gross income of the

owners of the bonds under Section 103 of the Internal Revenue Code.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-25
Findings

Sec. 25. It is found and declared that:

(1) There exists in Indiana an inadequate supply of affordable farm credit and agricultural loan financing at interest rates which are consistent with the needs of borrowers for farming and agricultural enterprises, which if not supplemented will make it difficult for farmers and other agricultural enterprises to maintain or increase present employment levels and to maintain or increase crops, livestock, and business productivity, all of which will have an adverse effect upon the welfare of the citizens of Indiana and the economy of Indiana.

(2) There exists in particular in Indiana a need for affordable farm credit and agricultural loan financing for new and young farmers, for small farmers, for family farm operations, and for farmers for whom loans in the conventional farm credit markets are either not available or not affordable at interest rates found in conventional farm credit markets. Alleviation of the problems described in this subdivision and subdivision (1) as they apply to the agricultural enterprises described in this paragraph is the primary purpose of this chapter.

(3) Such problems cannot be remedied through the operation of private enterprise alone, but can be alleviated through the creation of a governmental body to encourage the investment of private capital in the agricultural sector through the use of public financing as provided by this chapter for the purpose of making loans available at interest rates lower than those available in the conventional farm credit markets, and by coordinating and cooperating with farmers, other agricultural enterprises, and local communities, which is essential to alleviating these conditions and is in the public interest.

(4) Alleviating the conditions and problems by the encouragement of private investment through a governmental body is a public purpose and a use for which revenue bonds may be issued.

(5) The necessity for this chapter to protect the health, safety, morals, and general welfare of all the people of Indiana is declared as a matter of legislative determination.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-26
Power to make loans to lenders

Sec. 26. The corporation may make and undertake commitments to make loans to lenders under terms and conditions requiring the proceeds thereof to be used by such lenders to make loans for

agricultural enterprises. Loan commitments or actual loans shall originate through and be serviced by any eligible lender.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-27
Loans may be secured

Sec. 27. A loan agreement under this chapter may provide for the loans to be secured by or evidenced by one (1) or more notes, debentures, or other secured or unsecured debt obligations of the contracting party or parties delivered to the corporation, the authority, or the trustee under the indenture under which the bonds were issued.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-28
Sale contract; title

Sec. 28. If a sale contract permits title to the project to pass to the contracting party or parties before payment in full of the entire purchase price, it must also provide for the contracting party or parties to deliver to the corporation, the authority, or the trustee under the indenture under which the bonds were issued one (1) or more notes, debentures, or other secured or unsecured debt obligations of the contracting party or parties providing for timely payments, including interest on the notes, debentures, or debt obligations for the balance of the purchase price at or before the passage of title.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-29
Power to engage in financing activities

Sec. 29. (a) The corporation may invest in, purchase or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made for agriculture or agricultural enterprises or for refinancing loans made for agriculture or agricultural enterprises. Before investment, purchase, assignment, or commitment, the lender shall certify that the proceeds therefrom or its equivalent will be reinvested in loans or used to make loans to provide agricultural enterprises or, pending reinvestment in such loans or the making of such loans, invested in short term obligations complying with the requirements of this chapter. The corporation shall purchase loans at a purchase price equal to the outstanding principal balance, but the corporation may require a discount from the principal balance or make a payment of a premium to effect a fair rate of return for the lender, as determined by the rate of return on comparable investments under market conditions existing at the time of purchase. In addition to the payment of outstanding principal balance, the corporation shall pay the accrued interest due thereon on the date the loan is delivered against payment therefor or on another

date as may be established by agreement between the corporation and the selling lender.

(b) The corporation may not invest in, purchase, or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made for the construction, rehabilitation, or purchase of real property unless the borrower, in a written contract separate from the mortgage, promises that for a period of ten (10) years from the date of the loan the borrower will not convey the real property without a written release from the corporation. The corporation shall record the contract in the same manner as a mortgage on real property, and when recorded the contract constitutes an absolute bar on the alienation of the property until ten (10) years after the date of the mortgage or until released in writing by the corporation. The corporation may not release a contract under this subsection unless the release is compatible with section 25 of this chapter.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-30

Lender certifications

Sec. 30. Before exercising any of the powers authorized in sections 26 and 29 of this chapter, the corporation shall require the lender to certify and agree that:

(1) the loan is or, if the loan has not been made, will at the time of making be in all respects a prudent investment; and

(2) the lender will use the proceeds of the loan, investment sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if the lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the corporation to purchase the loans, the lender will make the loans and sell the loans to the corporation within a reasonable time.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-31

Additional security provisions

Sec. 31. Before exercising any of the powers conferred by sections 26 and 29 of this chapter, the corporation may:

(1) require that the loan involved be:

(A) insured by a loan insurer; or

(B) guaranteed by a loan guarantor or the corporation under sections 32 through 43 of this chapter;

(2) require any type of security that the corporation considers reasonable and necessary; or

(3) authorize the reservation of funds by lenders in the amount and subject to conditions that the corporation considers reasonable and necessary under this chapter.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-32
Agricultural loan and rural development project guarantee fund

Sec. 32. The agricultural loan and rural development project guarantee fund is established. The corporation shall use the guarantee fund as a nonlapsing, revolving fund for carrying out the provisions of the guarantee program. The corporation may expend money from the guarantee fund as the authority considers appropriate to carry out the purposes of this chapter and IC 4-4-11. The guarantee fund consists of the money appropriated to the guarantee fund by the general assembly, and money, property, and other things of value contributed to the guarantee fund by any other source. To this sum shall be charged those expenses of the corporation attributable and allocated by the corporation to the corporation's guarantee program, including interest, principal, and lease payments required by loan or lease defaults. To this sum shall be credited that income of the corporation attributable and allocated by the corporation to the corporation's guarantee program, including guarantee premiums.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-33
Guarantees; secured loans

Sec. 33. Subject to the conditions set forth in section 34 of this chapter and the other provisions of this chapter, if the corporation makes a written finding that:

(1) the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any agricultural enterprise or rural development project would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the lease;

(2) the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms; and

(3) the proposed borrower, lessee, lender, or lessor has filed an application on a form prescribed by the corporation;

the corporation may, under its guarantee program, guarantee the loan or lease upon the terms and conditions that the corporation prescribes.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-34
Guarantees; conditions

Sec. 34. The conditions referred to in section 33 of this chapter are as follows:

(1) No new or additional guarantee of a loan or lease under section 33, 35, or 40 of this chapter may be entered into if the

guarantee would cause the outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under sections 33, 35, and 40 of this chapter to exceed eight (8) times the amount of money in the guarantee fund.

(2) The amount of all guarantees by the corporation of loans or leases to or for the benefit of any single agricultural enterprise or rural development project may not exceed three hundred thousand dollars ($300,000), less the outstanding aggregate principal balance under any loans made and owed to the corporation under section 40 of this chapter to or for the benefit of the enterprise or rural development project.

(3) A guarantee of a loan secured by either real estate or a real estate lease may not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, and the original principal amount of the loan or the total amount of the lease payments, as applicable, may not exceed ninety percent (90%) of the appraised fair market value of the real estate.

(4) A guarantee of a loan secured by personal property or of a personal property lease may not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, and the original principal amount of the loan or the total amount of the lease payments, as applicable, may not exceed seventy-five percent (75%) of the appraised fair market value of the personal property.

(5) A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property.

(6) To be eligible for a guarantee under this section, a loan or lease must:

(A) be one that is to be made to and held by a lender or lessor approved by the corporation as responsible and able to service the loan or lease properly;

(B) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the corporation;

(C) have a maturity or term satisfactory to the corporation but in no case later than twenty (20) years after the date of the guarantee;

(D) contain payment terms satisfactory to the corporation requiring periodic payments by the developer or user, including principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and the guarantee premiums that are fixed by the corporation; and

(E) contain terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters that the corporation prescribes.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-35

Guarantees; unsecured loans

Sec. 35. The corporation may guarantee an unsecured loan for working capital purposes if the corporation determines, under criteria that the corporation establishes, that:

(1) the loan for working capital is for an agricultural enterprise or a rural development project; and

(2) the loan for working capital will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government or private business or individuals or through exports to foreign markets.

The working capital loan guarantee may not exceed two hundred thousand dollars ($200,000) for any single agricultural enterprise or rural development project and may be in addition to any other guarantees of the corporation under this section. The guaranteed terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A working capital loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The corporation may impose additional terms that the corporation considers appropriate for any particular agricultural enterprise or rural development project.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-36

Guarantee premiums

Sec. 36. The corporation may fix guarantee premiums for the guarantee under this chapter of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into, and the corporation may fix loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the powers of the corporation under section 40 of this chapter. These premiums, fees, or charges may be payable in amounts or based upon formulas established by the corporation and may be payable, at the election of the corporation, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the corporation. These premiums, fees, or charges are payable by the borrower or user to the corporation in a manner prescribed by the

corporation.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-37
Letters of credit

Sec. 37. Any guarantee made by the corporation under section 33, 35, or 40 of this chapter may be effected or enhanced, in whole or in part, through the provision by the corporation of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligation of the corporation under the credit instrument, as the credit instrument may be effective from time to time, is the amount of the guarantee or part of the guarantee made under section 33, 35, or 40 of this chapter and for purposes of the limitations on the amount of guarantees under section 33, 35, or 40 of this chapter. The term of any letter of credit may not exceed the respective terms established for guarantees or loans under sections 34, 35, and 40 of this chapter.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-38
Legal investments

Sec. 38. Notwithstanding any other law, loans or leases guaranteed or made by the corporation or the authority under this chapter are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-39
Guarantees of bonds issued by the authority; subordination

Sec. 39. To further the purposes of this chapter and subject to this chapter, the corporation may also use any part of the guarantee fund to guarantee any bonds issued by the authority under section 46 of this chapter or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are guaranteed by the corporation, the corporation may permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate documents securing the direct obligations if the corporation in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the authority.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-40
Power to make direct loans

Sec. 40. To further the purposes of this chapter, and in addition to the corporation's other powers under this chapter, the corporation may, upon a written finding as described in section 33 of this

chapter, also make direct loans from money in the guarantee fund to or for the benefit of any agricultural enterprise or rural development project upon the terms and conditions that the corporation prescribes. Loans made under this section are subject to the following conditions:

(1) No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this section and sections 33 and 35 of this chapter to exceed eight (8) times the amount of money then in the guarantee fund or would cause the then outstanding aggregate principal balance of all loans made under this section and then owing to the corporation to exceed twenty percent (20%) of the amount of money then in the guarantee fund.

(2) The principal amount of a loan under this section to or for the benefit of an enterprise or rural development project may not exceed two hundred thousand dollars ($200,000), less the then outstanding total guarantee obligations with respect to any loans or leases guaranteed under this section and sections 33 and 35 of this chapter to or for the benefit of that enterprise or rural development project.

(3) With respect to any loan made under this section, a loan agreement with the corporation must contain the following terms:

(A) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this chapter.

(B) The term of the loan, which must be not later than twenty (20) years after the date of the loan.

(C) The repayment schedule.

(D) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the corporation in making the loan.

(E) Any other terms and provisions that the corporation requires.

(4) Any loan agreement under this section may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor and a requirement of any other type or types of security or collateral that the corporation considers to be reasonable or necessary.

(5) A loan made under this section may be sold by the corporation, and the corporation may permit other lenders to participate in any loan made under this section, at the time or times and upon the terms and conditions that the corporation considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the corporation upon terms and conditions established by the corporation.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-41
Proceeds of sales

Sec. 41. All proceeds received by the corporation or the Indiana finance authority from the disposal by sale or in some other manner of property acquired under this chapter and in connection with the guarantee program or otherwise under this chapter shall be credited to the guarantee fund.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-42
Guarantee fund nonreverting; exception

Sec. 42. The money in the guarantee fund does not revert to the state general fund at the end of a fiscal year. However, if the guarantee fund ceases to exist, the money in the guarantee fund attributable to transfers from the state general fund reverts to the state general fund.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-43
Expenses; reimbursement by borrower

Sec. 43. Upon the issuance of a loan or a guarantee of a loan or lease under this chapter, any expenses incurred by the corporation in connection with the loan or guarantee or the enterprise or rural development project for which the loan or guarantee is being made shall be reimbursed to the corporation by the borrower, in the case of a loan (to the extent not provided for under section 36 of this chapter), or by the borrower, lender, lessee, or lessor in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-44
Powers in the event of default

Sec. 44. The corporation may take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the corporation the acquisition is necessary to safeguard the guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.
As added by P.L.162-2007, SEC.26.

IC 5-28-31-45
Authorization to adopt rules

Sec. 45. (a) Before carrying out any of the powers granted under section 26, section 29, or sections 32 through 43 of this chapter, the corporation may adopt rules under IC 4-22-2 governing its activities authorized under this chapter, including rules relating to the following:

(1) Procedures for the submission of requests or invitations and proposals for making loans to lenders and the investment in and purchase, assignment, and sale of loans.

(2) The reinvestment by lenders of the proceeds or an equivalent amount, from any loan to lenders or the investment in or purchase by the corporation or the authority or the assignment or sale of loans to the corporation or the authority, in loans to provide agricultural enterprises or rural development projects.

(3) The number of agricultural projects and rural development projects, location of the projects, and other characteristics of agricultural enterprises and rural development projects, including to the extent reasonably possible assurance that the agricultural enterprises or rural development projects to be financed by an issue of bonds or series of issues will improve employment conditions and enhance the welfare of persons in the agricultural sector, as determined by the corporation, to be financed directly or indirectly by the corporation and the authority under section 26, section 29, or sections 32 through 43 of this chapter.

(4) Rates, fees, charges, and other terms and conditions of originating or servicing loans in order to protect against realization of an excessive financial return or benefit by the originator or servicer.

(5) The type and amount of collateral or security to be provided to assure repayment of loans made or guaranteed by the corporation and the fees to be charged under sections 32 through 43 of this chapter.

(6) The type of collateral, payment bonds, performance bonds, or other security to be provided for any loans made by a lender for construction loans.

(7) The nature and amount of fees to be charged by the corporation or the authority to provide for expenses and reserves of the corporation or the authority.

(8) Standards and requirements for the allocation of available money among lenders and the determination of the maturities, terms, conditions, and interest rates for loans made, purchased, sold, assigned, or committed under section 26, section 29, or sections 32 through 43 of this chapter.

(9) Commitment requirements for agricultural financing by lenders involving money provided directly or indirectly by the corporation or the authority.

(10) Any other matters related to the duties or exercise of the

corporation's or the authority's powers or duties under this chapter.

(b) In adopting rules governing its activities, the corporation shall consider the following factors relative to eligibility of borrowers for loans made or guaranteed under this chapter:

(1) The length of time any borrower has been engaged in the business of agriculture or development.

(2) The net income of any borrower in the preceding year or years.

(3) The net worth of any borrower.

(4) The availability or feasibility of alternative financing methods for any borrower.

(c) The following entities may not be borrowers:

(1) A corporation that has more than ten (10) shareholders.

(2) A corporation that has any shareholder that is a corporation, a subsidiary of a corporation, or a subsidiary of a subsidiary of a corporation with more than ten (10) shareholders.

(3) A partnership, joint venture, firm, limited liability company, or association that has any member who is a corporation, a subsidiary of a corporation, or a subsidiary of a subsidiary of a corporation with more than ten (10) shareholders.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-46

Power to issue bonds

Sec. 46. For purposes of this chapter, the authority may issue and secure bonds in accordance with IC 4-4-11. Whether the bonds are in the form and character of negotiable instruments, the bonds are hereby made negotiable instruments, subject only to provisions of the bonds relating to registration.

As added by P.L.162-2007, SEC.26.

IC 5-28-31-47

Powers are cumulative

Sec. 47. This chapter shall not be construed as a restriction or limitation upon any powers which the corporation or the authority might otherwise have under any other law of this state, and this chapter is cumulative to those powers. This chapter shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to powers conferred by any other laws.

As added by P.L.162-2007, SEC.26.

IC 5-28-32

Chapter 32. Business Development Loan Fund

IC 5-28-32-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the business development loan fund.

As added by P.L.162-2007, SEC.27.

IC 5-28-32-2

Establishment; purpose

Sec. 2. The business development loan fund is established. The fund shall be used by the corporation as a nonlapsing, revolving fund.

As added by P.L.162-2007, SEC.27.

IC 5-28-32-3

Sources of money

Sec. 3. The fund consists of the following:

(1) Money appropriated by the general assembly.

(2) The repayment proceeds of loans made to businesses from the fund.

(3) Money received from any other source.

As added by P.L.162-2007, SEC.27.

IC 5-28-32-4

Power to make loans

Sec. 4. Subject to section 5 of this chapter, the corporation may make a loan from the fund to a business located in Indiana if the corporation makes a written finding that the loan would accomplish the purposes of this chapter by enabling the business to carry out a project or projects that will do any of the following:

(1) Improve the technological capacity or productivity of the business.

(2) Enhance the protection of Indiana's environment.

(3) Permit the business to expand facilities, establish new facilities, or make site improvements or infrastructure improvements.

As added by P.L.162-2007, SEC.27.

IC 5-28-32-5

Required loan agreement terms

Sec. 5. With respect to any loan made under section 4 of this chapter, a loan agreement with the corporation must contain the following terms:

(1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this article.

(2) The term of the loan, which must not be later than fifteen (15) years after the date of the loan.

(3) The repayment schedule.

(4) The interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all expenses of the corporation in making the loan.

(5) Any other terms and provisions that the corporation requires.

As added by P.L.162-2007, SEC.27.

IC 5-28-33

Chapter 33. High Speed Internet Service Deployment and Adoption Initiative

IC 5-28-33-1

"GIS"

Sec. 1. As used in this chapter, "GIS" refers to the statewide geographic information system created under section 3 of this chapter.

As added by P.L.152-2009, SEC.1.

IC 5-28-33-2

"High speed Internet service"

Sec. 2. As used in this chapter, "high speed Internet service" means a connection to the Internet that provides capacity for transmission at an average speed of at least three hundred eighty-four (384) kilobits per second downstream, regardless of the technology or medium used to provide the connection.

As added by P.L.152-2009, SEC.1.

IC 5-28-33-3

Development of high speed Internet service deployment and adoption initiative; map of broadband availability

Sec. 3. (a) The corporation shall develop a high speed Internet service deployment and adoption initiative that includes the creation of a statewide geographic information system (GIS) of available telecommunications and information technology services, including high speed Internet service.

(b) The corporation shall map the availability of broadband service by census blocks established by the Bureau of the Census and depicted in the GIS. A map created under this subsection may:

(1) include the percentage of households that have access to broadband service; and

(2) use the Federal Communications Commission benchmark rates for broadband service to identify different speed tiers.

(c) The corporation shall share the map created under subsection (b) and the GIS, including updates, with the Indiana Geographic Information Council (as referred to in IC 4-23-7.3-6) as a data layer to the statewide base map (as defined in IC 4-23-7.3-11).

As added by P.L.152-2009, SEC.1. Amended by P.L.13-2013, SEC.13.

IC 5-28-33-4

Confidential information

Sec. 4. (a) A person or entity that provides data or other information to the corporation for inclusion in the GIS may designate the data or information as confidential for any purpose, including for purposes of IC 5-14-3-4.

(b) The corporation shall, upon request, enter into a nondisclosure agreement with a person or entity described in subsection (a) concerning proprietary information submitted to the corporation by the person or entity.
As added by P.L.152-2009, SEC.1.

IC 5-28-33-5
Ability to enter into contract
Sec. 5. The corporation may enter into a contract to develop all or part of the initiative described in section 3 of this chapter.
As added by P.L.152-2009, SEC.1.

IC 5-28-33-6
Application for federal grants
Sec. 6. The corporation may apply for state broadband data and development grants under the federal Broadband Data Improvement Act and the American Recovery and Reinvestment Act of 2009.
As added by P.L.152-2009, SEC.1.

IC 5-28-33-7
Corporation not authorized to regulate communications service providers
Sec. 7. This chapter may not be construed as authorizing the corporation to regulate communications service providers (as defined in IC 8-1-32.5-4).
As added by P.L.152-2009, SEC.1.

IC 5-28-33-8
Consultation with Indiana finance authority
Sec. 8. In implementing this chapter, the corporation shall consult with the Indiana finance authority to avoid unnecessary duplication of efforts under this chapter and IC 8-1-33.
As added by P.L.152-2009, SEC.1.

IC 5-28-33-9
Priorities of high speed Internet service deployment and adoption initiative
Sec. 9. The corporation shall establish the following priorities in developing and implementing the high speed Internet service deployment and adoption initiative:
(1) First, extending the deployment of high speed Internet service to areas where:
(A) Internet connections are unavailable; or
(B) the only available Internet connections provide capacity for transmission at an average speed of less than two hundred (200) kilobits per second downstream.
(2) Second, extending the deployment of high speed Internet service to areas where the only available Internet connections

provide capacity for transmission at an average speed of:

(A) not less than two hundred (200) kilobits; and

(B) not more than one and five-tenths (1.5) megabits;

per second downstream.

(3) Third, supporting programs to promote broadband adoption throughout Indiana.

As added by P.L.152-2009, SEC.1.

IC 5-28-33-10

Single eligible entity for grants

Sec. 10. The corporation is designated as the single eligible entity to receive a grant under 47 U.S.C. 1304.

As added by P.L.152-2009, SEC.1.

IC 5-28-34

Chapter 34. Green Industries Fund

IC 5-28-34-1

"Fund"

Sec. 1. As used in this chapter, "fund" means the green industries fund established by section 3 of this chapter.

As added by P.L.182-2009(ss), SEC.81.

IC 5-28-34-2

"Green industry"

Sec. 2. For the purposes of this chapter, "green industry" means an Indiana business that manufactures products that reduce energy consumption or lower emissions in the market of their intended use, including the following:

(1) Biofuels.

(2) Advanced technology vehicles.

(3) Alternative fuel vehicles and power systems.

(4) Clean diesel technology.

(5) Domestic appliances.

(6) Distributed power generation.

(7) Emission control systems.

(8) Energy monitoring, management, and efficiency.

(9) Fuel cells.

(10) Renewable energy.

(11) Smart grid technology.

(12) Highly insulative building construction products.

(13) Construction products manufactured from at least fifty percent (50%) postconsumer products.

(14) Other sectors determined by the corporation.

As added by P.L.182-2009(ss), SEC.81.

IC 5-28-34-3

Establishment of fund

Sec. 3. (a) The green industries fund is established. The fund shall be administered by the corporation in consultation with the Indiana office of energy development established by IC 4-3-23-3.

(b) The fund may be used to provide grants and loans to Indiana manufacturing companies for the following purposes:

(1) To strengthen Indiana's economy by focusing investment in advanced manufacturing clusters focused on more energy efficient and environmentally sustainable technologies, processes, and products.

(2) To accelerate job creation through training and education initiatives to enhance the skills and employment prospects of Indiana's workforce in green industries.

(3) To facilitate the redevelopment of Indiana manufacturing sites, facilities, and processes to operate in a more energy

efficient and environmentally sustainable manner.

(4) To stimulate the development of technologies, processes and products that reduce energy consumption or lower emissions in the market of their intended use.

(5) To encourage public-private partnerships focused on development of green industries among Indiana manufacturing companies, public or private educational institutions, nonprofit organizations and charitable foundations, research and development organizations, and state agencies.

As added by P.L.182-2009(ss), SEC.81. Amended by P.L.34-2013, SEC.11.

IC 5-28-34-4

Application for grants or loans

Sec. 4. (a) An Indiana manufacturing company may apply for one (1) or more grants or loans from the fund.

(b) The corporation shall give priority to applications that meet three (3) or more of the purposes listed in section 3 of this chapter. The corporation shall base the award of a grant or loan on the number and quality of jobs being created, the community's economic need, and the capital investment being made by the applicant.

(c) A grant may not exceed fifty percent (50%) of the applicant's project costs.

As added by P.L.182-2009(ss), SEC.81.

IC 5-28-35
Repealed
(Repealed by P.L.187-2014, SEC.15.)

IC 5-28-36

Chapter 36. Motorsports Improvement Program and Fund

IC 5-28-36-1

"Motorsports enterprise"

Sec. 1. (a) As used in this chapter, "motorsports enterprise" means:

(1) any race track, drag strip, or road course that is opened to the public for conducting the lawful racing of cars, trucks, motorcycles, or all terrain vehicles;

(2) a person engaged in the business of repairing, fabricating, manufacturing, or distributing vehicles, parts, equipment, or other items used in motorsports; or

(3) a person engaged in motorsports racing as an owner or driver.

(b) However, the term does not include:

(1) a qualified motorsports facility (as defined in IC 5-1-17.5-14);

(2) a facility constructed to host the home games of a professional football or basketball team;

(3) a facility other than a facility described in subdivision (2) that is temporarily adapted for conducting a racing event;

(4) the state fairgrounds; or

(5) a county fairgrounds.

As added by P.L.233-2013, SEC.6.

IC 5-28-36-2

"Person"

Sec. 2. As used in this chapter, "person" means any individual or entity.

As added by P.L.233-2013, SEC.6.

IC 5-28-36-3

Motorsports improvement fund

Sec. 3. (a) The motorsports improvement fund is established within the state treasury. The fund is a revolving fund to provide grants and low-interest loans for enhancing the development of the motorsports industry in Indiana.

(b) The fund consists of amounts appropriated by the general assembly.

(c) The corporation shall administer the fund. In addition to grants and loans, the following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The money in the fund at the end of a state fiscal year does not

revert to the state general fund but remains in the fund.
As added by P.L.233-2013, SEC.6. Amended by P.L.213-2015, SEC.73.

IC 5-28-36-4
Investment of money in the fund

Sec. 4. (a) 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. Earnings that accrue from these investments shall be deposited in the fund.

(b) The treasurer of state shall also:

(1) receive cash receipts belonging to the fund, deposit these amounts in the fund, and submit a monthly report to the corporation of these transactions; and

(2) make payments on vouchers authorized by the corporation.

As added by P.L.233-2013, SEC.6.

IC 5-28-36-5
Application to corporation for loan; terms of loan; failure to repay loan

Sec. 5. (a) A person owning a motorsports enterprise may apply to the corporation for a low-interest loan from the fund to be used for improving the motorsports enterprise owned by the person.

(b) An amount loaned to a person is an obligation of the person and shall be repaid to the corporation within a time to be fixed by the corporation.

(c) The corporation shall determine interest rates for the low-interest loans to be made under this section.

(d) If a person fails to make repayment of money loaned under this section, the amount payable may be recovered in an action by the state on relation of the corporation, prosecuted by the attorney general, in the circuit or superior court of the county in which the person's motorsports enterprise is located.

(e) The corporation shall determine the following:

(1) The application process to be used in applying for a low-interest loan from the fund.

(2) The criteria to be used in making low-interest loans from the fund.

(3) The terms and conditions of any low-interest loan made from the fund.

As added by P.L.233-2013, SEC.6.

IC 5-28-36-6
Expiration of chapter

Sec. 6. This chapter expires June 30, 2017.
As added by P.L.233-2013, SEC.6.

IC 5-28-36-7

Application to corporation for grant; purposes of grant; maximum amount of grant

Sec. 7. (a) A county, city, or town in which a motorsports enterprise is located may apply to the corporation for a grant from the fund to be used for making infrastructure improvements that will enhance the viability of the motorsports enterprise.

(b) A grant to an applicant under this section may not exceed one million dollars ($1,000,000).

(c) A grant under this section may not be used for the following:

(1) Prizes.

(2) Operating expenses.

(3) Salaries or other expenses not directly related to infrastructure improvements to enhance the viability of a motorsports enterprise.

(d) An application for a grant under this section for a year must be received by the corporation before May 15 of the year. An application received by the corporation after May 14 of the year is treated as an application for a grant under this section for the immediately following year.

(e) Each year before June 15, the corporation shall make a determination on each application received after May 14 of the immediately preceding year and before May 15 of the year. The corporation shall make disbursements from the fund for grants that are awarded under this section for a year before June 15 of the year.

(f) The corporation shall determine the following:

(1) The form of the application.

(2) The information to be submitted with the application.

(3) The criteria to be used to make grants from the fund.

(4) The terms and conditions of any grant made from the fund, including the actual grant amount, other than a grant specified by statute.

As added by P.L.213-2015, SEC.74.

IC 5-28-36-8

Maximum amount of grants in a state fiscal year

Sec. 8. Each state fiscal year, the aggregate amount of the grants that the corporation makes under this chapter during the state fiscal year may not exceed fifty percent (50%) of the sum of:

(1) the money in the fund at the beginning of the state fiscal year; and

(2) the amounts received by the fund during the state fiscal year, including:

(A) appropriations to the fund by the general assembly; and

(B) the repayment of any principal and interest on a loan awarded under section 5 of this chapter.

As added by P.L.213-2015, SEC.75.

IC 5-28-36-9

Certain grants

Sec. 9. Notwithstanding sections 7 and 8 of this chapter, the corporation shall make at least the following grants from the fund before June 15, 2015:

(1) A grant to Henry County of four hundred thousand dollars ($400,000) to enhance the viability of the New Castle Motorsports Park by means of improvements to the track public access.

(2) A grant to the town of Brownsburg of one million dollars ($1,000,000) for the following categories of infrastructure improvements to enhance the viability of the Lucas Oil Raceway:

(A) Track public access.

(B) Track competition features.

(C) Fan support areas.

As added by P.L.213-2015, SEC.76.

IC 5-28-37

Chapter 37. Indiana Regional City Fund

IC 5-28-37-1

Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Development authority" includes both:

(A) a development authority as defined in IC 36-7.5-1-8; and

(B) a development authority as defined in IC 36-7.6-1-8.

(2) "Fund" refers to the Indiana regional city fund established by section 2 of this chapter.

As added by P.L.178-2015, SEC.1.

IC 5-28-37-2

Indiana regional city fund

Sec. 2. (a) The Indiana regional city fund is established within the state treasury to provide grants or loans to support proposals for economic development.

(b) The fund consists of:

(1) appropriations from the general assembly; and

(2) loan repayments.

(c) The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) 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 state general fund.

(f) The 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.178-2015, SEC.1.

IC 5-28-37-3

Strategic review committee

Sec. 3. (a) The board shall form a strategic review committee to review applications that are submitted under this chapter.

(b) The board may invite employees of state agencies and outside experts to:

(1) sit on the strategic review committee; or

(2) present analysis or opinions about any aspect of an application under review.

An employee of a state agency who sits on the strategic review committee or otherwise participates in the review of an application may not receive compensation for the employee's service before or

with the strategic review committee.
As added by P.L.178-2015, SEC.1.

IC 5-28-37-4
Application for a grant or loan

Sec. 4. (a) A development authority may submit an application to the corporation.

(b) A successful applicant must meet the requirements of this section and be approved by the board. An application for a grant or loan from the fund must be made on an application form prescribed by the board. An applicant shall provide all information that the board finds necessary to make the determinations required by this chapter.

(c) All applications must include the following:

(1) A comprehensive development plan and timeline.

(2) A detailed financial analysis that includes the commitment of resources and return on investment analysis by those entities that will be involved in funding the project for which the grant or loan is sought.

(3) A demonstration of the regional and state impact that the grant or loan is expected to have.

(4) Any other information that the board considers appropriate.

An applicant for a grant or loan from the fund may request that information that may be excepted from disclosure under IC 5-14-3 that is submitted by the applicant be kept confidential.
As added by P.L.178-2015, SEC.1.

IC 5-28-37-5
Review of applications; criteria for approval

Sec. 5. (a) The board has the following powers:

(1) To accept, analyze, approve, and deny applications under this chapter.

(2) To contract with experts for advice and counsel.

(3) To employ staff to assist in carrying out this chapter, including providing assistance to applicants who wish to apply for a grant or loan from the fund, analyzing proposals, working with experts engaged by the board, and preparing reports and recommendations for the board.

(b) The board shall consider the following when reviewing applications to the fund:

(1) Which projects have the greatest economic development potential.

(2) The degree of regional collaboration.

(3) The level of state and local financial commitment and potential return on investment.

(c) The board shall make final funding determinations for applications.

(d) The board may not approve an application unless:

(1) the budget committee has reviewed the application;
(2) the board finds that approving the application will have an overall positive return on investment for the state; and
(3) the application has received a positive recommendation from the strategic review committee.

As added by P.L.178-2015, SEC.1.

IC 5-28-37-6
Administrative expenses

Sec. 6. The board may use money in the fund to cover administrative expenses incurred in carrying out the requirements of this chapter.

As added by P.L.178-2015, SEC.1.

IC 5-28-37-7
Applications seeking to address a release of petroleum

Sec. 7. (a) When the board awards a grant or makes a loan from the fund, the Indiana finance authority, upon request of the board, may determine that part of the grant or loan shall be made from the environmental remediation revolving loan fund established by IC 13-19-5-2 if:

(1) sufficient money has been transferred from the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1 to the environmental remediation revolving loan fund for that budget year;
(2) the application for the grant or loan requests funds for the elimination or mitigation of a release of petroleum from an underground storage tank, including:
(A) release investigation;
(B) mitigation of fire and safety hazards;
(C) tank removal;
(D) soil remediation; or
(E) groundwater remediation and monitoring;
(3) the project is ineligible for assistance from the underground petroleum storage tank excess liability trust fund under IC 13-23-7-1; and
(4) the project meets applicable eligibility requirements established by the Indiana finance authority for assistance from the environmental remediation revolving loan fund.

(b) In the case of a project:

(1) that involves property at which a release of petroleum from an underground storage tank has occurred or is suspected to have occurred; and
(2) that satisfies the eligibility requirements under IC 13-23-8-4 and 329 IAC for access to the underground petroleum storage tank excess liability trust fund under IC 13-23-7;

the board may recommend that the applicant apply for assistance from the underground petroleum storage tank excess liability trust

fund.
As added by P.L.178-2015, SEC.1.

IC 5-28-37-8
Annual report

Sec. 8. The board shall submit an annual report to the legislative council before September 1 of each year. The report must be in an electronic format under IC 5-14-6 and must contain the following information for each development authority that received a grant or loan from the fund in the preceding state fiscal year:

(1) The name of the development authority.

(2) The project for which the grant or loan was awarded to the development authority.

(3) The amount of the grant or loan disbursed to the development authority.

As added by P.L.178-2015, SEC.1.

IC 5-28-38

Chapter 38. Indiana Regional Cities Development Fund

IC 5-28-38-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the Indiana regional cities development fund established by section 2 of this chapter.

As added by P.L.213-2015, SEC.77.

IC 5-28-38-2

Fund established

Sec. 2. The Indiana regional cities development fund is established within the state treasury to support the corporation's regional cities initiative.

As added by P.L.213-2015, SEC.77.

IC 5-28-38-3

Components of the fund

Sec. 3. The fund consists of:

(1) money deposited into the fund under IC 6-8.1-3-25;

(2) appropriations from the general assembly;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest deposited into the fund under section 5 of this chapter.

As added by P.L.213-2015, SEC.77.

IC 5-28-38-4

Administration of the fund by the corporation

Sec. 4. The corporation shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

As added by P.L.213-2015, SEC.77.

IC 5-28-38-5

Investment of money in the fund

Sec. 5. 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 state general fund.

As added by P.L.213-2015, SEC.77.

IC 5-28-38-6

Nonreversion

Sec. 6. The 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.213-2015, SEC.77.

IC 5-29

ARTICLE 29. OFFICE OF TOURISM DEVELOPMENT

IC 5-29-1

Chapter 1. Definitions

IC 5-29-1-1

Application

Sec. 1. The definitions set forth in this chapter apply throughout this article.

As added by P.L.229-2005, SEC.4.

IC 5-29-1-2

"Agritourism"

Sec. 2. "Agritourism" means the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for purposes of enjoyment, education, or active involvement in the activities of the farm or operation.

As added by P.L.229-2005, SEC.4.

IC 5-29-1-3

"Council"

Sec. 3. "Council" refers to the Indiana tourism council established by IC 5-29-4-1.

As added by P.L.229-2005, SEC.4.

IC 5-29-1-4

"Director"

Sec. 4. "Director" refers to the director of the office of tourism development appointed under IC 5-29-2-2.

As added by P.L.229-2005, SEC.4.

IC 5-29-1-5

"Office"

Sec. 5. "Office" refers to the office of tourism development established by IC 5-29-2-1.

As added by P.L.229-2005, SEC.4.

IC 5-29-2

Chapter 2. Office of Tourism Development

IC 5-29-2-1

Office established

Sec. 1. The office of tourism development is established.

As added by P.L.229-2005, SEC.4.

IC 5-29-2-2

Lieutenant governor appoints director

Sec. 2. The lieutenant governor shall appoint the director of the office.

As added by P.L.229-2005, SEC.4.

IC 5-29-2-3

Director

Sec. 3. (a) The director of the office serves at the pleasure of the lieutenant governor.

(b) The director is the executive and chief administrative officer of the office.

(c) The director is entitled to compensation in an amount to be fixed by the lieutenant governor with the approval of the budget agency.

As added by P.L.229-2005, SEC.4.

IC 5-29-2-4

Director; employees

Sec. 4. The director may hire employees as necessary in the performance of the office's functions. Salaries of personnel shall be fixed by the director, with the approval of the lieutenant governor and the budget agency.

As added by P.L.229-2005, SEC.4.

IC 5-29-2-5

Office; duties

Sec. 5. (a) The office may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to promote tourism.

(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The office:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the

terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Request assistance, information, and advice regarding the duties and functions of the office from an officer, agent, or employee of the state. The head of any other state department or agency may assign any of the department's or agency's employees to the office on a temporary basis, or may direct a division or agency under the department's or agency's supervision and control to make a special study or survey requested by the director.

(4) Disseminate information concerning and advertise or contract to advertise the cultural, recreational, quality of life, and tourism advantages of Indiana.

(5) Plan, direct, and conduct research activities.

(b) The office shall assist in the development and promotion of Indiana's tourist resources, facilities, attractions, and activities.

As added by P.L.229-2005, SEC.4.

IC 5-29-2-6

Advisory committee

Sec. 6. The director may establish advisory committees to advise the office on issues determined by the director. If the director establishes an advisory committee under this section, the advisory committee must:

(1) have members that represent diverse geographic areas and economic sectors of Indiana; and

(2) include members or representatives of tourism organizations.

An advisory committee member is not entitled to salary or per diem.

As added by P.L.229-2005, SEC.4.

IC 5-29-2-7

Rules

Sec. 7. The director may adopt rules under IC 4-22-2 to carry out this article.

As added by P.L.229-2005, SEC.4.

IC 5-29-3

Chapter 3. Tourism Information and Promotion Fund

IC 5-29-3-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the tourism information and promotion fund established by section 4 of this chapter.

As added by P.L.229-2005, SEC.4.

IC 5-29-3-1.5

"Heritage barn"

Sec. 1.5. As used in this chapter, "heritage barn" has the meaning set forth in IC 6-1.1-12-26.2.

As added by P.L.117-2014, SEC.1.

IC 5-29-3-2

"Promotion"

Sec. 2. As used in this chapter, "promotion" includes the planning and conducting of information and advertising campaigns.

As added by P.L.229-2005, SEC.4.

IC 5-29-3-3

"Tourism group"

Sec. 3. As used in this chapter, "tourism group" means a private nonprofit corporation established under Indiana law whose purposes include the promotion of tourist resources and facilities in Indiana.

As added by P.L.229-2005, SEC.4.

IC 5-29-3-4

Tourism information and promotion fund established

Sec. 4. (a) The tourism information and promotion fund is established within the state treasury. The fund shall be used for the purposes of this chapter.

(b) The fund consists of appropriations from the general assembly and gifts, donations, bequests, devises, and contributions received by the office.

(c) The office shall administer the fund. The following may be paid from money in the fund:

(1) Grants.

(2) Expenses of administering the fund.

(3) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter.

(4) Expenses incurred to promote heritage barns under section 9 of this chapter.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund.

(e) 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 state general fund.
As added by P.L.229-2005, SEC.4. Amended by P.L.117-2014, SEC.2.

IC 5-29-3-4.3
References to tourism information and promotion fund

Sec. 4.3. A reference in any law or other document to the tourism information and promotion fund established by IC 4-4-3.5-2 (before its repeal by P.L.229-2005) shall be treated after June 30, 2005, as a reference to the tourism information and promotion fund established by section 4 of this chapter.
As added by P.L.220-2011, SEC.113.

IC 5-29-3-5
Grants

Sec. 5. The office may make grants from the fund to tourism groups for the promotion of tourist resources and facilities in Indiana. However, each grant must be matched by funds provided by the applicant, and the office may not provide more than one-half (1/2) of the funds for a project. The matching funds required from the applicant may be provided by any source except other state funds.
As added by P.L.229-2005, SEC.4.

IC 5-29-3-6
Grant guidelines

Sec. 6. (a) The office shall establish guidelines for the application and approval of grants.

(b) The office may seek the recommendations from the council when making a determination to approve or reject a grant application.
As added by P.L.229-2005, SEC.4.

IC 5-29-3-7
Promotional material

Sec. 7. Promotional materials produced with the assistance of funds provided under this chapter must include the following statement: "Produced in cooperation with the Indiana Office of Tourism Development." Promotional materials must also include a statement provided by the office.
As added by P.L.229-2005, SEC.4.

IC 5-29-3-8
Rules

Sec. 8. The office may adopt rules under IC 4-22-2 to carry out this chapter.
As added by P.L.229-2005, SEC.4.

IC 5-29-3-9

Heritage barn tourism program

Sec. 9. Before July 1, 2015, the office shall, using only the resources available to the office under P.L.205-2013 and this chapter, develop print and electronic media promoting tourism, visitation, and other hospitality opportunities that feature heritage barns located in Indiana. The department of agriculture and the office of community and rural affairs shall provide the office assistance in developing a heritage barn tourism program in Indiana.

As added by P.L.117-2014, SEC.3.

IC 5-29-4

Chapter 4. Indiana Tourism Council

IC 5-29-4-1

Council established

Sec. 1. The Indiana tourism council is established.

As added by P.L.229-2005, SEC.4.

IC 5-29-4-1.3

References to Indiana tourism council

Sec. 1.3. A reference in any law or other document to the Indiana tourism council established by IC 4-4-29-3 (before its repeal by P.L.229-2005) shall be treated after June 30, 2005, as a reference to the Indiana tourism council.

As added by P.L.220-2011, SEC.114.

IC 5-29-4-2

Members

Sec. 2. The council consists of the following members:

(1) The lieutenant governor.

(2) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate, for a term of one (1) year.

(3) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house of representatives, for a term of one (1) year.

(4) Three (3) members representing private sector associations related to the travel, tourism, or hospitality industries, appointed by the governor, for a term of one (1) year.

(5) Five (5) representatives of the private sector tourism industry, appointed by the governor, for a term of two (2) years.

(6) The director.

(7) The director of the department of natural resources.

(8) A member appointed by the Indiana Restaurant and Lodging Association, for a term of one (1) year.

(9) Three (3) members appointed by the Indiana Tourism Association, for a term of one (1) year.

As added by P.L.229-2005, SEC.4. Amended by P.L.144-2006, SEC.12; P.L.213-2015, SEC.78.

IC 5-29-4-3

Quorum; chairperson; procedures

Sec. 3. (a) Ten (10) members of the council constitute a quorum.

(b) The affirmative votes of a majority of the members appointed to the council are required for the council to take action.

(c) The lieutenant governor shall serve as chairperson of the council.

(d) The council shall adopt written procedures to govern the transaction of business by the council.

(e) A member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also not entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

As added by P.L.229-2005, SEC.4. Amended by P.L.144-2006, SEC.13; P.L.213-2015, SEC.79.

IC 5-29-4-4

Duties

Sec. 4. (a) The council shall do the following:

(1) Assist in developing goals and objectives for the office.

(2) Analyze the results and effectiveness of grants made by the office.

(3) Build commitment and unity among tourism industry groups.

(4) Create a forum for sharing talent, resources, and ideas regarding tourism.

(5) Encourage public and private participation necessary for the promotion of tourism.

(6) Make recommendations to the office regarding matters involving tourism.

(7) Make recommendations concerning grants from the tourism information and promotion fund.

(8) Make budget recommendations to the lieutenant governor.

(9) Approve or deny applications submitted to the office for the statewide tourism marketing development program as designated by the general assembly in the biennial budget.

(b) The council may establish advisory groups to make recommendations to the office on tourism research, development, and marketing.

As added by P.L.229-2005, SEC.4. Amended by P.L.213-2015, SEC.80.

IC 5-29-4-5

Funds

Sec. 5. The council may receive funds from any source and may expend funds for activities necessary, convenient, or expedient to carry out the council's purposes.

As added by P.L.229-2005, SEC.4.

IC 5-29-4-6

Office; administrative services to council

Sec. 6. The office shall provide administrative services to the council, as directed by the lieutenant governor.

As added by P.L.229-2005, SEC.4.

IC 5-29-4-7
Annual report

Sec. 7. The council shall submit an annual report to the governor and to the general assembly in an electronic format under IC 5-14-6 not later than November 1 each year.

As added by P.L.229-2005, SEC.4.

IC 5-30

ARTICLE 30. DESIGN-BUILD PUBLIC WORKS PROJECTS

IC 5-30-1

Chapter 1. Definitions

IC 5-30-1-1

Definitions; applicability

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.74-2005, SEC.1.

IC 5-30-1-2

"Construction services"

Sec. 2. "Construction services" means services provided under a design-build contract that are not design services.

As added by P.L.74-2005, SEC.1.

IC 5-30-1-3

"Design-build contract"

Sec. 3. "Design-build contract" means a contract between a public agency and a design-builder to furnish:

(1) architectural, engineering, and related design services as required for a public project; and

(2) labor, materials, and other construction services for the same public project.

As added by P.L.74-2005, SEC.1.

IC 5-30-1-4

"Design-builder"

Sec. 4. "Design-builder" means a person that furnishes the necessary design and construction services under a design-build contract, whether by itself or through contractual arrangements.

As added by P.L.74-2005, SEC.1.

IC 5-30-1-5

"Design criteria developer"

Sec. 5. "Design criteria developer" means a person registered under IC 25-4 as an architect or IC 25-31 as a professional engineer who is responsible for preparing the design criteria package for the public agency for a design-build project.

As added by P.L.74-2005, SEC.1.

IC 5-30-1-6

"Design criteria package"

Sec. 6. "Design criteria package" means a set of documents that provides sufficient information to permit an offeror to prepare a

proposal in response to a public agency's request for proposals.
As added by P.L.74-2005, SEC.1.

IC 5-30-1-7
"Design services"

Sec. 7. "Design services" means services that are:

(1) within the scope of practice specified by IC 25-4 for architecture or IC 25-31 for professional engineering; or

(2) performed by a registered architect or professional engineer in connection with the architect's or engineer's professional employment or practice.

As added by P.L.74-2005, SEC.1.

IC 5-30-1-8
"Offeror"

Sec. 8. "Offeror" means a person who submits a proposal in response to a request for proposals.
As added by P.L.74-2005, SEC.1.

IC 5-30-1-9
"Person"

Sec. 9. "Person" means an individual, a firm, a partnership, a limited liability company, a joint venture, an association, a corporation, or another legal entity.
As added by P.L.74-2005, SEC.1.

IC 5-30-1-10
"Proposal"

Sec. 10. "Proposal" means an offer by a potential design-builder to enter into a design-build contract for a public project in response to a request for proposals.
As added by P.L.74-2005, SEC.1.

IC 5-30-1-11
"Public agency"

Sec. 11. (a) "Public agency" means:

(1) a state agency (as defined in IC 4-13-1-1);

(2) a state educational institution;

(3) a unit (as defined in IC 36-1-2-23);

(4) a body corporate and politic created by state statute;

(5) a school corporation (as defined in IC 20-26-2-4);

(6) a conservancy district established for a purpose described in IC 14-33-1-1(a)(4) or IC 14-33-1-1(a)(5);

(7) a fire protection district established under IC 36-8-11;

(8) a department of aviation established under IC 8-22-2-1(a); or

(9) an airport authority established under IC 8-22-3-1.

(b) The term does not include the Indiana department of

transportation.
As added by P.L.74-2005, SEC.1. Amended by P.L.246-2005, SEC.58; P.L.2-2007, SEC.112; P.L.166-2011, SEC.1; P.L.7-2012, SEC.1; P.L.139-2013, SEC.1.

IC 5-30-1-12
"Public project"

Sec. 12. (a) "Public project" means the process of designing, constructing, reconstructing, altering, or renovating a public building, an airport facility, a sewer, a drain, or another structure or improvement that is paid for out of:

(1) a public fund; or
(2) a special assessment.

(b) The term includes either of the following:

(1) A process described in subsection (a) relating to a building or structure leased by a public agency under a lease containing an option to purchase.
(2) A public improvement to real property owned by a public agency.

(c) The term does not include the process of designing, constructing, altering, or repairing a public highway (as defined in IC 9-25-2-4).
As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.2.

IC 5-30-1-13
"Team"

Sec. 13. "Team" means a single entity that is responsible for a public project using the design-build contracting method. The entity may include:

(1) the design-builder; and
(2) a person who:
    (A) subcontracts with the design-builder;
    (B) is a partner of the design-builder;
    (C) enters into a joint venture with the design-builder; and
    (D) performs work under a design-build contract.

As added by P.L.74-2005, SEC.1.

IC 5-30-2
Chapter 2. General Provisions

IC 5-30-2-1
Validity of design-build contract

Sec. 1. A design-build contract awarded as provided in this article is valid and enforceable.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.3.

IC 5-30-2-2
Repealed

(As added by P.L.74-2005, SEC.1. Repealed by P.L.166-2011, SEC.12.)

IC 5-30-3

Chapter 3. Design-Builder Qualifications

IC 5-30-3-1

Design-builder qualifications

Sec. 1. At the time design services or construction services are to be provided under a design-build contract, a design-builder must:

(1) be;

(2) employ persons who are; or

(3) have as a member of the team a person who is;

licensed, registered, certified, or otherwise qualified to provide the design services and construction services required to complete the public project and do business in Indiana.

As added by P.L.74-2005, SEC.1.

IC 5-30-3-2

Subcontractor qualifications

Sec. 2. A design-builder may contract with the public agency to provide design services and construction services that the design-builder is not itself licensed, registered, or qualified to perform if the design-builder provides the services through subcontracts with persons who are licensed, registered, or qualified in accordance with this article.

As added by P.L.74-2005, SEC.1.

IC 5-30-3-3

No effect on liability

Sec. 3. This article does not limit or eliminate the responsibility or liability imposed by Indiana law on a person providing design services to the public agency or other third parties.

As added by P.L.74-2005, SEC.1.

IC 5-30-4

Chapter 4. Technical Review Committee

IC 5-30-4-1

Membership

Sec. 1. (a) Before entering into a design-build contract, a public agency must appoint a technical review committee of at least three (3) individuals.

(b) The members of the technical review committee must include the following:

(1) A representative of the public agency.

(2) At least two (2) of the following, but not more than one (1) under each clause:

(A) An architect registered under IC 25-4.

(B) A professional engineer registered under IC 25-31.

(C) A qualified contractor under IC 4-13.6 or an individual employed by the qualified contractor.

(c) A member of the technical review committee who is an architect or a professional engineer may be:

(1) an employee of the public agency; or

(2) an outside consultant retained by the public agency for the specific purpose of evaluating proposals submitted under this article.

(d) The design criteria developer may serve as:

(1) a full member; or

(2) a nonvoting adviser;

of the committee.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.4.

IC 5-30-4-2

Conflict of interest

Sec. 2. (a) A member of the technical review committee may not:

(1) submit a proposal for; or

(2) furnish design services or construction services under;

the design-build contract.

(b) The design-builder may not delegate or subcontract professional services or construction services under the design-build contract to a member of the technical review committee.

(c) Each member of the technical review committee must certify for each request for proposals that there is not a conflict of interest between the member and the design-builder responding to the request for proposals. If a conflict of interest exists, the member must be replaced before the review of any proposal.

As added by P.L.74-2005, SEC.1.

IC 5-30-4-3

Duties and responsibilities

Sec. 3. (a) The technical review committee shall do the following:

(1) Qualify potential design-builders as provided in IC 5-30-5.
(2) Rate and score qualitative proposals as provided in IC 5-30-6 and IC 5-30-7.

(b) The technical review committee may interview persons submitting proposals and conduct other business necessary to fulfill the purposes of this article. However, a public agency may not require an offeror to attend more than three (3) interviews in person with the technical review committee for a design-build contract.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.5.

IC 5-30-4-4
Open meetings

Sec. 4. (a) Except as otherwise provided in this section, meetings of a technical review committee must be open to the public and subject to IC 5-14-1.5.

(b) A meeting of a technical review committee convened for the purpose of interviewing persons submitting qualifications or proposals is not open to the public.

(c) If each member of a technical review committee for a public project is an employee of the public agency that is undertaking the public project, the technical review committee's meetings are not open to the public.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.6.

IC 5-30-5

Chapter 5. Request for Qualifications

IC 5-30-5-1

Publication of notice

Sec. 1. (a) Except as provided in subsection (c), when design-build contracting is used for a public project, a public agency shall publish a notice of a request for qualifications under IC 5-3-1. The notice must allow at least fourteen (14) days for potential design-builders to respond to the request for qualifications.

(b) Subsection (c) applies to a public project for which a public agency uses design-build contracting if:

(1) the public agency is a state educational institution; or

(2) the public agency is not a state educational institution and the preliminary estimated cost of the public project does not exceed five million dollars ($5,000,000).

(c) A public agency that undertakes a public project to which this subsection applies may publish a notice of a combined request for qualifications and proposals under IC 5-3-1 that includes:

(1) the information otherwise required by this chapter; and

(2) a request for proposals as otherwise provided under IC 5-30-6.

The notice must allow at least thirty (30) days for potential design-builders to respond to the combined request for qualifications and proposals.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.7.

IC 5-30-5-2

Notice contents

Sec. 2. A notice provided under section 1 of this chapter must provide the following information:

(1) An overview of the project and selection process including the following:

(A) A description of the project, including the:

(i) size and function of the facility that is the subject of the project;

(ii) approximate budget; and

(iii) anticipated schedule.

(B) A description of the selection process, including:

(i) the process for communications between the public agency and potential design-builders;

(ii) the schedule for the selection process;

(iii) the technical review committee procedure; and

(iv) a description of submission requirements.

(2) The general qualifications for prospective offerors, including:

(A) appropriate experience with similar projects;

(B) team experience with design-build;

(C) organizational resources and depth;
(D) licensing requirements;
(E) financial strength and bonding capacity;
(F) an offeror's history of contracting with or hiring minority business enterprises and women's business enterprises;
(G) litigation and disputes history; and
(H) experience in dealing with bonding authorities.

(3) The project specification qualifications for prospective offerors, including:

(A) team experience with the facility or building type that is the subject of the project;
(B) team performance record, including quality, schedule, and cost of each project;
(C) proposed team composition, including the team's past experience in working together;
(D) current capacity to manage the project;
(E) proposed key project personnel; and
(F) client references.

(4) A description of the qualifications statement evaluation process, which must include:

(A) an established rating system that complies with sections 4 and 5 of this chapter; and
(B) a briefing session or a formal question and answer process conducted with a potential offeror before submission of a proposal in response to a request for proposals.

As added by P.L.74-2005, SEC.1.

IC 5-30-5-3
Verified statement of qualifications

Sec. 3. (a) A potential design-builder responding to the request for qualifications under section 2 of this chapter must submit a verified statement of qualifications setting forth the qualifications of the potential design-builder and team members, if applicable, and provide the other information required by the request for qualifications.

(b) The verified statement of qualifications required under this section must include the following:

(1) A listing of all prime contractors and architectural and engineering firms that participate financially as part of the team.

(2) A statement that:

(A) the design-builder or the team members have completed or demonstrated the experience, competency, capability, and capacity to complete projects of similar size, scope, or complexity; and
(B) proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(3) A statement that the design-builder or team members have

the licenses, registrations, and credentials required to design and construct the project, including information on the revocation or suspension of a license, credential, or registration.

(4) A statement that the design-builder has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(5) The experience modifier rate, the United States Occupational Safety and Health Administration total recordable case incident rate (TCIR) and days away, restricted or transferred case incident rate (DART) for the design-builder and each design build team, and the average United States Occupational Safety and Health Administration TCIR and DART rates for the industrial classification of the design-builder and each design-build team.

(6) A statement that the design-builder or the employees of the team performing construction services, including the employees of all subcontractors, have completed or are enrolled in an apprenticeship program certified by the United States Department of Labor Bureau of Apprenticeship and Training.

(7) Information regarding any prior serious, repeat, willful, or criminal violation of the federal Occupational Safety and Health Act of 1970 and any equivalent violation under a state plan authorized under Section 18 of the federal act that has become a final order.

(8) Information concerning the debarment, disqualification, or removal of the design-builder or a team member from a federal, state, or local government public works project.

(9) Information concerning the bankruptcy or receivership of the design-builder or a team member.

As added by P.L.74-2005, SEC.1.

IC 5-30-5-4
Rating system

Sec. 4. The technical review committee shall rate the potential design-builders responding to the request for qualifications based on the rating system described under section 2(4) of this chapter. The rating system shall include consideration of any of the following:

(1) The design-builder's experience.

(2) The design-builder's financial and bonding capacity.

(3) The design-builder's managerial resources and management plan.

(4) The design-builder's safety record.

(5) The design-builder's past performance and capacity to perform.

(6) The design-builder's ability to complete the work in a timely and satisfactory manner.

(7) Other selection criteria set forth or verified in the request for qualifications.

As added by P.L.74-2005, SEC.1.

IC 5-30-5-5
Cost related or price related evaluation factors prohibited

Sec. 5. The technical review committee may not consider cost related or price related evaluation factors when rating the potential design-builders.

As added by P.L.74-2005, SEC.1.

IC 5-30-5-6
Selection of potential design-builders

Sec. 6. (a) The technical review committee shall select at least three (3) potential design-builders considered to be the most highly qualified to perform the required services based on the rankings of the potential design-builders. The technical review committee shall report the selection of qualified design-builders to the public agency.

(b) Notwithstanding subsection (a), if only two (2) potential design-builders respond to the request for qualifications, the technical review committee may report the two (2) potential design-builders to the public agency if the technical review committee finds that both potential design-builders are qualified to perform the required services.

(c) If:

(1) only one (1) potential design-builder responds to the request for qualifications; or

(2) only one (1) of the potential design-builders responding to the request for qualifications is qualified to perform the required services;

the public agency may not use the design-build contracting method authorized under this chapter, unless the governing body of the public agency adopts a resolution expressly authorizing the public agency to send the one (1) potential designer-builder referred to in subdivision (1) or (2) a request for proposal under IC 5-30-6. The governing body must adopt the resolution at a public meeting for which public notice has been provided.

As added by P.L.74-2005, SEC.1.

IC 5-30-6

Chapter 6. Request for Proposals

IC 5-30-6-1

Request for proposals; design criteria package

Sec. 1. (a) If a separate notice of request for qualifications is issued under IC 5-30-5-1(a), the public agency shall issue a request for proposals to the potential design-builders selected under IC 5-30-5-6.

(b) Each request for proposals must contain a design criteria package.

(c) If a public project is a controlled project (as defined in IC 6-1.1-20-1.1) for which a referendum is to be held, a request for proposals may not be issued until after the public agency proposing the controlled project has completed the procedures described in IC 6-1.1-20-3.6.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.8.

IC 5-30-6-2

Design criteria developer; conflict of interest

Sec. 2. (a) The design criteria developer shall prepare the design criteria package.

(b) The design criteria developer may not submit a proposal or furnish design or construction services under the contract.

(c) The design-builder may not delegate or subcontract design services or construction services under the design-build contract to the design criteria developer.

As added by P.L.74-2005, SEC.1.

IC 5-30-6-3

Design criteria package requirements

Sec. 3. (a) The public agency shall determine the scope and level of detail required for the design criteria package.

(b) The design criteria package must specify the design criteria necessary to describe the public project, which may include, as appropriate, the following:

(1) A legal description and survey of the site.
(2) Interior space requirements.
(3) Special material requirements.
(4) Material quality standards.
(5) Preliminary design criteria for the project.
(6) Special equipment requirements.
(7) Cost or budget estimates.
(8) Quality assurance and quality control requirements.
(9) Site development requirements.
(10) Compliance with applicable codes and ordinances.
(11) Permits and connections to utilities.
(12) Requirements for storm water and roads.

(13) Parking requirements.
(14) Soil borings and geotechnical information or performance specifications.
(15) Life cycle costing and energy consumption requirements.
(16) Performance specifications, including warranties.
(17) Project schedule.
(18) Any other applicable requirements.

As added by P.L.74-2005, SEC.1.

IC 5-30-6-4
Request for proposals; additional requirements

Sec. 4. In addition to the design criteria package, a request for proposals must include the following:
(1) Instructions.
(2) Proposal forms and schedules.
(3) General and special conditions.
(4) The basis for evaluation of proposals, including a description of the selection criteria with the weight assigned to each criteria.
(5) Any other instructions, documents, or information relevant to the public project that the public agency considers relevant.

As added by P.L.74-2005, SEC.1. Amended by P.L.252-2015, SEC.16.

IC 5-30-6-5
Qualitative proposal and price proposal required

Sec. 5. The request for proposals must include the requirement that a proposal be submitted in the following two (2) packages:
(1) A qualitative proposal.
(2) A price proposal.

As added by P.L.74-2005, SEC.1.

IC 5-30-6-5.5
Deliverables for a qualitative proposal

Sec. 5.5. The deliverables required for a qualitative proposal in a request for proposals may not exceed the following, as considered appropriate for the type of project by the technical review committee for the public project:
(1) All information requested in the design criteria package.
(2) A conceptual site plan.
(3) Conceptual building, systems, and equipment plans.
(4) Conceptual elevations.
(5) A project description narrative.
(6) A project schedule.

As added by P.L.166-2011, SEC.9.

IC 5-30-6-6
Stipend to unsuccessful bidder

Sec. 6. The public agency may provide a stipend to a non-successful bidder to encourage competition under this article.
As added by P.L.74-2005, SEC.1.

IC 5-30-7

Chapter 7. Selection and Award

IC 5-30-7-1

Proposal requirements

Sec. 1. A proposal submitted in response to a request for proposals described in IC 5-30-6 must satisfy the following:

(1) The qualitative proposal and the price proposal must be submitted simultaneously in separately sealed and identified packages. The price proposal must remain sealed until opened in public under section 5 of this chapter.

(2) A proposal must identify each person with whom the offeror proposes to enter into subcontracts for primary design services and primary construction services, including any subcontractors, under the design-build contract. The public agency may determine requirements under this section.

(3) The price proposal must:

(A) contain one (1) lump sum cost of all design, construction engineering, inspection, and construction costs of the proposed project; or

(B) establish a maximum cost of the design-build contract that will not be exceeded if the proposal is accepted without change.

(4) The qualitative proposal must include all the deliverables required for the qualitative proposal in the request for proposals.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.10.

IC 5-30-7-2

Submission of proposals to technical review committee

Sec. 2. (a) The public agency shall submit the qualitative proposals to the technical review committee.

(b) The public agency may require clarifications from an offeror to ensure conformance of proposals with the design criteria and administrative requirements.

(c) The technical review committee may not consider a proposal until the design criteria developer provides its professional opinion that the proposal conforms with the design criteria.

As added by P.L.74-2005, SEC.1.

IC 5-30-7-3

Scoring of proposals

Sec. 3. (a) The technical review committee shall review the qualitative proposals and establish a score for each qualitative proposal based on the factors, weighting, and process identified in the request for proposals.

(b) The technical review committee shall give a written

comprehensive score for each qualitative proposal.

(c) A written comprehensive score for a qualitative proposal must include the following:

(1) An explanation of the scoring methodology adopted by the technical review committee that is sufficiently detailed to enable an independent observer to calculate the composite score for the qualitative proposal from the scores described in subdivision (2).

(2) For each factor used in calculating the composite score of the qualitative proposal, the following:

(A) The unweighted score awarded by each member of the technical review committee for the factor.

(B) The unweighted score of the technical review committee as a whole for the factor, calculated from the individual scores described in clause (A).

(C) The weight for the factor, if all factors are not given equal weight in calculating the composite score for the qualitative proposal.

(D) The weighted score for the factor, if a weight specified under clause (C) is used to adjust the unweighted score determined under clause (B) for the factor.

(3) The composite score for the qualitative proposal, calculated from the scores described in subdivision (2) in accordance with the scoring methodology adopted by the technical review committee.

As added by P.L.74-2005, SEC.1. Amended by P.L.166-2011, SEC.11.

IC 5-30-7-4

Opening of price proposals; notice

Sec. 4. The public agency shall notify all offerors of the date, time, and location of the public opening of the sealed price proposals at least seven (7) days before the opening date.

As added by P.L.74-2005, SEC.1.

IC 5-30-7-5

Adjusted price

Sec. 5. The public agency shall publicly open the sealed price proposals and divide each offeror's price by the written composite score that the technical review committee has given to each qualitative proposal to obtain an adjusted price.

As added by P.L.74-2005, SEC.1.

IC 5-30-7-6

Basis for accepting proposal

Sec. 6. The public agency shall accept the proposal that provides the public agency with the lowest adjusted price providing the best value to the taxpayer. The public agency is not required to accept the

lowest price proposal.
As added by P.L.74-2005, SEC.1.

IC 5-30-7-7
Rejection of proposals

Sec. 7. The public agency may reject any and all proposals, except for the purpose of evading the provisions and policies of this article. A public agency must make a rejection of proposals under this section in a written document that states the reasons for rejecting proposals.
As added by P.L.74-2005, SEC.1.

IC 5-30-7-8
Negotiation of contract terms

Sec. 8. (a) The public agency may negotiate any contract term with the offeror selected under section 6 of this chapter, except for those terms identified in the request for proposals as nonnegotiable.

(b) If the public agency is unable to negotiate a contract with its first selection, the public agency may:

(1) terminate negotiations with that offeror; and

(2) negotiate with the next lowest adjusted price offeror.

A public agency shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.
As added by P.L.74-2005, SEC.1.

IC 5-30-7-9
Ownership of drawings, specifications, and information

Sec. 9. (a) Unless and until a proposal is accepted, the drawings, specifications, and other information in the proposal are the property of the offeror.

(b) After a proposal is accepted, ownership of the drawings, specifications, and information in the drawings and specifications shall be determined under Indiana law and the terms of the design-build contract.
As added by P.L.74-2005, SEC.1.

IC 5-30-8

Chapter 8. Miscellaneous Provisions

IC 5-30-8-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 4 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.115.

IC 5-30-8-1

Changes in public project; validity of design-build contract

Sec. 1. A design-build contract may be conditional upon subsequent refinements in scope and price and may permit the public agency to make changes in the scope of the project without invalidating the design-build contract.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-2

Replacement of subcontractor for primary design services and construction services

Sec. 2. (a) A person identified under IC 5-30-7-1(2) as a person with whom the design-builder proposes to enter into subcontracts for primary design services and primary construction services under the design-build contract may not be replaced without the approval of the public agency and a written determination by the public agency that a legitimate reason exists for the replacement.

(b) If a design-builder violates subsection (a), the public agency may cancel the award of or may terminate a design-build contract.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-3

Adjustment of maximum cost by agreement

Sec. 3. After award under this article, the maximum cost established in the successful proposal may be adjusted by negotiated agreement between the public agency and the design-builder to reflect modifications in the proposed design-build project.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-4

Performance and payment bonds required

Sec. 4. (a) The public agency:

(1) shall require the design-builder to furnish performance and payment bonds for the project if the estimated cost of the project is more than two hundred thousand dollars ($200,000); and

(2) may require the design-builder to furnish performance and payment bonds for the project if the estimated cost of the

project is not more than two hundred thousand dollars ($200,000).

(b) A performance or payment bond is not required for, and does not provide coverage for, the part of a design-build contract that includes design services only.

(c) Subsection (b) does not impair the ability of the public agency to seek recovery under the contract from the design-builder for errors, omissions, or defects in the design services.

As added by P.L.74-2005, SEC.1. Amended by P.L.133-2007, SEC.8.

IC 5-30-8-5

Certain acts by public agency prohibited

Sec. 5. A public agency may not, with respect to a public project covered by this article, require an offeror to:

(1) make application to;

(2) furnish financial data to; or

(3) obtain any of the surety bonds, or surety bond components of wrap-up insurance, that are specified in connection with a design-build contract or specified by any law from;

any particular insurance or surety company, agent, or broker.

As added by P.L.74-2005, SEC.1.

IC 5-30-8-6

Repealed

(As added by P.L.74-2005, SEC.1. Amended by P.L.18-2011, SEC.3; P.L.6-2012, SEC.39. Repealed by P.L.252-2015, SEC.17.)

IC 5-30-8-7

Repealed

(As added by P.L.252-2015, SEC.18. Repealed by P.L.250-2015, SEC.1; P.L.122-2016, SEC.2.)

IC 5-31

ARTICLE 31. REPEALED

(Repealed by P.L.133-2012, SEC.50.)

IC 5-32

ARTICLE 32. EMPLOYMENT OF CONSTRUCTION MANAGERS AS CONSTRUCTORS FOR PROJECTS

IC 5-32-1

Chapter 1. General Provisions

IC 5-32-1-1

Application of article

Sec. 1. This article applies only to the following:

(1) A public works project of a state educational institution that begins after June 30, 2014.

(2) A public works project of a public agency, other than a state educational institution, that begins after June 30, 2017.

As added by P.L.128-2014, SEC.1.

IC 5-32-1-2

Application of public works statutes

Sec. 2. Except as provided in this article, the applicable public works statute applies to the construction projects of the particular public agency performed under this article.

As added by P.L.128-2014, SEC.1.

IC 5-32-1-3

Expiration of article

Sec. 3. This article expires July 1, 2020.

As added by P.L.128-2014, SEC.1.

IC 5-32-1-4

Repealed

(As added by P.L.252-2015, SEC.19. Repealed by P.L.250-2015, SEC.2; P.L.122-2016, SEC.3.)

IC 5-32-2
Chapter 2. Definitions

IC 5-32-2-1
Application of definitions
Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-2
"Applicable public works statute"
Sec. 2. "Applicable public works statute" refers to whichever of the following statutes is applicable to public works projects of the public agency:
(1) IC 4-13.6.
(2) IC 5-16.
(3) IC 36-1-12.
(4) Any other statute applicable to the public works projects of the public agency.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-3
"Applicable contract award standard"
Sec. 3. "Applicable contract award standard" refers to the following:
(1) If the applicable public works statute is IC 4-13.6 or IC 36-1-12, the applicable contract award standard is "lowest responsive and responsible".
(2) If the applicable public works statute is IC 5-16, the applicable contract award standard is "lowest and best".
(3) If the applicable public works statute is a statute other than the statutes referred to in subdivision (1) or (2), the applicable contract award standard is the standard prescribed by the other public works statute that is the equivalent to "lowest responsive and responsible" or "lowest and best".
As added by P.L.128-2014, SEC.1.

IC 5-32-2-4
"Architect"
Sec. 4. "Architect" refers to a person registered under IC 25-4-1.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-5
"CMc" or "construction manager as constructor"
Sec. 5. "CMc" or "construction manager as constructor" means a person that provides CMc services.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-6
"CMc contract"
Sec. 6. "CMc contract" refers to a contract for CMc services.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-7
"CMc services"
Sec. 7. "CMc services" includes the following:
(1) Preconstruction phase services, including advice during the preconstruction phase of the project as described in the RFP.
(2) Consultation, collaboration, project construction management, and other services as described in the RFP, regarding the construction during and after the design and construction phases. However, the CMc may not procure the project professional architectural and engineering design services. The public agency must directly contract for the services of the architect and engineer of record.
(3) Development of a construction schedule, estimated cost of construction, and analysis of qualifications of first tier subcontractors.
(4) Subject to the CMc contract, a guarantee of:
(A) the cost of the project; and
(B) the project schedule.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-8
"Engineer"
Sec. 8. "Engineer" refers to a person registered under IC 25-31-1.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-9
"Evaluation committee"
Sec. 9. "Evaluation committee" refers to a group of individuals who are responsible for evaluating the responses of offerors to the RFP.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-10
"First tier subcontractor"
Sec. 10. "First tier subcontractor" refers to a subcontractor who contracts directly with the CMc.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-11
"GMP"
Sec. 11. "GMP" refers to the guaranteed maximum price for the work as may be established in the CMc contract.
As added by P.L.128-2014, SEC.1.

IC 5-32-2-12
"Offeror"

Sec. 12. "Offeror" refers to a person who submits a response to an RFP.

As added by P.L.128-2014, SEC.1.

IC 5-32-2-13
"Person"

Sec. 13. "Person" refers to a natural person, a partnership, a limited liability company, or a corporation.

As added by P.L.128-2014, SEC.1.

IC 5-32-2-14
"Project"

Sec. 14. (a) "Project" means the construction, remodeling, rehabilitation, or repair of buildings or other facilities owned by a public agency as described in the RFP.

(b) The term does not include the construction, remodeling, rehabilitation, or repair of roads, highways, bridges, or potable water or wastewater infrastructure.

As added by P.L.128-2014, SEC.1.

IC 5-32-2-15
"Public agency"

Sec. 15. "Public agency" has the meaning set forth in IC 5-30-1-11.

As added by P.L.128-2014, SEC.1.

IC 5-32-2-16
"Request for proposals" or "RFP"

Sec. 16. "Request for proposals" or "RFP" refers to the process by which a public agency solicits persons to provide CMc services under this article.

As added by P.L.128-2014, SEC.1.

IC 5-32-3

Chapter 3. Request for Proposals

IC 5-32-3-1

Selection of CMc

Sec. 1. If a public agency chooses to use the procedures set forth in this article when performing a public works project, the public agency shall select a CMc as provided in this chapter.

As added by P.L.128-2014, SEC.1.

IC 5-32-3-2

Request for proposals; notice

Sec. 2. (a) The public agency shall issue a request for proposals.

(b) Notice of a request for proposals shall be given as other notices are required to be given under the applicable public works statute.

As added by P.L.128-2014, SEC.1.

IC 5-32-3-3

Contents of request for proposals

Sec. 3. (a) A request for proposals must include at least the following:

(1) A statement of the criteria, process, and procedures, which must include consideration of qualifications and fees, by which:

(A) an offeror will be evaluated;

(B) a CMc will be selected; and

(C) a CMc contract will be awarded.

(2) Information about how the GMP may be established as part of the contract.

(3) A description of the insurance requirements for the CMc.

(b) The statement of the criteria for evaluation of offerors under subsection (a) must include a statement that each offeror's:

(1) history of contracting with or hiring minority, women, and veteran business enterprises; and

(2) good faith efforts to fulfill the state's goals for contracting with or hiring minority, women, and veteran business enterprises;

will be considered in the evaluation of the offeror's proposal.

As added by P.L.128-2014, SEC.1.

IC 5-32-3-4

Offerors selected to meet with evaluation committee; equal treatment of all selected offerors

Sec. 4. Each offeror selected to meet with the evaluation committee, based on the evaluation committee's review of the RFP responses, must be given an equal opportunity to meet and communicate with the evaluation committee.

As added by P.L.128-2014, SEC.1.

IC 5-32-3-5
Summary of evaluation committee's evaluation; availability to public

Sec. 5. A summary of the evaluation committee's evaluation of each offeror is subject to disclosure under IC 5-14-3, but only after the CMc contract has been awarded.

As added by P.L.128-2014, SEC.1.

IC 5-32-3-6
Contract negotiation with selected offeror

Sec. 6. If the public agency determines to proceed with the project, the public agency shall enter into negotiations with the offeror whose proposal has been selected by the evaluation committee considering:

(1) the responses to the RFP;
(2) any interviews with selected offerors; and
(3) evaluation of fees.

As added by P.L.128-2014, SEC.1.

IC 5-32-3-7
CMc performance of work

Sec. 7. A CMc may perform a part of the work only if:

(1) the public agency approves of the CMc's performance of the work;
(2) the CMc would be awarded a contract for the work under the applicable contract award standard; and
(3) the CMc performs only such work that equals not more than twenty percent (20%) of the total value of the project.

As added by P.L.128-2014, SEC.1.

IC 5-32-4

Chapter 4. CMc Contract

IC 5-32-4-1

Negotiation of CMc contract terms and conditions

Sec. 1. After the public agency has selected an offeror to be the CMc, the public agency and that offeror may negotiate the final terms and conditions of the contract for CMc services for the project.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-2

CMc to provide payment and performance bonds; construction may not proceed without bonds

Sec. 2. (a) Subject to this article, the CMc contract must require the CMc to provide payment and performance bonds in an amount not less than the estimated construction costs of the project or the GMP, as provided by the RFP.

(b) Construction may not be performed until the CMc has provided the bonds for that construction as required in the RFP and IC 5-32-6.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-3

Contract provisions; adjustment of compensation, other incentives

Sec. 3. A CMc contract must describe the details of any adjustment of compensation or other incentives negotiated between the public agency and the CMc.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-4

Cost overrun or delay damages; early completion incentives

Sec. 4. A CMc contract may describe whether the CMc and the public agency agree to any cost overrun or delay damages or early completion incentives.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-5

Changes to CMc contract

Sec. 5. Changes in the contract for CMc services may be made as provided in the CMc contract.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-6

Termination of CMc contract

Sec. 6. A public agency or CMc may terminate the CMc contract before the GMP has been determined, if the RFP provides for a GMP.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-7

Public agency options if CMc contract terminated or not executed

Sec. 7. (a) If any of the following occur, the public agency may proceed as described in subsection (b):

(1) The CMc contract is terminated under section 6 of this chapter.

(2) The public agency and the selected offeror are unable to reach agreement on a CMc contract.

(3) The selected offeror does not provide the required bonds as provided in the RFP or this article.

(b) If any of the events described in subsection (a)(1), (a)(2), or (a)(3) occur, the public agency may do any of the following:

(1) Negotiate a contract with another offeror.

(2) Award contracts and complete the project under any other applicable public works statute.

(3) Terminate the project.

As added by P.L.128-2014, SEC.1.

IC 5-32-4-8

Determination of GMP

Sec. 8. A CMc contract may describe if and when the GMP will be determined. If a GMP is established, the contract must describe all clarifications and assumptions on which the GMP is based.

As added by P.L.128-2014, SEC.1.

IC 5-32-5

Chapter 5. CMc Award of First Tier Subcontracts

IC 5-32-5-1

CMc must comply with applicable public works statute in award of first tier subcontracts

Sec. 1. The CMc shall comply with all notice, bidding, construction, and contract administration requirements relating to public works contracts that the public agency must comply with under the applicable public works statutes.

As added by P.L.128-2014, SEC.1.

IC 5-32-5-2

Award of first tier subcontracts; prequalification of potential bidders

Sec. 2. (a) A first tier subcontract shall be awarded to the bidder for that contract that would be awarded the contract under the applicable contract award standard.

(b) Before award of a first tier subcontract, the CMc may prequalify potential bidders based on written criteria established and published by the public agency. Otherwise, the applicable public works statute applies.

As added by P.L.128-2014, SEC.1.

IC 5-32-5-3

Information about bidders submitted with bid

Sec. 3. Each bidder must submit under oath as a part of the bid a statement of the following information:

(1) The bidder's professional experience.

(2) The bidder's proposed plan for performing the work.

(3) The equipment and personnel available for the performance of the work.

(4) The bidder's current financial status.

(5) The bidder's best estimate of the cost of each item of work to be performed, including a breakdown of all labor and materials required to complete the work.

As added by P.L.128-2014, SEC.1.

IC 5-32-5-4

CMc contracts with first tier subcontractors

Sec. 4. Once a bidder is selected, the CMc's contract with that bidder must include terms and conditions that are designed to accomplish the work at the lowest possible cost to the public agency.

As added by P.L.128-2014, SEC.1.

IC 5-32-5-5

Public inspection and copying of bids

Sec. 5. (a) Except as provided in subsection (b), a bid is a public

record subject to public inspection under IC 5-14-3.

(b) A bid is not subject to inspection and copying under IC 5-14-3 until a contract has been awarded or the solicitation of bids has been canceled.

As added by P.L.128-2014, SEC.1.

IC 5-32-6
Chapter 6. Bonds

IC 5-32-6-1
CMc payment bond

Sec. 1. The CMc shall execute a payment bond to the public agency, approved by the public agency, in an amount equal to the GMP, if established, or the proposed construction cost. The payment bond must be conditioned for payment by the CMc, the CMc's successors and assigns, and by the first tier subcontractors, their successors and assigns, of all indebtedness that may accrue to any person for any labor or service performed, materials furnished, or service rendered in the project. The bond by its terms must be conditioned to directly inure to the benefit of subcontractors, laborers, suppliers of materials, and those performing service who have furnished or supplied labor, material, or service for the project.
As added by P.L.128-2014, SEC.1.

IC 5-32-6-2
CMc performance bond

Sec. 2. (a) The CMc shall furnish proof of its ability to obtain a valid performance bond that is acceptable to the public agency in an amount equal to the GMP, if established, or the proposed construction cost.

(b) The CMc shall furnish the bond at the time of an early release construction package or when the GMP is determined and provided to the public agency.

(c) If the bond is acceptable to the public agency, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the GMP, if established, or the proposed construction cost. The surety on the bond shall not be released for a period of one (1) year after final settlement with the CMc. A change, modification, omission, or addition in and to the terms or conditions of the contract, plans, specifications, drawings, or profile or any irregularity or defect in the contract or in the proceedings preliminary to the letting and awarding of the CMc contract does not in any way affect or operate to release or discharge the surety.
As added by P.L.128-2014, SEC.1.