

IC 8-5-15

Chapter 15. Commuter Transportation Districts

IC 8-5-15-1

Definitions

Sec. 1. As used in this chapter:

"Board" means the board of trustees of the commuter transportation district.

"Commuter transportation system" means any rail common carrier of passengers for hire, the line, route, road, or right-of-way of which crosses one (1) or more county boundaries and one (1) or more boundaries of the state and serves residents in more than one (1) county. This system is limited to commuter passenger railroads.

"Cost" as applied to a railroad or railroad project includes:

- (1) the cost of construction;
- (2) the cost of acquisition of personal property, capital stock, land, rights-of-way, property rights, easements, and interests;
- (3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;
- (4) the cost of relocating public roads and land, or of easements;
- (5) the cost of all machinery and equipment, financing charges, interest before and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
- (6) the cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, traffic, and revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing or acquiring any such project;
- (7) administrative expense; and
- (8) such other expenses as may be necessary or incident to the construction or acquisition, of the project, the financing of the construction or acquisition, and the placing of the project in operation.

"District" means a commuter transportation district established under this chapter.

"Passenger" means a frequent user of the commuter transportation system who can demonstrate an interest and familiarity with the commuter transportation system.

"Project" or "railroad project" includes any facilities, adjuncts, and appurtenances necessary to operate a railroad, such as lines, routes, roads, rights-of-way, easements, licenses, permits, tangible personal property, and real property. It also includes all or a majority of the outstanding capital stock of a corporation that operates a railroad.

"Revenues" means all fees, tolls, rentals, gifts, grants, money, and all other funds coming into the possession or under the control of the board by virtue of this chapter, but does not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under this chapter.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.64-1984, SEC.1; P.L.3-1989, SEC.63; P.L.295-2001, SEC.1.

IC 8-5-15-2

Establishment; county membership; name; membership limitation

Sec. 2. (a) A county served by a system of commuter transportation and through which the line, road, route, or right-of-way of the system passes is a member, subject to subsection (b), of a commuter transportation district. The district is created and shall be composed solely of counties which are served by the system and through which the system passes.

(b) A county is a member of a district if that county's board of county commissioners adopted an ordinance authorizing the county's membership in the district under this chapter before January 1, 1987.

(c) A district shall be a distinct municipal corporation and shall bear a name including the words "commuter transportation district". Such municipal corporation shall include all the territory of the counties that are members of the district and shall be coterminous with such counties.

(d) Membership of the district is limited to counties which are directly served by a commuter transportation system which provides daily interstate commuter service and which owns and operates over trackage within the boundaries of the county.

As added by Acts 1980, P.L.8, SEC.68. Amended by Acts 1981, P.L.67, SEC.5; P.L.385-1987(ss), SEC.2.

IC 8-5-15-3

Board of trustees; membership; term

Sec. 3. (a) The district shall be supervised and managed by a board of trustees, which consists of the following:

(1) Four (4) members, one (1) from each county that is a member of the district, appointed by that county's board of county commissioners. In the case of a member appointed or reappointed under this subdivision after December 31, 2009, the member must be a member of the board of county commissioners of the county that the member represents.

(2) Four (4) members, one (1) from each county that is a member of the district, each of whom is the president of that county's county council or another council member designated by the president as a board member.

(3) After June 30, 2010, one (1) member representing the rest of the state, appointed by the governor.

(4) After June 30, 2010, one (1) passenger member appointed by the governor. The member appointed under this subdivision must be selected from passengers who have submitted a letter of interest to the governor. To be considered for this position, a passenger must submit a letter of interest to the governor during a two (2) week period that begins, in 2010, on May 2, 2010, and, in any year after 2010 in which the term of a member appointed under this subsection expires, sixty (60) days before

the expiration of the term of the member appointed under this subdivision. A member of the board serving under this subdivision is not required to submit a letter of interest to be eligible for appointment to a successive term.

(5) After June 30, 2010, one (1) member who is an employee of the district, appointed by the governor from a list of names submitted by the labor unions representing the employees of the district. Each labor union representing employees of the district may submit one (1) name to be included on the list of names under this subdivision.

(b) A member shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(c) The members of the board shall elect for a one (1) year term:

- (1) one (1) member as chairman;
- (2) one (1) member to serve as vice chairman;
- (3) one (1) member to serve as secretary; and
- (4) one (1) member to serve as treasurer.

(d) Not later than:

- (1) April 1, 2010; and
- (2) in any year after 2010 in which the term of a member appointed under subsection (a)(4) expires, ninety (90) days before the expiration of the term of the board member appointed under subsection (a)(4);

the district shall post in each commuter station in the district a notice of the opening on the board of trustees. The notice must announce the opening for a passenger member on the board of trustees and provide information on submitting a letter of interest. The notice must state the period in which the passenger must submit a letter of interest. The notice must remain posted until, in 2010, May 15, 2010, and, in any subsequent year in which the term of a member appointed under subsection (a)(4) expires, the expiration of the two (2) week period described in subsection (a)(4).

(e) A member appointed under subsection (a)(4) or (a)(5) may not:

- (1) vote on issues involving perceived or actual financial conflicts of interest, including personnel issues, collective bargaining, and assessment or levy of taxes; or
- (2) participate in an executive session of the board under IC 5-14-1.5-6.1, on issues regarding:

(A) the discussion of strategy for:

- (i) collective bargaining; or
- (ii) the initiation of litigation or litigation that is either pending or has been threatened specifically in writing;

as described in IC 5-14-1.5-6.1(b)(2); or

(B) the discussion of job performance evaluation of individual employees, except for a discussion of the salary, compensation, or benefits of employees during a budget process, as described in IC 5-14-1.5-6.1(b)(9).

(f) The members appointed under subsection (a)(4) and (a)(5) must reside in different counties.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.12-1983, SEC.18; P.L.64-1984, SEC.2; P.L.385-1987(ss), SEC.3; P.L.295-2001, SEC.2; P.L.182-2009(ss), SEC.263; P.L.48-2010, SEC.1.

IC 8-5-15-4

Board; powers; meetings; compensation

Sec. 4. (a) The board may exercise the executive and legislative power of the district as provided by this chapter.

(b) The board shall hold regular meetings, to be held not less than four (4) times a year, and shall keep its meetings open to the public.

(c) The members of the board are entitled to reimbursement for traveling expenses and other expenses incurred in connection with the members' duties, subject to state travel policies and procedures established by the state budget agency, to be paid by the district. Members are also entitled to a salary per diem provided by IC 4-10-11-2.1(b) while performing their duties.

(d) A majority of the members appointed to the board constitutes a quorum for a meeting. The affirmative votes of a majority of the members are necessary for any action to be taken by the board.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.385-1987(ss), SEC.4.

IC 8-5-15-5

Powers of board; dissolution of district

Sec. 5. (a) The board has all powers reasonably necessary to carry out the purpose of this chapter including the following powers:

- (1) To receive federal, state, county, and municipal funds, or private contributions and disburse them for the purpose of aiding commuter transportation systems serving the district.
- (2) To monitor and evaluate the use of funds granted or distributed by the district.
- (3) To apply for federal, state, municipal, or county funds for the purpose of rendering assistance to commuter transportation systems.
- (4) To coordinate its plans and activities with:
 - (A) any public transportation authority serving one (1) or more counties that are members of the district;
 - (B) the Indiana department of transportation;
 - (C) regional planning commissions serving any portion of the district;
 - (D) units of county and municipal government included in the district; and
 - (E) any regional transportation authority, transit authority, or like governmental unit in another state if the commuter transportation system crosses the boundary of the state or serves another.
- (5) To purchase, lease, or lease with option to purchase capital

equipment in aid of any system of commuter transportation operating in the district, and lease the equipment to the system under conditions and for a term to be determined by the board.

(6) As a municipal corporation, to sue and be sued.

(7) To conduct public hearings to accomplish the purpose of this chapter.

(8) To seek and accept the assistance of any public or publicly funded agency in carrying out its functions and duties.

(9) To enter into agreements with either private or public agencies for any purpose required to accomplish the intent of this chapter. The board may enter into a trust indenture or any other agreement with the board for depositories in order to obtain a loan or a loan guarantee under IC 5-13-12-11.

(10) To set levels of service and rates notwithstanding IC 8-3-1, for transportation of passengers subject to section 7 of this chapter.

(11) To expend funds granted to the district from any source for the purpose of paying reasonable administrative expenses.

(12) To purchase, acquire, lease, or lease with option to purchase all or any part of the assets of a railroad that is providing commuter transportation services within the district and to purchase or acquire all or any part of the issued and outstanding stock of a railroad that is providing commuter transportation services within the district.

(13) To own all or any part of the capital stock or assets of a railroad that is providing commuter transportation services within the district, and to operate either directly, by management contract, or by lease any such railroad.

(14) To issue revenue bonds of the district payable solely from revenues for the purpose of paying all or any part of the cost of acquiring the capital stock of a railroad company, all or any part of the assets of a railroad, or any property, real or personal, for the purposes of this chapter.

(15) To acquire, lease, construct, maintain, repair, police, and operate a railroad and to establish rules for the use of the railroad and other properties subject to the jurisdiction and control of the board.

(16) To acquire and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(17) To lease to others for development or operation all or any part of a railroad on such terms and conditions as the board considers advisable.

(18) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(19) To employ, subject to sections 18 and 19 of this chapter, an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents

as may be necessary in its judgment, and to fix their compensation.

(20) To negotiate and enter into agreements for railroad trackage rights regardless of the location of the track.

(21) To do all other acts necessary or reasonably incident to carrying out the purpose of this chapter.

(b) Notwithstanding the powers granted to the board in subsection (a), the district does not have the power to levy taxes.

(c) In the event the board of trustees determines that the commuter transportation system or the railroad owned by the district cannot continue to provide adequate transportation service, or the district is terminated, the board may, subject to the conditions of any state or federal grant used to purchase equipment or property, dispose of any properties of the district.

(d) In the event the district is dissolved, ninety percent (90%) of the proceeds shall be paid to the state and ten percent (10%) to the counties in proportion to their contributions.

(e) In the exercise of any of the powers granted to the board in subsection (a), the board is not subject to any other laws related to commuter transportation systems or railroads.

As added by Acts 1980, P.L.8, SEC.68. Amended by Acts 1981, P.L.67, SEC.6; P.L.12-1983, SEC.19; P.L.64-1984, SEC.3; P.L.48-1986, SEC.2; P.L.19-1987, SEC.22; P.L.385-1987(ss), SEC.5; P.L.18-1990, SEC.63.

IC 8-5-15-5.4

Bonds

Sec. 5.4. (a) The board may provide by resolution, at one (1) time or from time to time, for the issuance of revenue bonds of the district for the purpose of paying all or any part of the cost of a railroad project. The principal of and the interest on the bonds are payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, bear interest at any rate, and mature at a time or times not exceeding forty (40) years from the date thereof, as may be determined by the board, and may be made redeemable before maturity, at the option of the board, at such price or prices and under such terms and conditions as may be fixed by the board in the authorizing resolution.

(b) The board shall determine the form of the bonds, including any interest coupons to be attached to the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest.

(c) The bonds shall be issued in the name of the district and executed by the manual or facsimile signature of the president of the board. The manual or facsimile seal of the district shall be affixed or imprinted on the bonds and attested by the manual or facsimile signature of the secretary of the district. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized representative of a trustee for the bondholders. Any coupons attached to the bonds must bear the

facsimile signature of the treasurer of the board. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be an officer before the delivery of the bonds, the signature or facsimile shall nevertheless be considered valid and sufficient for all purposes the same as if he had remained in office until the delivery. The bonds must contain on their face a statement to the effect that the bonds, as to both principal and interest, are payable solely from the revenues pledged for their payment.

(d) All bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the negotiable instruments law of Indiana.

(e) The bonds may be issued in coupon, registered, or book entry form, or any combination of these, as the board may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The board may sell the bonds in such manner and for such price as it may determine to be in the best interest of the district, either at public sale under IC 5-1-11 or at private sale.

(g) The board may issue bonds under this chapter only after obtaining approval of the issuance by the Indiana department of transportation. Before giving approval, the Indiana department of transportation shall give due consideration to any contract terms and conditions that impinge on the continuation of revenues for the term of any bond.

(h) This chapter constitutes full and complete authority for the issuance of bonds. No law, procedure or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board or any other officer, department, agency or instrumentality of the state, county, or any municipality shall be required to issue such bonds except as may be prescribed in this chapter.

(i) Bonds issued under the provisions of this section shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loans and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and any other financial institutions organized under the laws of the state of Indiana.

(j) Bonds may not be sold to purchase or lease assets or purchase capital stock of a railroad unless the board has a written undertaking from the seller or lessor that the seller or lessor will take no direct action calculated to cause the reduction of levels of freight service being rendered or revenues being generated on any such railroad for a period of time not less than the term of the bonds.

As added by Acts 1981, P.L.67, SEC.7. Amended by P.L.64-1984, SEC.4; P.L.18-1990, SEC.64; P.L.42-1993, SEC.6.

IC 8-5-15-5.5

Bonds; security; pledges or assignments; rights and remedies of bondholders; depository; expenses

Sec. 5.5. (a) In the discretion of the board, any bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within this state. Any resolution adopted by the board providing for the issuance of revenue bonds and any trust agreement pursuant to which the bonds are issued may pledge or assign, subject only to valid prior pledges, all or any portion of the revenues received or to be received by the board, except such part as may be necessary to pay the cost of the board's administrative expenses, operation, maintenance, and repair of the railroad, and to provide reserves required by any bond resolution adopted or trust agreement executed by the board.

(b) In authorizing the issuance of bonds, the board may limit the amount of bonds that may be issued as a first lien against the amounts pledged to the payment of those bonds, or the board may authorize the issuance from time to time thereafter of additional bonds secured by the same lien. Additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the board and in the trust agreement or any agreement supplemental to the trust agreement. Additional bonds may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds, or may be made junior to the original issue of bonds.

(c) Any pledge or assignment made by the board under this section is valid and binding from the time that the pledge or assignment is made, and the amounts so pledged and thereafter received by the board are immediately subject to the lien of the pledge or assignment without physical delivery of those amounts or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the board or district irrespective of whether these parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created or an assignment made need be filed or recorded in order to perfect the resulting lien against third parties. However, a copy of the pledge or assignment shall be filed in the records of the board.

(d) Any trust agreement or resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law. The provisions may include, but are not limited to, covenants setting forth the duties of the board in relation to:

- (1) the acquisition of property;
- (2) the custody, safeguarding, investment, and application of all moneys received or to be received by the board of trustees;
- (3) the establishment of funds, reserves, and accounts;
- (4) the construction, improvement, maintenance, repair,

operation, and insurance of the railroad project in connection with which the bonds shall have been authorized; and

(5) the rates of fees, tolls, rentals, or other charges to be collected for the use of the railroad project.

(e) It is lawful for any bank or trust company incorporated under the laws of the state, and any national banking association which may act as depository of the proceeds of bonds or other funds of the board, to furnish such indemnifying bonds or to pledge such securities as may be required by the board.

(f) Any trust agreement entered into under this section may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition, such a trust agreement may contain such other provisions as the board may deem reasonable and proper for the security of the bondholders.

(g) All expenses incurred in carrying out the provisions of a trust agreement entered into under this section may be paid from the amounts distributed to the district from the electric rail service fund, from the bond proceeds, or from revenues.

As added by Acts 1981, P.L.67, SEC.8. Amended by P.L.64-1984, SEC.5.

IC 8-5-15-5.6

Covenants with bond purchasers; distributions from electric rail service fund

Sec. 5.6. (a) The general assembly covenants with the purchasers of any bonds issued pursuant to the authority of this chapter that the taxes providing the amounts to be distributed to the district from the electric rail service fund (IC 8-3-1.5-20.6) and the commuter rail service fund (IC 8-3-1.5-20.5), which amounts are pledged to the payment of those bonds, shall not be repealed, amended, or altered in any manner that would adversely affect the levy and collection of those taxes, or change the method of fixing the rates of those taxes, so long as the principal of, or interest on, any such bonds is unpaid.

(b) The board, on behalf of the state and the district, is hereby authorized to make a similar pledge or covenant in any agreement with the purchasers of any bonds issued pursuant to the authority of this chapter.

(c) For purposes of this section, the principal of or interest on bonds or notes shall be considered paid if provision has been made for their payment in such a manner that the bonds or notes are not considered to be outstanding under the provisions of the resolution or trust agreement pursuant to which the bonds or notes are issued.

As added by Acts 1981, P.L.67, SEC.9. Amended by P.L.385-1987(ss), SEC.6.

IC 8-5-15-5.7

Commuter transportation system bond fund; reserve; surplus

Sec. 5.7. (a) If there are bonds outstanding issued pursuant to

section 5.4 of this chapter, the treasurer of the board shall deposit in a separate and distinct fund called the commuter transportation system bond fund all amounts distributed to the district from the commuter rail service fund (IC 8-3-1.5-20.5) and the electric rail service fund established by IC 8-3-1.5-20.6.

(b) "Bond fund requirement" means the total of the following:

(1) the principal of and interest on all outstanding bonds issued pursuant to this chapter becoming due in the next twelve (12) months; plus

(2) as a reserve for such payment the amount provided in the resolutions or trust agreements pursuant to which such bonds are issued which reserve shall not in any event exceed an amount equal to two (2) times the maximum amount of principal and interest coming due of such bonds in any subsequent year by reason of stated maturities, scheduled mandatory prepayments or by operation of any mandatory prepayments or by operation of any mandatory sinking fund (assuming for the purpose of the foregoing that all such bonds which are subject to mandatory redemption or prepayment are redeemed or prepaid in accordance with the requirements of such mandatory redemption or prepayment and further assuming that such bonds are otherwise redeemed or prepaid prior to maturity).

(c) Amounts in the commuter transportation bond fund up to the bond fund requirement shall be applied to the payment of principal of such bonds and the interest thereon and to no other purpose whatsoever. Any amount in the bond fund which exceeds the bond fund requirement may be expended by the board for any purpose authorized by this chapter.

(d) The reserve shall be held as a separate subaccount within such bond fund. To the extent authorized and directed in any resolution of the board or in any trust agreement providing for the issuance of bonds pursuant to this chapter, proceeds of such bonds may be deposited in such reserve subaccount. However, the amount so deposited when added to any amount then in such subaccount shall not exceed the maximum amount required to be in such subaccount as above provided.

As added by Acts 1981, P.L.67, SEC.10. Amended by P.L.385-1987(ss), SEC.7.

IC 8-5-15-6

Conditions on grant

Sec. 6. Any commuter transportation system receiving assistance from a district shall, as a condition of the grant:

(1) submit its operating budget for passenger service rendered to the district for public hearings annually at least ninety (90) days before the beginning of the system's fiscal year;

(2) permit the Indiana department of transportation (IC 8-23-2) to audit the financial books and records of the system as the department would audit any intrastate railroad; and

(3) assume the responsibility for operation and maintenance of

the equipment in accordance with a lease agreement executed between the system and district.
As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.385-1987(ss), SEC.8; P.L.18-1990, SEC.65.

IC 8-5-15-7

Conflicts with federal law or regulations; levels of services

Sec. 7. (a) Any provision of this chapter in conflict with the Interstate Commerce Act of the United States or any other federal law or regulations governing transportation by common carrier is void, but all other provisions of this chapter shall be given effect if possible, without the provision or provisions so voided.

(b) The board may eliminate service or reduce levels of service for the transportation of passengers or property only after obtaining approval by the Indiana department of transportation.

As added by Acts 1980, P.L.8, SEC.68. Amended by P.L.64-1984, SEC.6; P.L.18-1990, SEC.66.

IC 8-5-15-8

Grant of funds

Sec. 8. (a) The board of commissioners of any county may authorize the grant of funds to any commuter transportation system serving or passing through the county for the purchase of equipment or other capital improvements. The grants shall be made to a district for distribution to the commuter transportation systems or for purchases of equipment or capital improvements to be used on or by the systems in connection with its public transportation operation.

(b) In the event the county is not a member of a district, a grant authorized by this section may be distributed directly to a commuter transportation system.

As added by Acts 1980, P.L.8, SEC.68.

IC 8-5-15-9

Repealed

(Repealed by P.L.11-1993, SEC.9.)

IC 8-5-15-10

Financial records; inspection; publicity; exclusion of freight service costs

Sec. 10. (a) Any commuter transportation system which receives aid from the district under this chapter must make its financial records available for inspection during normal working hours by a designated representative of the district.

(b) The district may provide any information to the general public which it develops from its review of the system's financial records which relates to the qualification for financial aid by that system.

(c) The district shall develop a formula which fairly allocates the administrative and operational costs incurred by the system between its freight service and passenger service.

(d) No state or local funds may be expended to reimburse the

system for costs allocated to freight service.
As added by Acts 1981, P.L.67, SEC.12.

IC 8-5-15-11

Proceeds of bonds; issuance of interim receipts or temporary bonds; mutilated, destroyed, or lost bonds

Sec. 11. (a) The proceeds of the bonds of each issue:

(1) shall be used solely for the payment of the cost of the railroad project for which the bonds have been issued; and

(2) shall be disbursed in such manner and under such restrictions, if any, as the board may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the same.

(b) If the proceeds of the bonds of any issue, by error of estimates or otherwise, are less than the cost of the railroad project for which they have been issued, additional bonds may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds shall be considered to be of the same issue and entitled to payment from that same fund without preference or priority of the bonds first issued.

(c) If the proceeds of the bonds of any issue exceed the cost of the railroad project for which they have been issued, the surplus shall be deposited to the credit of the sinking fund for those bonds.

(d) Before the preparation of definitive bonds, the board may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds that are mutilated, destroyed, or lost.

As added by P.L.64-1984, SEC.7.

IC 8-5-15-12

Revenue refunding bonds

Sec. 12. (a) The board may provide by resolution for the issuance of revenue refunding bonds of the district or revenue advance refunding bonds of the district, payable solely from revenues, for the purpose of refunding or advance refunding any bonds then outstanding that have been issued under this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if considered advisable by the board, for the additional purpose of constructing improvements, extensions, or enlargements of the railroad in connection with which the bonds to be refunded have been issued.

(b) The issuance of the bonds, the maturities and other details of the bonds, the rights of the bondholders, and the rights, duties, and obligations of the board in respect to the bonds, shall be governed by this chapter insofar as it may be applicable.

As added by P.L.64-1984, SEC.8.

IC 8-5-15-13

Money received under this chapter; disposition; depositories; trustee; guaranteed investment contract

Sec. 13. (a) All money received under this chapter, whether as proceeds from the sale of bonds, from revenues, or otherwise:

- (1) shall be considered to be trust funds to be held and applied solely as provided in this chapter; and
- (2) except as provided in subsection (d), may be invested before the time when needed to the extent and in the manner provided by IC 5-13-9, insofar as applicable.

(b) The funds shall be kept in depositories as selected by the board in the manner provided by law.

(c) The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or any bank or trust company to which, the money is entrusted shall act as trustee of the money and shall hold and apply the money for the purposes of this section, subject to this chapter and the authorizing resolution or trust agreement.

(d) Proceeds received by the district from the sale of equipment in a sale and leaseback transaction may be invested in or used to purchase a guaranteed investment contract with an insurance company whose long term indebtedness is rated in one (1) of the two (2) highest categories by at least two (2) national rating services. The guaranteed investment contract may not exceed the term of the lease and may be assigned to secure performance of the lease.

As added by P.L. 64-1984, SEC.9. Amended by P.L. 19-1987, SEC.23; P.L. 8-1996, SEC.11.

IC 8-5-15-14

Actions by bondholders or trustee; protection and enforcement of rights; enforcement and compelling performance of duties under chapter

Sec. 14. Any holder of bonds issued under this chapter and the trustee under any trust agreement, except to the extent the rights granted by this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings:

- (1) protect and enforce all rights under Indiana law or granted under this chapter or under the trust agreement, or the resolution authorizing the issuance of the bonds; and
- (2) enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the board or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the railroad or railroad project.

As added by P.L. 64-1984, SEC.10.

IC 8-5-15-15

Eminent domain; relocation assistance; properties in public use

Sec. 15. (a) The board may exercise the power of eminent domain

for the purpose of carrying out this chapter and award damages to landowners for real estate and property rights appropriated and taken. If the board cannot agree with the owners, lessees, or occupants of any real estate selected by the board for the purpose set forth in this chapter, the board may proceed to procure the condemnation of the property under IC 32-24.

(b) Relocation assistance under IC 8-23-17 shall be provided to any person displaced under this section.

(c) If the property over and across which the railroad must be constructed and must operate is already in use or acquired for use for a public purpose, the public use or acquisition of the property is not a bar to the right of the board to condemn the property for the purpose of this chapter.

As added by P.L.64-1984, SEC.11. Amended by P.L.18-1990, SEC.67; P.L.2-2002, SEC.42.

IC 8-5-15-16

Exercise of powers under this chapter for benefit of people of Indiana; tax exemption

Sec. 16. (a) The exercise of the powers granted by this chapter is in all respects for the benefit of the people of Indiana, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a railroad project by the board will constitute the performance of essential governmental functions, the board shall not be required to pay any taxes or assessments upon any railroad project or any property acquired or used by the board under this chapter, or upon the income from it, and the bonds issued under this chapter, the interest on them, the proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption before maturity or proceeds received at maturity, and the receipt of the interest and proceeds are exempt from taxation in Indiana as provided in IC 6-8-5.

As added by P.L.64-1984, SEC.12. Amended by P.L.3-1990, SEC.30.

IC 8-5-15-17

Employees of commuter railroad transportation system; protection

Sec. 17. If the district acquires a commuter railroad transportation system and proceeds to operate the system directly, by management contract, or by lease under this chapter, the employees of the system shall be protected as follows:

- (1) The employees of the system must be retained to the fullest extent consistent with sound management, and those terminated or laid off must be assured priority of reemployment.
- (2) The rights, privileges, and benefits of the employees under any pension or retirement plan are not affected, and the board shall assume the duties of the system under the plan.
- (3) The board shall act in such a manner as to insure the continuing applicability to affected railroad employees of the

provisions of all federal statutes applicable to them prior to April 1, 1984, and a continuation of their collective bargaining agreements until the provisions of those agreements can be renegotiated by representatives of the board and the representatives of those employees duly designated pursuant to terms and provisions of the federal Railway Labor Act (45 U.S.C. 151 et seq.).

(4) The employees of the system shall receive protection no less favorable than the employee conditions provided in the Matter of the New York Dock (360 I.C.C. 60), and no person with an employment relation with the commuter transportation system on April 1, 1984, may be deprived of employment or placed in a worse position by reason of the district's acquisition of a commuter transportation system.

As added by P.L.64-1984, SEC.13.

IC 8-5-15-18

Legal services; attorney general

Sec. 18. (a) Each district shall request the attorney general to perform any legal services required in providing transportation service within the district. If the attorney general is unable to perform those services, the district may, with the attorney general's approval, employ an attorney.

(b) The attorney general shall, to the extent feasible and upon request of a district, perform legal services for the district.

As added by P.L.385-1987(ss), SEC.10.

IC 8-5-15-19

Auditing services

Sec. 19. (a) Each district shall request the state board of accounts to perform any auditing services required under this chapter in providing transportation service within the district. If the state board of accounts is not able to perform those services, the district may employ an auditor to perform audits for the district.

(b) The state board of accounts shall, to the extent feasible and upon request:

- (1) perform auditing services for the district; and
- (2) consult with the district in acquiring auditing services.

As added by P.L.385-1987(ss), SEC.11.

IC 8-5-15-20

Agreements between district and system; contents

Sec. 20. Any agreement between the district and the system, the principal purpose of which is to provide passenger rail service, must include the following provisions:

- (1) That the replacement of capital assets employed in the provision of passenger service will be provided for prudently.
- (2) That the methods of conducting and accounting for financial transactions between parties to agreements will be compatible with the fiduciary responsibilities of the district and the

purposes of this chapter and follows generally accepted accounting principles.

(3) That the system shall maintain complete and accurate books and records, permit reasonable access by the district and its duly authorized representatives to the books and records of the system, and permit the district or its representatives, at reasonable times and subject to reasonable confidentiality restrictions, to inspect the properties and operations of the system.

(4) That the system shall also provide:

(A) system performance information, which will permit an assessment of passenger service in general and service levels in particular;

(B) information concerning the operation and administration of the passenger rail service;

(C) a projection of significant operational and administrative changes scheduled to take place in the ensuing fiscal year;

(D) a projection of capital expenditures scheduled to be undertaken by the system in the ensuing fiscal year; and

(E) a list of capital improvements that the system requests that the district undertake in the ensuing five (5) years.

(5) That a marketing study shall be undertaken no less frequently than every three (3) years. The study may be undertaken jointly by the system and the district. The study must measure and evaluate passenger attitudes and requirements concerning service levels, service quality, fares, and opportunities to improve service or to increase ridership.

(6) That the passenger service deficit will not exceed an agreed amount (with an allowance agreed to by the parties for variable expenses) during the term of the agreement.

As added by P.L.385-1987(ss), SEC.12.

IC 8-5-15-21

Agreements between district and system; property interests; operation

Sec. 21. Any agreement between the district and the system may include a provision that, with respect to assets owned by either party, property interests may be conveyed and responsibilities for operation and maintenance may be assigned to either party, or jointly held and exercised by either party.

As added by P.L.385-1987(ss), SEC.13.

IC 8-5-15-22

Agreements between district and system; service profile

Sec. 22. Any agreement between the district and the system must include a service profile describing passenger service levels. The service profile shall be described with terms and conditions that are objective and measurable.

As added by P.L.385-1987(ss), SEC.14.

IC 8-5-15-23

Financial or operating agreements; approval

Sec. 23. Any financial or operating agreement between a district and a system does not take effect until the Indiana department of transportation approves the agreement.

As added by P.L.385-1987(ss), SEC.15. Amended by P.L.18-1990, SEC.68.

IC 8-5-15-24

Financial responsibility; certification; proof

Sec. 24. (a) Before January 1 of each year, the district shall certify to the Indiana department of transportation that the district has taken action to provide financial responsibility against liability of the district under any agreement with a commuter transportation system.

(b) Proof of financial responsibility under this section may be established by proof that:

- (1) a liability insurance policy is in force; or
- (2) a self-insurance program is in effect.

(c) The district shall participate, if feasible, in the programs established by the political subdivision risk management commission under IC 27-1-29.

As added by P.L.385-1987(ss), SEC.16. Amended by P.L.18-1990, SEC.69.

IC 8-5-15-25

Capital improvement contingency fund

Sec. 25. (a) The capital improvement contingency fund is established for the purpose of:

- (1) receiving taxes, appropriations, and other revenues;
- (2) matching state or federal transportation grants made to permit the acquisition of capital assets;
- (3) acquiring capital improvements or assets; or
- (4) receiving, holding, and disbursing funds as a fiduciary.

(b) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.385-1987(ss), SEC.17.

IC 8-5-15-26

Petition to discontinue rail passenger service; acquisition of property

Sec. 26. If a petition is filed by the system under the Interstate Commerce Act to discontinue rail passenger service, the district may take the necessary action to acquire the system's passenger and freight properties under sections 5(a)(12) and 5(a)(13) of this chapter and, if necessary, exercise the power of eminent domain under section 15 of this chapter.

As added by P.L.385-1987(ss), SEC.18.