

**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.*