

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1144

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.6-11-6, AS ADDED BY P.L.197-2016, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) This section applies to Lake County, LaPorte County, Porter County, and any municipality in those counties that is a member of the northwest Indiana regional development authority (IC 36-7.5) for purposes of categorizations, allocations, and distributions of additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9.

(b) This subsection applies only to Lake County. **The county or a city described in IC 36-7.5-2-3(b) may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 for making transfers required by IC 36-7.5-4-2 or to provide rail project funding under IC 36-7.5-4.5.** The county or a city or town in the county may use additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 to provide homestead credits in the county, city, or town. The following apply to homestead credits provided under this subsection:

- (1) The county, city, or town fiscal body must adopt an ordinance authorizing the homestead credits. The ordinance must specify the amount of additional revenue that will be used to provide homestead credits in the following year.
- (2) The county, city, or town fiscal body that adopts an ordinance

HEA 1144 — CC 1



under this subsection must forward a copy of the ordinance to the county auditor and the department of local government finance not more than thirty (30) days after the ordinance is adopted.

(3) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(4) The homestead credits shall be treated for all purposes as property tax levies.

(5) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(6) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subsection to provide homestead credits in that year.

(c) This subsection applies only to LaPorte County as follows:

(1) This subsection applies if:

(A) the county fiscal body has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the northwest Indiana regional development authority; and

(B) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority.

(2) Additional revenue that is allocated each year for economic development purposes under IC 6-3.6-6-9 may be used by a county or a city described in IC 36-7.5-2-3(e) for making transfers required by IC 36-7.5-4-2. In addition, if the allocation of additional revenue for economic development purposes under IC 6-3.6-6-9 is increased in the county, the first three million five hundred thousand dollars (\$3,500,000) of the tax revenue that results each year from the allocation increase shall be used by the county only to make the county's transfer required by IC 36-7.5-4-2 and shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2 before certified distributions are made to the county or any cities or towns in the county.

(3) All of the additional revenue allocated for economic development purposes under IC 6-3.6-6-9 that results each year from an allocation increase described in subdivision (2) and that is in excess of the first three million five hundred thousand dollars (\$3,500,000) must be used by the county and cities and towns in the county for homestead credits under this subsection. The



following apply to homestead credits provided under this subsection:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city, or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subdivision to provide homestead credits in that year.

(d) This subsection applies only to Porter County. The additional revenue designated each year for economic development purposes under IC 6-3.6-6 shall be allocated and used as follows:

(1) First, the revenue attributable to an income tax rate of twenty-five hundredths percent (0.25%) shall be allocated to the county and cities and towns as provided in IC 6-3.6-6-9.

(2) Second, the next three million five hundred thousand dollars (\$3,500,000) of the revenue shall be used for the county or for eligible municipalities (as defined in IC 36-7.5-1-11.3) in the county, to make transfers as provided in and required under IC 36-7.5-4-2. This amount shall be paid by the county treasurer to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2. If Porter County ceases to be a member of the northwest Indiana regional development authority under IC 36-7.5 but two (2) or more municipalities in the county have become members of the northwest Indiana regional development authority as authorized by IC 36-7.5-2-3(i), the county treasurer shall continue to transfer this amount to the treasurer of the northwest Indiana regional development authority under IC 36-7.5-4-2.

(3) Third, except as provided in IC 36-7.5-3-5, all of the revenue each year that is in excess of the amounts described in subdivisions (1) and (2) must be used by the county and cities and towns in the county for homestead credits. The following apply to homestead credits provided under this subdivision:

(A) The homestead credits must be applied uniformly to provide a homestead credit for homesteads in the county, city,



or town.

(B) The homestead credits shall be treated for all purposes as property tax levies.

(C) The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(D) The auditor of state shall determine the homestead credit percentage for a particular year based on the amount of additional revenue that will be used under this subdivision to provide homestead credits in that year.

SECTION 2. IC 8-16-3.1-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 0.7. As used in this chapter, "double tracking" means a railway running two (2) bidirectional tracks. The term includes a railway:**

(1) with a double track that can be signaled to run in a single direction; and

(2) with a double track that can be signaled into one (1) track to provide clearance as needed.

SECTION 3. IC 8-16-3.1-4, AS AMENDED BY P.L.182-2009(ss), SECTION 265, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 4. (a) The executive of any eligible county may provide a major bridge fund in compliance with IC 6-1.1-41 to make available funding for the following purposes:**

(1) The construction of major bridges.

(2) In Allen County, the construction, maintenance, and repair of bridges, approaches, and grade separations with respect to structures other than major bridges.

(3) For an eligible county that is a member of a commuter transportation district established under IC 8-5-15:

(A) making grants to a commuter transportation system (as defined in IC 8-5-15-1) only for the benefit of the commuter transportation system (as defined in IC 8-5-15-1);

(B) making debt service payments for revenue bonds issued under IC 8-5-15-5.4 for a railroad project of a commuter transportation system (as defined in IC 8-5-15-1); and

(C) making grants to the northwest Indiana regional development authority established by IC 36-7.5-2-1 for the benefit of a commuter transportation system (as defined in



IC 8-5-15-1), if the northwest Indiana regional development authority has issued bonds for a railroad project of a commuter transportation system (as defined in IC 8-5-15-1).

(b) The Indiana finance authority shall conduct pre-financing verification of an eligible county to pay for a transportation project involving double tracking if the project is wholly or partially funded by money from the major bridge fund under subsection (a).

~~(b)~~ **(c)** The executive of any eligible county may levy a tax in compliance with IC 6-1.1-41 not to exceed three and thirty-three hundredths cents (\$0.0333) on each one hundred dollars (\$100) assessed valuation of all taxable personal and real property within the county to provide for the major bridge fund.

~~(c)~~ **(d)** The general assembly finds the following:

- (1) Allen County eliminated its levy for a cumulative bridge fund to use its levy authority to fund a juvenile center.
- (2) Allen County has more bridges than any other county in Indiana, outside of Marion County: Marion County has five hundred twenty-two (522), Allen County has three hundred fifty-one (351), and Hamilton County has two hundred seventy-seven (277).
- (3) Allen County has the largest land area of any county in Indiana.
- (4) Allen County is the third largest populated county in Indiana.
- (5) Allen County has a heavy manufacturing and industrial base, increasing traffic and wear and tear on streets, roads, and bridges.
- (6) Allen County has large temperature fluctuations, leading to increased maintenance costs.
- (7) Allen County has three (3) major rivers that come together in the heart of Fort Wayne, which means more bridges are needed in the area due to the infrastructure that accommodates Fort Wayne, the second largest city in Indiana.
- (8) Allen County dissolved its cumulative bridge fund in 2002 to provide room in the levy for judicial mandates to build two (2) detention facilities, as the former jail was overcrowded due to the large population.
- (9) Allen County has a major bridge fund that is provided to maintain major bridges, but can be used to fund smaller bridges and will not harm the ability of Allen County to pay for obligations caused by judicial mandates.
- (10) Expansion of the purposes for Allen County's major bridge fund may be used in Allen County to meet the critical needs in



Allen County for the maintenance of bridges other than major bridges in the unincorporated areas of the county.

~~(d)~~ (e) Because of the findings set forth in subsection ~~(e)~~; (d), except as provided in subsection ~~(e)~~; (f), beginning after June 30, 2009, in Allen County the county executive is responsible for providing funds for the following:

- (1) All bridges in unincorporated areas of the county.
- (2) All bridges in each municipality in the county that has entered into an interlocal agreement under IC 36-1-7 with the county to provide bridge funds.

~~(e)~~ (f) Subsection ~~(d)~~ (e) does not apply to providing funds for bridges on the state highway system.

SECTION 4. IC 36-7.5-2-3, AS AMENDED BY P.L.119-2012, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The development authority is governed by the development board appointed under this section.

(b) Except as provided in subsections (e), (f), and (h), the development board is composed of the following seven (7) members:

(1) Two (2) members appointed by the governor. One (1) of the members appointed by the governor under this subdivision must be an individual nominated under subsection (d). The members appointed by the governor under this subdivision serve at the pleasure of the governor.

(2) The following members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) One (1) member appointed by the mayor of the largest city in the county in which a riverboat is located.

(B) One (1) member appointed by the mayor of the second largest city in the county in which a riverboat is located.

(C) One (1) member appointed by the mayor of the third largest city in the county in which a riverboat is located.

(D) One (1) member appointed jointly by the county executive and the county fiscal body. A member appointed under this clause may not reside in a city described in clause (A), (B), or (C).

(3) One (1) member appointed jointly by the county executive and county fiscal body of a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000).

(c) A member appointed to the development board must have knowledge and at least five (5) years professional work experience in



at least one (1) of the following:

- (1) Rail transportation or air transportation.
- (2) Regional economic development.
- (3) Business or finance.

(d) The mayor of the largest city in a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's initial appointments under subsection (b)(1) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county shall nominate three (3) residents of the county for appointment to the development board. One (1) of the governor's appointments under subsection (b)(1) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (b)(1) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(e) A county having a population of more than one hundred eleven thousand (111,000) but less than one hundred fifteen thousand (115,000) shall be an eligible county participating in the development authority if the fiscal body of the county adopts an ordinance ~~before September 15, 2006~~, providing that the county is joining the development authority and the fiscal body of a city that is located in the county and that has a population of more than thirty-one thousand (31,000) but less than thirty-one thousand five hundred (31,500) adopts an ordinance ~~before September 15, 2006~~, providing that the city is joining the development authority. Notwithstanding subsection (b), if ordinances are adopted under this subsection and the county becomes an eligible county participating in the development authority:

- (1) the development board shall be composed of nine (9) members rather than seven (7) members; and
- (2) the additional two (2) members shall be appointed in the following manner:
 - (A) One (1) additional member shall be appointed by the governor and shall serve at the pleasure of the governor. The member appointed under this clause must be an individual nominated under subsection (f).
 - (B) One (1) additional member shall be appointed jointly by the county executive and county fiscal body.

(f) This subsection applies only if the county described in subsection (e) is an eligible county participating in the development authority. The



mayor of the largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's initial appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. At the expiration of the member's term, the mayor of the second largest city in the county described in subsection (e) shall nominate three (3) residents of the county for appointment to the development board. The governor's second appointment under subsection (e)(2)(A) must be an individual nominated by the mayor. Thereafter, the authority to nominate the three (3) individuals from among whom the governor shall make an appointment under subsection (e)(2)(A) shall alternate between the mayors of the largest and the second largest city in the county at the expiration of a member's term.

(g) An individual or entity required to make an appointment under subsection (b) or nominations under subsection (d) must make the initial appointment before September 1, 2005, or the initial nomination before August 15, 2005. If an individual or entity does not make an initial appointment under subsection (b) before September 1, 2005, or the initial nominations required under subsection (d) before September 1, 2005, the governor shall instead make the initial appointment.

(h) Subsection (i) applies only to municipalities located in a county that:

- (1) has a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000); and
- (2) was a member of the development authority on January 1, 2009, and subsequently ceases to be a member of the development authority.

(i) If the fiscal bodies of at least two (2) municipalities subject to this subsection adopt ordinances to become members of the development authority, those municipalities shall become members of the development authority. If two (2) or more municipalities become members of the development authority under this subsection, the fiscal bodies of the municipalities that become members of the development authority shall jointly appoint one (1) member of the development board who shall serve in place of the member described in subsection (b)(3). A municipality that becomes a member of the development authority under this subsection is considered an eligible municipality for purposes of this article.

SECTION 5. IC 36-7.5-2-7, AS ADDED BY P.L.214-2005, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. The development board may adopt the bylaws



and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property. **The development board shall include in its rules a statement that recognizes that a member of the development board is a public servant subject to IC 35-44.1-1-4 concerning conflict of interest.**

SECTION 6. IC 36-7.5-4-1, AS AMENDED BY P.L.197-2016, SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) The development board shall establish and administer a development authority fund.

(b) The development authority fund consists of the following:

- (1) Riverboat admissions tax revenue, riverboat wagering tax revenue, or riverboat incentive payments received by a city or county described in IC 36-7.5-2-3(b) and transferred by the county or city to the fund.
- (2) Local income tax revenue dedicated to economic development purposes by a county or city and transferred by the county or city to the fund.
- (3) Amounts distributed under IC 8-15-2-14.7.
- (4) Food and beverage tax revenue deposited in the fund under IC 6-9-36-8.
- (5) Funds received from the federal government.
- (6) Appropriations to the fund by the general assembly.
- (7) Other local revenue appropriated to the fund by a political subdivision.
- (8) Amounts transferred to the fund under IC 36-7.5-4.5.**
- ~~(8)~~ **(9) Gifts, donations, and grants to the fund.**

(c) The development authority shall establish a development authority fund. The development board shall establish and administer a general account, a lease rental account, and such other accounts in the fund as are necessary or appropriate to carry out the powers and duties of the development authority. Except as otherwise provided by law or agreement with holders of any obligations of the development authority, all money transferred to the development authority fund under subsection (b)(1), (b)(2), and (b)(4) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by an eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the treasurer of the development authority to the respective counties and cities that contributed the money to the



development authority.

(d) If the amount of money transferred to the development authority fund under subsection (b)(1), (b)(2), and (b)(4) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to:

- (1) one and twenty-five hundredths (1.25); multiplied by
- (2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

all or a portion of the excess may instead be deposited in the general account.

(e) Except as otherwise provided by law or agreement with the holders of obligations of the development authority, all other money and revenues of the development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(f) The development authority fund shall be administered by the development authority.

(g) Money in the development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

SECTION 7. IC 36-7.5-4-2, AS AMENDED BY P.L.197-2016, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) Except as provided in subsections (b) and (d), the fiscal officer of each city and county described in IC 36-7.5-2-3(b) shall each transfer three million five hundred thousand dollars (\$3,500,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. However, if a county having a population of more than one hundred fifty thousand (150,000) but less than one hundred seventy thousand (170,000) ceases to be a member of the development authority and two (2) or more municipalities in the county have become members of the development authority as authorized by IC 36-7.5-2-3(i), the transfer of the local income tax revenue that is dedicated to economic development purposes that is required to be transferred under IC 6-3.6-11-6 is the contribution of the municipalities in the county that have become members of the



development authority.

(b) This subsection applies only if:

- (1) the fiscal body of the county described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the county is joining the development authority;
- (2) the fiscal body of the city described in IC 36-7.5-2-3(e) has adopted an ordinance under IC 36-7.5-2-3(e) providing that the city is joining the development authority; and
- (3) the county described in IC 36-7.5-2-3(e) is an eligible county participating in the development authority.

The fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five thousand dollars (\$2,625,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter. The fiscal officer of the city described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five thousand dollars (\$875,000) each year to the development authority for deposit in the development authority fund established under section 1 of this chapter.

(c) This subsection does not apply to Lake County, Hammond, Gary, or East Chicago. The following apply to the remaining transfers required by subsections (a) and (b):

- (1) Except for transfers of money described in subdivision (4)(D), the transfers shall be made without appropriation by the city or county fiscal body or approval by any other entity.
- (2) Except as provided in subdivision (3), each fiscal officer shall transfer eight hundred seventy-five thousand dollars (\$875,000) to the development authority fund before the last business day of January, April, July, and October of each year. Food and beverage tax revenue deposited in the fund under IC 6-9-36-8 is in addition to the transfers required by this section.
- (3) The fiscal officer of the county described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six thousand two hundred fifty dollars (\$656,250) to the development authority fund before the last business day of January, April, July, and October of each year. The county is not required to make any payments or transfers to the development authority covering any time before January 1, ~~2007~~ 2017. The fiscal officer of a city described in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand seven hundred fifty dollars (\$218,750) to the development authority fund before the last business day of January, April, July, and October of each year. The city is not required to make any payments or transfers to the development authority covering any



time before January 1, ~~2007~~ **2017**.

(4) The transfers shall be made from one (1) or more of the following:

(A) Riverboat admissions tax revenue received by the city or county, riverboat wagering tax revenue received by the city or county, or riverboat incentive payments received from a riverboat licensee by the city or county.

(B) Any local income tax revenue that is dedicated to economic development purposes under IC 6-3.6-6 and received under IC 6-3.6-9 by the city or county.

(C) Any other local revenue other than property tax revenue received by the city or county.

(D) In the case of a county described in IC 36-7.5-2-3(e) or a city described in IC 36-7.5-2-3(e), any money from the major moves construction fund that is distributed to the county or city under IC 8-14-16.

(d) This subsection applies only to Lake County, Hammond, Gary, and East Chicago. The obligations of each city and the county under subsection (a) are satisfied by the distributions made by the auditor of state on behalf of each unit under IC 4-33-12-6(d) and IC 4-33-13-5(j). However, if the total amount distributed under IC 4-33 on behalf of a unit with respect to a particular state fiscal year is less than the amount required by subsection (a), the fiscal officer of the unit shall transfer the amount of the shortfall to the authority from any source of revenue available to the unit other than property taxes. The auditor of state shall certify the amount of any shortfall to the fiscal officer of the unit after making the distribution required by IC 4-33-13-5(j) on behalf of the unit with respect to a particular state fiscal year.

SECTION 8. IC 36-7.5-4-16, AS AMENDED BY P.L.192-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) This section applies if a **political subdivision or city or county described in IC 36-7.5-2-3 or a county participating in a rail project under IC 36-7.5-4.5** fails to make a transfer or a part of a transfer required by section 2 of this chapter **or fails to pay or transfer any amounts a political subdivision or a city or county described in IC 36-7.5-2-3 or a county participating in a rail project under IC 36-7.5-4.5 has agreed to pay or transfer to the development authority pursuant to the terms of any bond, note, debenture, warrant, contractual agreement, or any other promise or agreement.**

(b) ~~The treasurer of state shall do the following:~~ **The development authority shall notify the treasurer of state or the fiscal officer of**



a city, a county described in IC 36-7.5-2-3, or a county participating in a rail project under IC 36-7.5-4.5 when a city, county, or political subdivision has failed to pay or transfer all or part of a payment or transfer due under this section. In the case of a county that is a cash participant county under IC 36-7.5-4.5 that is making payments directly to the Indiana finance authority, the Indiana finance authority shall notify the treasurer of state and the development authority of a default. Upon receiving notice from the development authority or the Indiana finance authority, the treasurer of state or fiscal officer shall:

(1) Deduct from amounts otherwise payable to the city, or county, ~~under IC 4-33-13~~ or political subdivision:

(A) an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the city, or county, or political subdivision failed to make; and

(B) an amount equal to any other amounts due to the development authority that the city, county, or political subdivision failed to make.

(2) Pay the amount deducted under subdivision (1) to the development authority.

(3) Notify the city, county, or political subdivision that the amount that would otherwise be available for distribution to the city, county, or political subdivision has been reduced by an amount necessary to satisfy all or part of the transfers required under section 2 of this chapter or any other amounts due to the development authority.

(c) A deduction under subsection (b) must be made as follows:

(1) First, from amounts otherwise payable to the city, county, or other political subdivision under IC 4-33-13.

(2) Second, from local income tax distributions under IC 6-3.6-9 that would otherwise be distributed to the city, county, or other political subdivision under the schedules in IC 6-3.6-9-12 and IC 6-3.6-9-16.

(3) Third, from any other revenues or money otherwise available for distribution from the city, county, or other political subdivision.

SECTION 9. IC 36-7.5-4-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 18.** The development authority is the exclusive fiscal officer for and has final approval for financing a transportation project involving a rail project, as defined in IC 36-7.5-4.5-12.

SECTION 10. IC 36-7.5-4.5 IS ADDED TO THE INDIANA CODE



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 4.5. Rail Transit Development Districts

Sec. 1. As used in this chapter, "base assessed value" means:

- (1) the net assessed value of all the taxable property located in a transit development district as finally determined for the assessment date immediately preceding the effective date of the resolution adopted under this chapter establishing the particular district; 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 resolution.

Sec. 2. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1-3.

Sec. 3. As used in this chapter, "corridor" means the geographic area established as a rail transit development corridor by this chapter.

Sec. 4. As used in this chapter, "department" refers to the department of state revenue.

Sec. 5. As used in this chapter, "development project" includes only development projects that benefit the corridor.

Sec. 6. As used in this chapter, "district" refers to a transit development district established by the development authority under this chapter.

Sec. 7. As used in this chapter, "gross retail tax base period amount" means the aggregate amount of state gross retail taxes remitted under IC 6-2.5 by retail merchants for the calendar year that precedes the date on which the district was established under this chapter as determined by the department.

Sec. 8. As used in this chapter, "gross retail tax increment revenue" means the remainder of:

- (1) the aggregate amount of state gross retail taxes that are remitted under IC 6-2.5 by retail merchants during a calendar year with respect to the retail merchants' operations in the district; minus
- (2) the gross retail tax base period amount.

Sec. 9. As used in this chapter, "local income tax base period amount" means the total amount of local income tax (IC 6-3.6) paid by employees employed within a district with respect to wages and salary earned for work in the district for the calendar year



that precedes the date on which the district was established under this chapter as determined by the department.

Sec. 10. As used in this chapter, "local income tax increment revenue" means the remainder of:

- (1) the total amount of local income tax (IC 6-3.6) paid by employees employed in the district with respect to wages and salary earned for work in the territory comprising the district for a particular calendar year; minus
- (2) the local income tax base period amount;

as determined by the department.

Sec. 11. As used in this chapter, "property tax increment revenue" means the property taxes attributable to the assessed value of property located in a district in excess of the base assessed value.

Sec. 12. As used in this chapter, "rail project" refers to the following:

- (1) The mainline double tracking project.
- (2) The West Lake corridor project.

Sec. 13. As used in this chapter, "state income tax base period amount" means the aggregate amount of state adjusted gross income taxes paid or remitted by or on behalf of employees employed within a district during the calendar year that precedes the date on which the district was established under this chapter with respect to wages and salary earned for work in the territory comprising the district, as determined by the department.

Sec. 14. As used in this chapter, "state income tax increment revenue" means the remainder of:

- (1) the aggregate amount of state adjusted gross income taxes paid or remitted during a calendar year with respect to wages and salary earned for work in the territory comprising a district; minus
- (2) the state income tax base period amount.

Sec. 15. There is created a rail transit development corridor that consists of the geographic area that is within five-tenths (0.5) of a mile of the following rail lines that are a part of the Northern Indiana Commuter or South Bend Railway:

- (1) The Chicago to South Bend line.
- (2) The Hammond to Dyer line, which includes the West Lake corridor project once the preferred alignment has been determined.

The development authority shall transmit to the department a map of the corridor.



Sec. 16. (a) A county that is not a member of the development authority, along with municipalities within the county, may financially participate in the mainline double tracking project and receive the same benefits a member would receive under this chapter. To financially participate, a county may become an associate member of the development authority or a cash participant. The county fiscal body must adopt a resolution to make the county a financial participant. The resolution must specify whether the county is choosing to be an associate member of the development authority or a cash participant. If the county chooses to be a cash participant, the resolution must specify whether the county will make a cash payment to the development authority for the county's share of the local part of the state and local cost of the project or will commit to making debt service payments annually for the life of the bonds used to finance the rail project.

(b) The following apply to an associate member county:

(1) The county is not a full member of the development authority.

(2) The executive of the largest municipality in the county may appoint an individual to serve as a nonvoting member on the development authority board.

(3) The county agrees to pay two million five hundred thousand dollars (\$2,500,000) annually to the development authority to cover the following expenses:

(A) The county's share of the cost of the rail project under the final financing plan agreed to by the development authority and the Indiana finance authority, estimated to be one million five hundred thousand dollars (\$1,500,000) in annual debt service.

(B) A debt service coverage ratio of one hundred thirty-three percent (133%).

(C) A reserve of five hundred thousand dollars (\$500,000) for administrative and issuance costs.

(4) The county must pledge revenue for the membership payment from only property tax revenue or local income tax revenue, or both.

(c) The following apply to a cash participant county:

(1) The county is not an associate or a full member of the development authority.

(2) The county is not entitled to appoint an individual to serve as a voting or nonvoting member on the development



authority board.

(3) The county shall make either a cash payment to the development authority for the county's share of the local portion of the state and local cost of the project or shall commit to making debt service payments annually for the life of the bonds.

(4) If the cash payment option is chosen, within one hundred twenty (120) days after the rail project is approved for federal funding and the final financing plan is agreed to by the development authority and the Indiana finance authority, the county shall pay to the development authority or the Indiana finance authority the amount of the county's share of the rail project's cost, estimated to be eighteen million two hundred fifty thousand dollars (\$18,250,000).

(5) If the annual debt service payments for the life of the bonds option is chosen, before December 31 of each year, the county shall pay to the development authority or the Indiana finance authority the amount of the county's annual share of the project's cost under the final financing plan negotiated by the development authority and the Indiana finance authority, estimated to be two million dollars (\$2,000,000) annually, to cover the following expenses:

(A) An estimated one million five hundred thousand dollars (\$1,500,000) in annual debt service.

(B) A debt service coverage ratio of one hundred thirty-three percent (133%).

The county must pledge revenue for the debt service payment from only property tax revenue or local income tax revenue, or both.

(6) The property tax and local income tax incremental revenues from a district located in a political subdivision shall be distributed by the county auditor to the political subdivision's redevelopment commission.

(7) Money in a fund of a redevelopment commission established by a county or municipality that is not otherwise committed for other purposes may be used to make payments required by this subsection.

(d) The following apply to a county that is an associate member of the development authority or a cash participant county:

(1) The Indiana finance authority shall conduct pre-financing verification of an associate member county or a cash participant county to pay for the rail project.



(2) By becoming an associate member county or a cash participant county, the county agrees to a state intercept provision that will remain in force for the life of the state bonds used to fund the rail project construction.

(3) The amount attributable to any debt service coverage reserve provided by a county shall be returned to the county at the end of the first ten (10) year period less the issuance and administrative costs incurred by the development authority and the Indiana finance authority.

(4) The property tax increment revenue and local income tax increment revenue within a district shall be used by the development authority or redevelopment commission or both, in the case of a district located in an associate member county, only to fund development projects within that district.

(5) Each year, the development authority or the Indiana finance authority shall reconcile the total actual costs of the rail project compared to the total costs of the rail project used to determine a county's payments under this section. To the extent the total actual costs of the rail project are less than the total rail project costs used to determine payment amounts, the development authority or the Indiana finance authority shall distribute twenty-five percent (25%) of the total amount to the county. To the extent the total actual rail project costs are greater than the total rail project costs used to determine payment amounts, the county shall pay to the development authority or the Indiana finance authority twenty-five percent (25%) of the total amount.

(6) The state shall capture state sales tax revenue and state income tax revenue within the district for the duration of the district's existence.

(e) The development authority shall report annually to the budget agency and to all the members and participating counties on the amount of the issuance costs and administrative costs incurred in the preceding year.

Sec. 17. (a) The development authority may establish a transit development district and may expand a district. Before establishing a transit development district, the development authority shall consult with the municipality in which the district will be located. To establish or expand a district the development authority must hold at least two (2) public hearings before establishing or expanding the district.

(b) A district must satisfy the following conditions:



(1) Only one (1) district may be established with regard to each train station or regular train stop.

(2) The district must be within a county that is a member or associate member of the development authority or a financially participating county under this chapter.

(3) The initial area of the district must not be more than five-tenths (0.5) of a square mile but the area may be expanded under subsection (c).

(4) The train station or regular train stop, including accompanying parking lots (if applicable), must be located within the area of the district.

(5) All parcels within the district must be contiguous.

The area of a district may include a tax area established under IC 36-7-14 before January 1, 2017.

(c) The development authority shall adopt a resolution to establish a district. The resolution must include:

(1) the termination date of the district in accordance with subsection (e); and

(2) findings by the development authority specifying that the conditions set forth in subsection (b) are satisfied.

A district may not be reduced in territory once established or expanded to be more than one (1) square mile. A district's territory may be expanded subject to the other conditions set forth in subsection (b). A district may be expanded only one (1) time under this chapter. The development authority shall transmit a copy of any resolution establishing or expanding a district to the budget director, who shall distribute it to the members of the budget committee.

(d) The date a district becomes established or an expansion of a district becomes effective may not be earlier than the date the budget committee reviews the establishment or expansion of the district.

(e) The establishment of a district does not provide the development authority with any powers or preempt any authority of a political subdivision having jurisdiction in the district concerning the regulation of property or its uses, including planning and zoning provisions of the political subdivision.

(f) A district terminates at the earlier of:

(1) the end of the year in which all financing obligations entered into under this chapter for a project within the district are satisfied; or

(2) June 30, 2047.



Sec. 18. If a district is established, the following apply to the administration and use of incremental property tax revenue by the development authority, or a redevelopment commission in the case of a district located in a cash participant county, in the district:

(1) The department of local government finance shall adjust the base assessed value to neutralize any effect of a reassessment and the annual adjustment of the real property in the district in the same manner as provided in IC 36-7-14-39(h).

(2) Proceeds of the property taxes approved by the voters in a referendum or local public question shall be allocated to and, when collected, paid into the funds of the taxing unit for which the referendum or local public question was conducted in the same manner as provided in IC 36-7-14-39(b)(2).

(3) Incremental property tax revenue may be used only for one (1) or more of the following purposes for a district:

(A) To finance the improvement, construction, reconstruction, renovation, and acquisition of real and personal property improvements within a district.

(B) To pay the principal of and interest on any obligations that are incurred for the purpose of financing or refinancing development in the district, including local public improvements that are physically located in or physically connected to the district.

(C) To establish, augment, or restore the debt service reserve for bonds payable solely or in part from incremental property tax revenue from the district.

(D) To pay premiums on the redemption before maturity of bonds payable solely or in part from incremental property tax revenue from the district.

(E) To make payments on leases payable from incremental property tax revenue from the district.

(F) To reimburse a municipality in which a district is located for expenditures made by the municipality for local public improvements that are physically located in or physically connected to the district.

(G) To reimburse a municipality for rentals paid by the municipality for a building or parking facility that is physically located in or physically connected to the district under any lease entered into under IC 36-1-10.

(H) To pay expenses incurred by the development authority for local public improvements that are in the



district or serving the district.

Sec. 19. (a) There is established a steering committee to provide information and guidance to the development authority on development within the districts located in a member county.

(b) The steering committee is comprised of one (1) individual appointed by the executive of each municipality located in a member county in which a district could be established. A member of the steering committee serves a one (1) year term that ends December 31 each year. Initial terms end December 31 of the first year of the member's appointment even though the term may be less than one (1) year. A member may serve additional terms. The appointing executive may replace a member at the executive's discretion. A member of the steering committee is a public servant subject to IC 35-44.1-1-4 concerning conflict of interest.

(c) A chairperson of the steering committee shall be selected annually by the members. However, the chairperson may not be a resident of a municipality that has direct appointment to the development authority board.

(d) The steering committee shall meet at least quarterly. The steering committee shall also meet upon the call of the chairperson. At each quarterly meeting:

- (1)** the development authority shall present a progress report on development within each district to the steering committee; and
- (2)** the steering committee shall provide the development authority with information and guidance on development within each district.

IC 5-14-1.5 (the open door law) applies to meetings of the steering committee. The steering committee shall publish a notice of its meeting in accordance with IC 5-3-1-2(b). All records of the steering committee are public records subject to public inspection under IC 5-14-3.

Sec. 20. (a) If a district is established in a member county, the development authority shall create a south shore improvement and development fund. The development authority shall establish a separate account in the fund for each district. If more than one (1) municipality has territory within the district, a subaccount shall be established for each municipality. The fund shall be administered by the development authority. The development authority shall deposit in the appropriate district account in the fund all amounts received under this chapter from the following:

- (1)** Distributions of local income tax increment revenue from



the state.

(2) Distributions of property tax increment revenue from counties.

(b) If a district is established in a cash participant county, the redevelopment commission having territory in the district shall create a south shore improvement and development fund. The fund shall be administered by the redevelopment commission. The redevelopment commission shall deposit in the fund all amounts received under this chapter from the following:

(1) Distributions of district local income tax increment revenue from the state.

(2) Distributions of district property tax increment revenue from the county auditor.

(c) The local income tax increment revenue and the local property tax increment revenue received by the development authority or redevelopment commission from each district shall be spent by the development authority or redevelopment commission on projects within the district from which the revenue was collected.

Sec. 21. (a) If a district is established, the county auditor in each county in which the district is located shall distribute to the development authority, or the redevelopment commission that would otherwise receive the incremental property tax revenues under IC 36-7-14 in the case of a cash participant county, the lesser of:

(1) the property tax increment revenue collected in the district in the amount specified by the development authority or redevelopment commission; or

(2) all the property tax increment revenue collected in the district.

In the case of a district that is established in a cash participant county, the county auditor shall distribute any excess district property tax revenue increment to the political subdivisions that would otherwise receive the revenue under IC 36-7-14 as if the increment were attributable to the base assessed value of the allocation area within the district.

(b) If a district established in a member county includes a tax area established under IC 36-7-14 before January 1, 2017, the development authority and the redevelopment commission receiving property tax revenues under IC 36-7-14 shall use their best efforts to come to an agreement on how much property tax increment revenue will be allocated between the development



authority and the redevelopment commission, recognizing that any existing obligations of the redevelopment commission would have priority over any later obligations of the development authority. The county auditor shall distribute to the development authority the amount of property tax increment revenue that is allocated to the development authority.

(c) The development authority shall deposit all property tax increment revenue received in the appropriate district account in the south shore improvement and development fund.

Sec. 22. The development authority or redevelopment commission, in the case of a district located in a cash participant county, shall use its best efforts to maximize the amount of local income tax increment revenue and property tax increment revenue that will be distributed to the political subdivisions that would otherwise receive the revenue, taking into consideration the revenue needed by the development authority or the redevelopment commission for debt service, debt service coverage ratio requirements, excess reserve requirements, and anticipated cash needs for the near term. If a district is established in a member county, the development authority or redevelopment commission shall hold a public hearing once every three (3) years during the existence of a district to determine whether the amount of the local income tax increment revenue and property tax increment revenue to be distributed to the development authority or redevelopment commission in subsequent years with respect to the district should be:

- (1) all the local income tax increment revenue or a percentage of the increment revenue; or
- (2) all the property tax increment revenue or a percentage of the increment revenue.

The development authority or redevelopment commission shall adopt a resolution setting forth its determination. The resolution shall be transmitted to the budget director, the department, and each affected county auditor.

Sec. 23. (a) The development authority or redevelopment commission may undertake or provide funding for a development project that will be located within a district.

(b) The development authority or redevelopment commission may use money in its south shore improvement and development fund to provide funding and pay costs for a development project, including in the form of financing for a development project. If financing is used for a development project the obligation must be



satisfied before the expiration of this chapter. Costs may be incurred for one (1) or more of the following:

- (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.
- (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.

(c) To use money in its south shore improvement and development fund for a development project, the development authority or redevelopment commission must adopt a resolution under IC 36-7.5-3 setting forth the development authority's or redevelopment commission's approval of the development project.

Sec. 24. (a) If a district is established, the development authority shall provide to the department and to each redevelopment commission with a tax allocation area included within the district the following:

- (1) A certified copy of the resolution establishing the district.
- (2) Street names and the range of street numbers of each street in the district.

(b) In addition, the development authority or redevelopment commission, in the case of a district located in a cash participant county, shall provide to the department, in an electronic format approved by the department, a complete list of the following:

- (1) Employers that pay income or wages to individuals working in the district.
- (2) Retail merchants with a responsibility to remit gross retail taxes in the district.



The development authority and redevelopment commission shall update the list before July 1 of each year.

Sec. 25. (a) Employers operating in a district shall report annually, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate the state income tax increment revenue and local income tax increment revenue.

(b) Upon request of the department, employers in the district shall provide the department with:

- (1)** the names and addresses of all persons employed by the employer in the district;
- (2)** information concerning the wages earned by the persons for work performed in the district; and
- (3)** any other information the department requires to administer this chapter.

(c) If an employer fails to report the information required by this section, the department shall use the best information available for calculating the local income tax increment revenue.

Sec. 26. (a) Retail merchants operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate the gross retail tax base period amount or gross retail tax increment revenue.

(b) At the request of the department, the development authority and any political subdivision in which all or a part of the district is located shall disclose to the department the names of the retail merchants described in subsection (a) and such other information that may assist in the determination of the gross retail tax base period amount or gross retail tax increment revenue.

(c) At the request of the department, a political subdivision in which the district is located shall provide to the department information requested by the department concerning permits issued by the political subdivision to retail merchants operating within the corridor.

(d) If the department is unable to determine the extent to which taxes remitted by a retail merchant are gross retail tax increment revenue for purposes of this chapter, the department shall use the best information available in calculating the gross retail tax increment revenue.

Sec. 27. (a) If a district is established, the treasurer of state shall establish a local income tax increment fund and an account for each district established under this chapter for deposit of local



income tax increment revenue for that district.

(b) The funds shall be administered by the treasurer of state. Money in a fund does not revert to the state general fund at the end of a state fiscal year.

(c) The total amount of local income tax (IC 6-3.6) paid by employees employed in a district with respect to wages earned for work performed in the district shall be deposited in the district's account within the local income tax increment fund. For each district, the budget agency shall determine and transfer to the appropriate county account under IC 6-3.6-9 an amount equal to the local income tax base period amount for the district.

(d) The budget agency shall determine and transfer any amount of the local income tax increment revenue that will not be disbursed to the development authority or redevelopment commission to the appropriate county account under IC 6-3.6-9.

Sec. 28. (a) Not later than sixty (60) days after receiving a copy of the resolution establishing a district, the department shall determine the following for that district:

- (1) The state income tax base period amount.
- (2) The gross retail tax base period amount.
- (3) The local income tax base period amount.

(b) Before October 1 of each year, beginning in 2018, the department shall determine the following for each district for the preceding calendar year:

- (1) The state income tax increment revenue.
- (2) The gross retail tax increment revenue.
- (3) The local income tax increment revenue.

(c) The department shall notify the budget agency and the development authority of each base period amount and annually each increment revenue amount.

(d) Before November 1 of each calendar year, the department shall determine and certify to the Indiana finance authority and the development authority the following:

- (1) The state income tax increment revenue.
- (2) The gross retail tax increment revenue.
- (3) The local income tax increment revenue for each district.
- (4) The extent to which the sum of the state income tax increment revenue and gross retail tax increment revenue certified under this subsection for all districts exceeds the sum of the amounts previously appropriated by the general assembly to the development authority for rail projects (including any amounts appropriated for debt service



payments made by the Indiana finance authority for a rail project).

(e) Beginning in the following calendar year, the auditor of state shall distribute from a district's account within the local income tax increment fund to the development authority or redevelopment commission, in the case of a district located in a cash participant county, on or before the twentieth day of each month one-twelfth (1/12) of the lesser of:

- (1) the amount of local income tax increment revenue specified by the development authority or redevelopment commission; or
- (2) the certified local income tax increment revenue amount for that district.

(f) The development authority or redevelopment commission shall deposit the local income tax increment revenue it receives in the appropriate district account in the south shore improvement and development fund.

Sec. 29. All expenses incurred in carrying out this chapter are payable solely from revenue received under this chapter or from the proceeds of the financial instruments issued by the development authority payable from revenues received under this chapter. A liability or obligation may not be incurred by the development authority that is greater than the revenue to be received under this chapter.

Sec. 30. (a) It is the intent of this chapter to identify all gross retail tax increment revenue collected within districts and state and local income tax increment revenue attributable to districts. This section shall be broadly construed by the department to achieve the purposes of this chapter.

(b) The department shall adopt guidelines to govern its responsibilities under this chapter.

Sec. 31. On the date that all financing obligations for a development project in a district established in a member county are no longer considered outstanding and all expenses incurred by the development authority in connection with the exercise of the development authority's duties and obligations set forth in this chapter have been paid, all money remaining in each district's account (or municipality's subaccount) in the south shore improvement and development fund shall be distributed to the redevelopment commission of the municipality in which each district is located, or to the municipality if a redevelopment commission does not exist.



Sec. 32. The general assembly covenants that this chapter will not be repealed or amended in a manner that will adversely affect the owners of the financial instruments issued under this chapter by the development authority or redevelopment commission.

Sec. 33. This chapter expires June 30, 2047.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

