

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1316

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-1.2-4-31, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 31. (a) Notwithstanding any other law, a participant may borrow money from the authority for any program by negotiating a loan or other financial assistance directly with the authority and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidence of indebtedness. A participant shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a participant may issue and sell notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of bonds or other available money at the time the notes are due. The notes must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes allowed by the program.

(c) Notwithstanding any other law, a participant may issue and sell bonds to the authority without the requirement of an increase to the user rates and charges of the participant. The bonds must be issued under a resolution or ordinance and the proceeds must be used to carry out the purposes allowed by the program.

(~~e~~) (d) A participant that issues notes under subsection (b) may

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renew or extend the notes periodically on terms agreed to with the authority, and the authority may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

~~(d)~~ (e) The notes issued by a participant under subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the participant and the authority.

~~(e)~~ (f) Compliance with subsection (b) **or** (c) constitutes full authority for a participant to issue notes **or bonds** and sell the notes **or bonds** to the authority, and the participant is not required to **pay any fees or** comply with any other law applicable to the authorization, approval, issuance, and sale of the notes, **including, without limitation, IC 8-1-2-79**. The notes **or bonds** are:

- (1) valid and binding obligations of the participant;
- (2) enforceable in accordance with the terms of the notes **or bonds**; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes **or bonds**.

~~(f)~~ (g) If the participant issues bonds, all or part of the proceeds of which will be used to pay notes issued under subsection (b), the:

- (1) provisions of this section; or
- (2) actual issuance by a participant of notes under subsection (b);

do not relieve the participant of the obligation to comply with the statutory requirements for the issuance of bonds.

SECTION 2. IC 8-1-30.8-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.2. As used in this chapter, "independent evaluator" means a person or entity that is qualified to assess the accuracy or validity of methodology or results of an audit under this chapter. The independent evaluator must be listed as preapproved by the authority after consultation with the department, prior to undertaking an evaluation.**

SECTION 3. IC 8-1-30.8-5, AS ADDED BY P.L.15-2019, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 5. At least once in each calendar year, a water utility shall perform an audit of its water distribution system in accordance with accepted industry standards as determined appropriate by through the use of the latest version of the American Water**



Works Association's free water audit software, or other methodology software as the authority may direct, to determine the causes of the water utility's non-revenue water.

SECTION 4. IC 8-1-30.8-9 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 9: The authority may adopt rules under IC 4-22-2 concerning the administration of this chapter, including rules addressing the minimum qualifications of individuals who may act as independent evaluators under section 6(b) of this chapter.~~

SECTION 5. IC 8-10-1-7, AS AMENDED BY P.L.84-2016, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. The ports of Indiana is authorized and empowered to do the following:

- (1) To adopt an official seal which shall not be the seal of the state of Indiana.
- (2) To maintain a principal office and sub-offices at such place or places within the state as it may designate.
- (3) To sue and be sued, and to plead and be impleaded in the name of the ports of Indiana. However, actions at law against the ports of Indiana shall be brought in the circuit court, superior court, or probate court of the county in which the principal office of the ports of Indiana is located or in the circuit court, superior court, or probate court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the ports of Indiana by leaving a copy thereof at the principal office of the ports of Indiana with the person in charge thereof or with the secretary of the ports of Indiana. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.
- (4) To acquire, lease, construct, maintain, repair, police, and operate a port or project as provided in this chapter, and to establish rules and regulations for the use of the port or project, and other property subject to the jurisdiction and control of the ports of Indiana.
- (5) To issue both taxable and tax exempt revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or project, **subject to the prior approval of the Indiana finance authority.**
- (6) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares,



merchandise, or articles of commerce in, on, or around the port or project.

(7) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or project.

(8) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(9) To designate the location and establish, limit, and control points of ingress to and egress from a port or project.

(10) To lease to others for development or operation such portions of any port or project, on such terms and conditions as the ports of Indiana shall deem advisable.

(11) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. Except as provided in section 29 of this chapter, when the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than one hundred fifty thousand dollars (\$150,000), the ports of Indiana shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in the county where the construction will occur and in such other publications as the ports of Indiana shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The ports of Indiana may reject any and all bids. A bond with good and sufficient surety as shall be approved by the ports of Indiana shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract. A contract for construction or a contract for the purchase of materials or supplies requires only the approval of the commission. Upon the ports of Indiana's approval of a contract, the ports of Indiana may immediately proceed with the construction or purchase.

(12) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout



Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

(13) To employ a chief executive, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation and title, but no compensation of any employee of the ports of Indiana shall exceed the compensation of the highest paid officer or employee of the state.

(14) To receive and accept from any federal agency grants for or in aid of the construction of any port or project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(15) To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

(16) To do all acts and things necessary or proper to carry out the powers expressly granted in this article.

(17) To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the ports of Indiana.

SECTION 6. IC 21-16-5-1, AS ADDED BY P.L.2-2007, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The governor may request, on behalf of the state, the establishment of a private nonprofit corporation, with a bipartisan board of directors **that meets the requirements of section 1.5 of this chapter**, to serve as a secondary market for education loans. If a private nonprofit corporation is established, the governor may designate the corporation to:

- (1) serve as the secondary market for education loans; and
- (2) act as an eligible lender under a federal program.

The corporation must satisfy the conditions imposed by sections 3 through 10 of this chapter, and its articles of incorporation must provide that upon the corporation's liquidation, any surplus funds must be paid to the state.

SECTION 7. IC 21-16-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.5 (a) The board of directors of the nonprofit corporation is composed of nine (9) members. The members must**



be appointed as follows:

- (1) Five (5) members appointed by the governor.
- (2) One (1) member appointed by the president pro tempore of the senate.
- (3) One (1) member appointed by the minority leader of the senate.
- (4) One (1) member appointed by the speaker of the house of representatives.
- (5) One (1) member appointed by the minority leader of the house of representatives.

(b) None of the members appointed to the board may be members of the general assembly. Not more than five (5) members may belong to the same political party. Members serve at the pleasure of the appointing authority.

(c) The board shall elect from among its members a chair and vice chair.

(d) Five (5) members constitutes a quorum for the transaction of business. An affirmative vote of at least five (5) members is necessary for the board to take action. Members of the board may not vote by proxy.

(e) Meetings of the board shall be held at the call of the chair or whenever any five (5) voting members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the corporation.

(f) Members are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members are also entitled to receive reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the members' duties as approved by the budget agency.

SECTION 8. IC 21-16-5-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1.6. (a) The term of a member of the board of directors is four (4) years. All terms begin on January 1. Each member holds office for the term of appointment and continues to serve after expiration of the appointment until a successor is appointed and qualified. A member is eligible for reappointment.

(b) A vacancy in the membership of the board under this chapter shall be filled by the appointing authority for the unexpired term in the same manner as the original appointment.

(c) The appointment of members in accordance with section 1.5 of this chapter must be made not later than December 31, 2023.



Notwithstanding subsection (a), the terms of the members shall be staggered as follows:

(1) Three (3) members appointed under section 1.5(a)(1) of this chapter shall serve a two (2) year term.

(2) One (1) member appointed under section 1.5(a)(1) of this chapter, the member appointed under 1.5(a)(3) of this chapter, and the member appointed under 1.5(a)(5) of this chapter shall serve a three (3) year term.

(3) One (1) member appointed under section 1.5(a)(1) of this chapter, the member appointed under 1.5(a)(2) of this chapter, and the member appointed under 1.5(a)(4) of this chapter shall serve a four (4) year term.

All subsequent terms of members shall be for four (4) year terms. This subsection expires July 1, 2028.

SECTION 9. IC 21-16-5-3, AS AMENDED BY P.L.132-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) The corporation must, under its articles of incorporation, limit its powers to those described in subsection (b).

(b) The corporation may:

(1) borrow money, **only after consulting with the Indiana finance authority not less than three (3) months prior to the date the corporation begins the process of borrowing money;**

(2) purchase, sell, and retire education loans, if the loans are not in default status;

(3) provide incentive services and payments, including the payment of premiums for the purchase of education loans and the payment of an origination fee, to assist lending institutions that provide education loans;

(4) loan funds to lending institutions if:

(A) the lending institution agrees to use the funds to originate education loans of an amount equal to the loan made by the corporation over a period agreeable to the corporation and to grant the corporation the right of first refusal to purchase those education loans;

(B) the lending institution agrees to use education loans or government securities as collateral for the loan; and

(C) the corporation has, in response to its written request, received written authorization from the governor to exercise the power described in this subdivision;

(5) make direct loans to or for the benefit of an education loan borrower or to consolidate all or a part of the borrower's outstanding education loans into one (1) loan;



(6) operate a secondary market for postsecondary education finance instruments, including tuition certificates and education savings certificates sold by or offered through lending institutions or postsecondary educational institutions;

(7) provide financial literacy and educational tools to students, their families, and Indiana colleges and universities with respect to responsibly financing the costs of higher education; and

(8) do all other things that are necessary or incidental to performing the functions listed in subdivisions (1) through (7).

(c) The corporation, and any entity doing business as the corporation, including:

(1) the Indiana Secondary Market for Educational Loans, Inc.;

(2) INvestED; or

(3) any other entity doing business as the corporation;

shall, at least thirty (30) days prior to the issuance or placement of any bond, note, or other instrument by the corporation under this chapter, report to the budget committee the estimated amount of the bonds.

SECTION 10. IC 21-16-5-5, AS ADDED BY P.L.2-2007, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 5. **(a)** The corporation shall provide in its articles of incorporation that changes in ~~the composition of its directors~~ or in its bylaws are subject to the approval of the governor.

(b) The corporation shall amend its articles of incorporation and bylaws to conform to the requirements of this chapter.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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