



February 13, 2015

HOUSE BILL No. 1457

DIGEST OF HB 1457 (Updated February 11, 2015 5:44 pm - DI 107)

Citations Affected: IC 21-31; IC 21-35; IC 23-17.

Synopsis: Higher education. Permits the board of trustees of a state educational institution that has a research intensive campus to directly hold equity in a private entity under certain conditions. Permits a public benefit corporation to merge with a state educational institution, without court approval, if the public benefit corporation is controlled by the state educational institution. Permits the Indiana economic development corporation to designate a university innovation district for a research intensive campus in which the incremental income taxes from employees working in the district are distributed to the research intensive campus for dedicated purposes. Provides that a certified technology park that is associated with a research intensive campus may be reclassified as a university innovation district under certain conditions.

Effective: July 1, 2015.

Truitt, Brown T

January 14, 2015, read first time and referred to Committee on Commerce, Small Business and Economic Development.
February 12, 2015, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

HB 1457—LS 7346/DI 58



February 13, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1457

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

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

1 SECTION 1. IC 21-31-2-14 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2015]: **Sec. 14. (a) The general assembly recognizes that:**
4 **(1) Article 11, Section 12 of the Constitution of the State of**
5 **Indiana provides that the state may not become a stockholder**
6 **in any corporation;**
7 **(2) state educational institutions receive a majority of their**
8 **funding from sources that are not public sources; and**
9 **(3) certain state educational institutions can better achieve**
10 **their public purposes by holding equity in private entities that**
11 **the institution controls and actively manages.**
12 **The general assembly declares that the holding of equity in a**
13 **private entity by a state educational institution as permitted by this**
14 **section complies with Article 11, Section 12 of the Constitution of**
15 **the State of Indiana.**

HB 1457—LS 7346/DI 58



1 **(b) This section applies only to a state educational institution**
 2 **that has a research intensive campus.**

3 **(c) As used in this section, "eligible property" means any**
 4 **property received by the board of trustees of a state educational**
 5 **institution, other than:**

- 6 **(1) state appropriations; or**
 7 **(2) other public money received through another state**
 8 **educational institution, a state agency, or a local government**
 9 **entity.**

10 **(d) The board of trustees of a state educational institution may**
 11 **use eligible property to directly hold equity in a private entity if:**

- 12 **(1) in the judgment of the board of trustees, it is for the best**
 13 **interest of the state educational institution;**
 14 **(2) it results in a public or charitable purpose for the benefit**
 15 **or use of students of the state educational institution;**
 16 **(3) the private entity is controlled by and actively managed by**
 17 **the state educational institution; and**
 18 **(4) the equity is not held for speculation.**

19 SECTION 2. IC 23-17-19-2 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Without the prior
 21 approval of the circuit court or superior court of the county where the
 22 corporation's principal office or, if the principal office is not located in
 23 Indiana, the corporation's registered office, is located in a proceeding
 24 that the attorney general has been given written notice, a public benefit
 25 or religious corporation may only merge with the following:

- 26 (1) A public benefit or religious corporation.
 27 (2) A foreign corporation that would qualify under this article as
 28 a public benefit or religious corporation.
 29 (3) A wholly-owned foreign or domestic business or mutual
 30 benefit corporation if the public benefit or religious corporation
 31 is the surviving corporation and continues to be a public benefit
 32 or religious corporation after the merger.
 33 (4) A business or mutual benefit corporation if the following
 34 conditions are met:

- 35 (A) On or before the effective date of the merger, assets with
 36 a value equal to the greater of the fair market value of the net
 37 tangible and intangible assets, including goodwill, of the
 38 public benefit corporation or the fair market value of the
 39 public benefit corporation if the corporation were to be
 40 operated as a business concern are transferred or conveyed to
 41 a person who would have received the corporation's assets
 42 under IC 23-17-22-6(a)(5) and IC 23-17-22-6(a)(6) had the



1 corporation dissolved.

2 (B) The business or mutual benefit corporation returns,

3 transfers, or conveys any assets held by the business or mutual

4 benefit corporation upon condition requiring return, transfer,

5 or conveyance, that occurs by reason of the merger, in

6 accordance with the condition.

7 (C) The merger is approved by a majority of directors of the

8 public benefit or religious corporation who are not and will not

9 become:

10 (i) members in;

11 (ii) shareholders in; or

12 (iii) officers, employees, agents, or consultants of;

13 the surviving corporation.

14 (D) The requirements of section 8 of this chapter are met.

15 **(5) A state educational institution if it is a public benefit**

16 **corporation and the public benefit corporation is controlled**

17 **by the state educational institution before the merger.**

18 (b) At least twenty (20) days before consummation of any merger of a

19 public benefit corporation or a religious corporation under subsection

20 (a)(4), notice, including a copy of the proposed plan of merger, must be

21 delivered to the attorney general.

22 (c) Without the prior written consent of the attorney general or of

23 the circuit court or superior court of the county where:

24 (1) the corporation's principal office is located; or

25 (2) if the principal office is not located in Indiana, the

26 corporation's registered office is located;

27 in a proceeding in which the attorney general has been given notice, a

28 member of a public benefit or religious corporation may not receive or

29 keep anything as a result of a merger other than a membership or

30 membership in the surviving public benefit or religious corporation.

31 The court shall approve the transaction if the transaction is in the

32 public interest.

33 SECTION 3. IC 21-35-8 IS ADDED TO THE INDIANA CODE AS

34 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

35 1, 2015]:

36 **Chapter 8. University Innovation Districts**

37 **Sec. 1. As used in this chapter, "research and technology**

38 **commercialization activity" includes only the following:**

39 **(1) Basic scientific research involving the systematic gathering**

40 **and analysis of data, information, and facts for the**

41 **advancement of knowledge.**

42 **(2) Applied research involving use of knowledge to improve**



- 1 the human condition by addressing and solving practical
2 problems.
- 3 **(3) Clinical research involving scientific investigation of the**
4 **etiology, prevention, diagnosis, or treatment of human disease**
5 **using human subjects, populations, or materials of human**
6 **origin.**
- 7 **(4) Commercializing intellectual property involving the**
8 **development and introduction of new products, processes,**
9 **services, medical techniques, and treatments to the market.**
- 10 **(5) Establishing new university affiliated businesses or the**
11 **location of other businesses within the university innovation**
12 **district.**
- 13 **Sec. 2. As used in this chapter, "university innovation district"**
14 **means a geographic territory encompassing a research intensive**
15 **campus and other nonadjacent land on which university associated**
16 **research and technology transfer activities occur.**
- 17 **Sec. 3. After receipt of an application from a research intensive**
18 **campus, the Indiana economic development corporation shall**
19 **determine whether the application demonstrates a commitment by**
20 **the research intensive campus to engage in substantial research**
21 **and technology commercialization activity in a proposed university**
22 **innovation district. The corporation may designate a district if it**
23 **determines that the research intensive campus has satisfied all the**
24 **following conditions:**
- 25 **(1) A demonstration of significant financial support from the**
26 **research intensive campus, its partners, and grantors.**
- 27 **(2) A demonstration of significant successes in research and**
28 **technology commercialization activity as demonstrated by**
29 **extramural funding awards, invention disclosures, patent**
30 **applications and awards, and intellectual property licenses.**
- 31 **(3) The availability of significant infrastructure necessary for**
32 **research and technology commercialization activity, including**
33 **information and telecommunications technology, laboratory**
34 **facilities, and scientific equipment.**
- 35 **(4) The existence of or proposed development of a dedicated**
36 **business incubator facility that supports the proposed**
37 **university innovation district.**
- 38 **(5) Professional technology commercialization staff with**
39 **proven success with university affiliated start-up companies**
40 **as demonstrated by continued growth and development.**
- 41 **Sec. 4. On or before July 1 of each year, a research intensive**
42 **campus that has received designation as a university innovation**



1 district under section 3 of this chapter shall submit an annual
 2 report to the Indiana economic development corporation including
 3 the following information:

4 (1) A summary of research and technology commercialization
 5 activity taking place within the university innovation district
 6 during the reporting period.

7 (2) Total employment and payroll levels within the district.

8 (3) The nature and extent of any technology
 9 commercialization activity occurring within the district,
 10 including the location of new businesses.

11 (4) The use and outcomes of any income tax incremental funds
 12 distributed to the university innovation district.

13 (5) An analysis of the university innovation district's overall
 14 contribution to the technology based economy in Indiana.

15 Sec. 5. As used in this chapter, the following definitions apply:

16 (1) "Income tax base period amount" means the aggregate
 17 amount of the state adjusted gross income tax paid by
 18 employees employed in the area comprising a university
 19 innovation district with respect to wages and salary earned
 20 for work in the district for the state fiscal year that precedes
 21 the date on which the university innovation district was
 22 designated under section 3 of this chapter.

23 (2) "Income tax incremental amount" means the remainder
 24 of:

- 25 (A) the total amount of state adjusted gross income taxes
 26 paid by employees employed in the university innovation
 27 district with respect to wages and salary earned for work
 28 within the district for a particular state fiscal year; minus
 29 (B) the income tax base period amount.

30 Sec. 6. Before the first business day in October of each year, the
 31 department of state revenue shall calculate the income tax
 32 incremental amount for the preceding state fiscal year for each
 33 university innovation district designated under section 3 of this
 34 chapter.

35 Sec. 7. (a) The treasurer of state shall establish an incremental
 36 tax financing fund for each university innovation district
 37 designated under section 3 of this chapter. The fund shall be
 38 administered by the treasurer of state. Money in the fund does not
 39 revert to the state general fund at the end of a state fiscal year.

40 (b) The income tax incremental amount shall be deposited
 41 during each state fiscal year in the incremental tax financing fund.

42 (c) On or before the twentieth day of each month, all amounts



1 held in the incremental tax financing fund established for a
 2 university innovation district shall be distributed to the research
 3 intensive campus for deposit in the university innovation district
 4 fund established under section 8 of this chapter.

5 **Sec. 8. (a)** Each university that establishes a university
 6 innovation district under this chapter shall establish a university
 7 innovation district fund to receive state distributions from the
 8 treasurer of state under section 7 of this chapter.

9 **(b)** Money deposited in the university innovation district fund
 10 may be used by the university for one (1) or more of the following
 11 purposes:

12 (1) Acquisition, construction, furnishing, equipping, and
 13 operation of facilities used for research and technology
 14 commercialization activities.

15 (2) Payment of the principal and interest on any obligations
 16 that are incurred by the research intensive university for the
 17 purpose of financing or refinancing the development of
 18 facilities used for research and technology commercialization
 19 activities in the university innovation district.

20 (3) Reimbursement to the research intensive campus for
 21 expenditures it has made for investments in research and
 22 technology commercialization activities within the university
 23 innovation district, including research faculty start-up
 24 packages.

25 (4) Financial support for general operating expenses incurred
 26 by the university in pursuit of research and technology
 27 commercialization activities.

28 **Sec. 9. (a)** A certified technology park designated under
 29 IC 36-7-32 that is associated with a research intensive campus may
 30 be reclassified as a university innovation district only if:

31 (1) the certified technology park has received a total of five
 32 million dollars (\$5,000,000) deposited in a particular
 33 incremental tax financing fund for that certified technology
 34 park over the life of the certified technology park; and

35 (2) the certified technology park meets the requirements to be
 36 classified as a university innovation district as defined in this
 37 chapter.

38 **(b)** If a qualifying certified technology park is reclassified as a
 39 university innovation district the following apply:

40 (1) IC 36-7-32 does not apply to the area in the district.

41 (2) The qualifying certified technology park may not be
 42 reclassified as a certified technology park under IC 36-7-32.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1457, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 22, delete "shall" and insert "**may**".

and when so amended that said bill do pass.

(Reference is to HB 1457 as introduced.)

SMALTZ

Committee Vote: yeas 11, nays 1.

