

# SENATE BILL No. 183

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-14-16-5; IC 36-1.

**Synopsis:** Investments by local units with foundations. Allows a unit of local government (unit) to invest money in the unit's local major moves construction fund or the unit's rainy day fund with a charitable nonprofit community foundation. (Current law allows the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or riverboat gaming revenue to be donated.) Allows such an investment by a unit to be held by a charitable nonprofit community foundation as either a permanent endowed designated fund or as a nonendowed designated fund. (Under current law, the charitable nonprofit community foundation must hold the donation as a permanent endowment.) Requires a unit to specify whether an investment shall be held by the charitable nonprofit community foundation as a permanent endowed designated fund or as a nonendowed designated fund. Provides that if a unit specifies that an investment must be held as a nonendowed designated fund, the unit has access to the investment and income at any time.

**Effective:** July 1, 2014.

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January 8, 2014, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

# SENATE BILL No. 183

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 8-14-16-5, AS AMENDED BY P.L.232-2007,
- 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2014]: Sec. 5. Money in the fund may be expended only for
- 4 the following purposes:
- 5 (1) Construction of highways, roads, and bridges.
- 6 (2) In a county that is a member of the northwest Indiana regional
- 7 development authority, or in a city or town located in such a
- 8 county, any purpose for which the regional development authority
- 9 may make expenditures under IC 36-7.5.
- 10 (3) Providing funding for economic development projects (as
- 11 defined in IC 6-3.5-7-13.1(c)(1) or IC 6-3.5-7-13.1(c)(2)(A)
- 12 through IC 6-3.5-7-13.1(c)(2)(K)).
- 13 (4) Matching federal grants for a purpose described in this
- 14 section.
- 15 (5) Providing funding for interlocal agreements under IC 36-1-7
- 16 for a purpose described in this section.



1 (6) Providing the county's, city's, or town's contribution to a  
 2 regional development authority established under IC 36-7.6-2-3.

3 **(7) Making an investment with a charitable nonprofit**  
 4 **community foundation under IC 36-1-14-1.**

5 SECTION 2. IC 36-1-8-5.1, AS AMENDED BY P.L.288-2013,  
 6 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2014]: Sec. 5.1. (a) A political subdivision may establish a  
 8 rainy day fund by the adoption of:

9 (1) an ordinance, in the case of a county, city, or town; or

10 (2) a resolution, in the case of any other political subdivision.

11 (b) An ordinance or a resolution adopted under this section must  
 12 specify the following:

13 (1) The purposes of the rainy day fund.

14 (2) The sources of funding for the rainy day fund, which may  
 15 include the following:

16 (A) Unused and unencumbered funds under:

17 (i) section 5 of this chapter;

18 (ii) IC 6-3.5-1.1-21.1;

19 (iii) IC 6-3.5-6-17.3; or

20 (iv) IC 6-3.5-7-17.3.

21 (B) Any other funding source:

22 (i) specified in the ordinance or resolution adopted under  
 23 this section; and

24 (ii) not otherwise prohibited by law.

25 (c) The rainy day fund is subject to the same appropriation process  
 26 as other funds that receive tax money.

27 (d) In any fiscal year, a political subdivision may, at any time, do the  
 28 following:

29 (1) Transfer any unused and unencumbered funds specified in  
 30 subsection (b)(2)(A) from any fiscal year to the rainy day fund.

31 (2) Transfer any other unobligated cash balances from any fiscal  
 32 year that are not otherwise identified in subsection (b)(2)(A) or  
 33 section 5 of this chapter to the rainy day fund as long as the  
 34 transfer satisfies the following requirements:

35 (A) The amount of the transfer is authorized by and identified  
 36 in an ordinance or resolution.

37 (B) The amount of the transfer is not more than ten percent  
 38 (10%) of the political subdivision's total annual budget  
 39 adopted under IC 6-1.1-17 for that fiscal year.

40 (C) The transfer is not made from a debt service fund.

41 (e) A political subdivision may use only the funding sources  
 42 specified in subsection (b)(2)(A) or in the ordinance or resolution



1 establishing the rainy day fund. The political subdivision may adopt a  
 2 subsequent ordinance or resolution authorizing the use of another  
 3 funding source.

4 (f) The department of local government finance may not reduce the  
 5 actual or maximum permissible levy of a political subdivision as a  
 6 result of a balance in the rainy day fund of the political subdivision.

7 (g) A county, city, or town may at any time, by ordinance or  
 8 resolution, transfer to:

9 (1) its general fund; or

10 (2) any other appropriated funds of the county, city, or town;  
 11 money that has been deposited in the rainy day fund of the county, city,  
 12 or town.

13 **(h) A unit may at any time, by ordinance (in the case of a**  
 14 **county, city, or town) or resolution (in the case of a township),**  
 15 **appropriate money that has been deposited in the unit's rainy day**  
 16 **fund to make an investment with a charitable nonprofit community**  
 17 **foundation as provided in IC 36-1-14-1.**

18 SECTION 3. IC 36-1-14-1, AS AMENDED BY P.L.142-2009,  
 19 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2014]: Sec. 1. (a) This section does not apply to donations of  
 21 gaming revenue to a public school endowment corporation under  
 22 IC 20-47-1-3.

23 (b) As used in this section, "gaming revenue" means either of the  
 24 following:

25 (1) Tax revenue received by a unit under IC 4-33-12-6,  
 26 IC 4-33-13, or an agreement to share a city's or county's part of  
 27 the tax revenue.

28 (2) Revenue received by a unit under IC 4-35-8.5 or an agreement  
 29 to share revenue received by another unit under IC 4-35-8.5.

30 (c) Notwithstanding IC 8-1.5-2-6(d) ~~and IC 5-13~~, a unit may ~~donate~~  
 31 **invest money deposited in the unit's local major moves**  
 32 **construction fund under IC 8-14-16, money deposited in the unit's**  
 33 **rainy day fund established under IC 36-1-8-5.1**, the proceeds from  
 34 the sale of a utility or facility, or **the proceeds** from a grant, a gift, a  
 35 donation, an endowment, a bequest, a trust, or gaming revenue ~~to with~~  
 36 a foundation under the following conditions:

37 (1) The foundation is a charitable nonprofit community  
 38 foundation.

39 (2) The foundation retains all rights to the ~~donation~~, **investment**,  
 40 including investment powers.

41 (3) The foundation agrees to do the following:

42 (A) Hold the ~~donation investment~~ as a permanent ~~endowment~~.



- 1                   **endowed designated fund or as a nonendowed designated**  
2                   **fund.**  
3                   **(B) Except as provided in subsection (e),** distribute the  
4                   income from the ~~donation~~ **investment** only to the unit as  
5                   directed by resolution of the fiscal body of the unit.  
6                   **(C) Return the donation investment** to the general fund of the  
7                   unit if the foundation:  
8                   (i) loses the foundation's status as a public charitable  
9                   organization;  
10                  (ii) is liquidated; or  
11                  (iii) violates any condition of the endowment set by the  
12                  fiscal body of the unit.  
13                  **(d) A unit shall, at the time the unit makes an investment with**  
14                  **a charitable nonprofit community foundation under this section,**  
15                  **specify whether the investment must be held by the charitable**  
16                  **nonprofit community foundation as a permanent endowed**  
17                  **designated fund or as a nonendowed designated fund.**  
18                  **(e) If a unit specifies that the investment must be held by the**  
19                  **charitable nonprofit community foundation as a nonendowed**  
20                  **designated fund under subsection (d), the unit is entitled to have**  
21                  **access to the investment and income from the donation at any time,**  
22                  **as directed by resolution of the fiscal body of the unit.**

