

### **IC 36-7.5-3**

#### **Chapter 3. Development Authority Powers and Duties**

### **IC 36-7.5-3-1**

#### **Duties**

Sec. 1. The development authority shall do the following:

- (1) Subject to section 1.5 of this chapter, assist in the coordination of local efforts concerning projects.
- (2) Assist a commuter transportation district, an airport authority, the Lake Michigan marina and shoreline development commission, a regional transportation authority, and a regional bus authority in coordinating regional transportation and economic development efforts.
- (3) Subject to section 1.5 of this chapter, fund projects as provided in this article.
- (4) Fund bus services (including fixed route services and flexible or demand-responsive services) and projects related to bus services and bus terminals, stations, or facilities.

*As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.59; P.L.197-2011, SEC.151; P.L.192-2015, SEC.11.*

### **IC 36-7.5-3-1.5**

#### **Expenditure of money to fund economic development projects; requirements; submission of funding proposals to budget committee**

Sec. 1.5. (a) This section applies to revenue received by the authority to the extent that the revenue has not been pledged or otherwise obligated to pay bonds or leases entered into before July 1, 2015.

(b) The authority may expend money received under this article to fund economic development projects only to the extent that:

(1) the development board finds that the economic development project is a destination based economic development project evaluated under IC 36-7.5-2-1(4) or is consistent with:

- (A) a duty imposed upon the development authority under section 1(2) or 1(4) of this chapter; or
- (B) the Marquette Plan; and

(2) funding the project is reviewed by the state budget committee under subsection (c).

(c) The development board shall submit to the state budget committee for review and comment any proposal to fund an economic development project (including any destination based economic development project) under this article. The state budget committee shall review any proposal received under this subsection and may request that the authority appear at a public meeting of the state budget committee concerning the funding proposal.

*As added by P.L.192-2015, SEC.12. Amended by P.L.204-2016, SEC.38.*

## **IC 36-7.5-3-2**

### **Powers**

Sec. 2. (a) The development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects located in an eligible county or eligible municipality.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Acquire land or all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.
- (5) Acquire all or a portion of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.
- (6) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:
  - (A) A commuter transportation district.
  - (B) An airport authority or airport development authority.
  - (C) The Lake Michigan marina and shoreline development commission.
  - (D) A regional bus authority. A loan, loan guarantee, grant, or other financial assistance under this clause may be used by a regional bus authority for acquiring, improving, operating, maintaining, financing, and supporting the following:
    - (i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.
    - (ii) Bus terminals, stations, or facilities or other regional bus authority projects.
  - (E) A regional transportation authority.
  - (F) A member municipality that is eligible to make an appointment to the development board under IC 36-7.5-2-3(b)(2) and that has pledged admissions tax revenue for a bond anticipation note after March 31, 2014, and before June 30, 2015. However, a loan made to such a member municipality before June 30, 2016, under this clause must have a term of not more than ten (10) years, must

require annual level debt service payments, and must have a market based interest rate. If a member municipality defaults on the repayment of a loan made under this clause, the development authority shall notify the treasurer of state of the default and the treasurer of state shall:

(i) withhold from any funds held for distribution to the municipality under IC 4-33-12, or IC 4-33-13 an amount sufficient to cure the default; and

(ii) pay that amount to the development authority.

(7) Provide funding to assist a railroad that is providing commuter transportation services in an eligible county or eligible municipality.

(8) Provide funding to assist an airport authority located in an eligible county or eligible municipality in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.

(9) Provide funding to assist in the development of an intermodal facility to facilitate the interchange and movement of freight.

(10) Provide funding to assist the Lake Michigan marina and shoreline development commission in carrying out the purposes of IC 36-7-13.5.

(11) Provide funding for economic development projects in an eligible county or eligible municipality.

(12) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property located in an eligible county or eligible municipality.

(13) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.

(14) Make or enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(15) Sue, be sued, plead, and be impleaded.

(16) Design, order, contract for, and construct, reconstruct, and renovate a project or improvements to a project.

(17) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.

(18) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.

(19) Use the development authority's funds to match federal

grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.

(20) Except as prohibited by law, take any action necessary to carry out this article.

(b) If the development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and

(3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.

*As added by P.L.214-2005, SEC.73. Amended by P.L.47-2006, SEC.60; P.L.182-2009(ss), SEC.424; P.L.197-2011, SEC.152; P.L.204-2016, SEC.39.*

### **IC 36-7.5-3-3**

#### **Reports**

Sec. 3. The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year. The report to the legislative council must be in an electronic format under IC 5-14-6.

*As added by P.L.214-2005, SEC.73.*

### **IC 36-7.5-3-4**

#### **Development plan**

Sec. 4. (a) The development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

(1) The proposed projects to be undertaken or financed by the development authority.

(2) The following information for each project included under subdivision (1):

(A) Timeline and budget.

(B) The return on investment.

(C) The projected or expected need for an ongoing subsidy.

(D) Any projected or expected federal matching funds.

(b) The development authority shall before January 1, 2008, submit the comprehensive strategic development plan for review by

the budget committee and approval by the director of the office of management and budget.

*As added by P.L.214-2005, SEC.73.*

**IC 36-7.5-3-5 Version a**

**Grant program for extending the Chicago, South Shore and South Bend Railway**

*Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.*

Sec. 5. (a) There is established a grant program to provide state matching grants for construction projects extending the Chicago, South Shore, and South Bend Railway.

(b) To participate in the grant program, the development authority must prepare an update to the comprehensive strategic development plan prepared under section 4 of this chapter. The update must include detailed information concerning the following:

(1) The proposed projects to be undertaken by the development authority to extend the Chicago, South Shore, and South Bend Railway using grants made under this section.

(2) The commitments being made by the development authority and political subdivisions in exchange for receiving grants under this section.

(3) The following information for each project included under subdivision (1):

(A) The location of each project.

(B) A timeline and budget, including milestones that the development authority commits to achieving by the time specified.

(C) The expected return on investment.

(D) Any projected or expected federal and local matching funds.

(c) To receive a matching grant under this section, the development authority must adopt an authorizing resolution and submit the updated plan along with a grant application to the Indiana finance authority for approval, after review by the budget committee.

(d) A grant may not be approved under this section unless the Indiana finance authority finds all of the following:

(1) The development authority commits to matching the biennial appropriations provided from the state general fund to the northwest Indiana regional development authority commuter rail construction fund for the term of the grant project. The funds used to match these biennial appropriations must be funds received by the development authority under IC 36-7.5-4-1 and IC 36-7.5-4-2.

(2) The development authority can demonstrate an annual return on investment that, within twenty (20) years after the first grant is made for the projects, is at least twice the annualized amount of the grant requested. The return on investment must be

measured by the annual amount of incremental state fiscal year increases to state gross retail and use taxes and state income taxes that are projected to be collected as a direct result of the projects, as determined by the Indiana finance authority. Projections to determine the return on investment must be provided in detail by the development authority and shall be evaluated by the office of management and budget.

(e) If projects that will be financed are approved under this section, the Indiana finance authority may, after review by the budget committee, approve a grant, comprised of a series of annual grants, not to exceed thirty (30) years, that is consistent with the financing requirements for the approved projects. If the Indiana finance authority approves and makes a grant under this section, the general assembly covenants that it will not:

- (1) repeal or amend this section in a manner that would adversely affect owners of outstanding bonds, or payment of any lease rentals, secured by grants made under this section; or
- (2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by grants made under this section.

The budget agency shall allot the appropriation for the duration of the grants that are needed to complete the approved projects.

(f) If the Indiana finance authority approves and makes a grant under this section, the development authority shall in July of each year through 2045 submit an annual progress report to the Indiana finance authority.

(g) The following must be deposited each year in the northwest Indiana regional development authority commuter rail construction fund established by section 6 of this chapter:

- (1) Money that is granted to the development authority by the state under this section during the year.
- (2) Money that is committed by the development authority under this section for the year.
- (3) Money that is committed by a political subdivision from county economic development income tax under IC 6-3.5-7. In the case of a political subdivision in Porter County, notwithstanding IC 6-3.5-7-13.1(b)(5), the money that is committed by the political subdivision from county economic development income tax shall be paid from tax revenue that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase described in IC 6-3.5-7-13.1(b)(4). Any remaining tax revenue that:
  - (A) is in excess of the first three million five hundred thousand dollars (\$3,500,000) that results each year from the tax rate increase described in IC 6-3.5-7-13.1(b)(4); and
  - (B) is not committed by a political subdivision under this subdivision;

shall be used for the purposes set forth in IC 6-3.5-7-13.1(b)(5).  
*As added by P.L.213-2015, SEC.265.*

**IC 36-7.5-3-5 Version b**  
**Grant program for extending the Chicago, South Shore, and South Bend Railway**

*Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.*

Sec. 5. (a) There is established a grant program to provide state matching grants for construction projects extending the Chicago, South Shore, and South Bend Railway.

(b) To participate in the grant program, the development authority must prepare an update to the comprehensive strategic development plan prepared under section 4 of this chapter. The update must include detailed information concerning the following:

(1) The proposed projects to be undertaken by the development authority to extend the Chicago, South Shore, and South Bend Railway using grants made under this section.

(2) The commitments being made by the development authority and political subdivisions in exchange for receiving grants under this section.

(3) The following information for each project included under subdivision (1):

(A) The location of each project.

(B) A timeline and budget, including milestones that the development authority commits to achieving by the time specified.

(C) The expected return on investment.

(D) Any projected or expected federal and local matching funds.

(c) To receive a matching grant under this section, the development authority must adopt an authorizing resolution and submit the updated plan along with a grant application to the Indiana finance authority for approval, after review by the budget committee.

(d) A grant may not be approved under this section unless the Indiana finance authority finds all of the following:

(1) The development authority commits to matching the biennial appropriations provided from the state general fund to the northwest Indiana regional development authority commuter rail construction fund for the term of the grant project. The funds used to match these biennial appropriations must be funds received by the development authority under IC 36-7.5-4-1 and IC 36-7.5-4-2.

(2) The development authority can demonstrate an annual return on investment that, within twenty (20) years after the first grant is made for the projects, is at least twice the annualized amount of the grant requested. The return on investment must be measured by the annual amount of incremental state fiscal year

increases to state gross retail and use taxes and state income taxes that are projected to be collected as a direct result of the projects, as determined by the Indiana finance authority. Projections to determine the return on investment must be provided in detail by the development authority and shall be evaluated by the office of management and budget.

(e) If projects that will be financed are approved under this section, the Indiana finance authority may, after review by the budget committee, approve a grant, comprised of a series of annual grants, not to exceed thirty (30) years, that is consistent with the financing requirements for the approved projects. If the Indiana finance authority approves and makes a grant under this section, the general assembly covenants that it will not:

- (1) repeal or amend this section in a manner that would adversely affect owners of outstanding bonds, or payment of any lease rentals, secured by grants made under this section; or
- (2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by grants made under this section.

The budget agency shall allot the appropriation for the duration of the grants that are needed to complete the approved projects.

(f) If the Indiana finance authority approves and makes a grant under this section, the development authority shall in July of each year through 2045 submit an annual progress report to the Indiana finance authority.

(g) The following must be deposited each year in the northwest Indiana regional development authority commuter rail construction fund established by section 6 of this chapter:

- (1) Money that is granted to the development authority by the state under this section during the year.
- (2) Money that is committed by the development authority under this section for the year.
- (3) Money that is committed by a political subdivision to economic development purposes under IC 6-3.6-6.
- (4) In the case of a political subdivision in Porter County, the money that is committed by the political subdivision to economic development purposes under IC 6-3.6-6 from the local income tax shall be paid from tax revenue that is in excess of the first three million five hundred thousand dollars (\$3,500,000) that is required to be transferred under IC 6-3.6-11-6(d)(2). Any remaining tax revenue that:
  - (A) is in excess of the first three million five hundred thousand dollars (\$3,500,000) each year that is required to be transferred under IC 6-3.6-11-6(d)(2); and
  - (B) is not committed by a political subdivision under this subdivision;shall be used as required by IC 6-3.6-11-6(d)(3).

*As added by P.L.213-2015, SEC.265. Amended by P.L.197-2016,*



SEC.140.

**IC 36-7.5-3-5.4**

**Northwest Indiana plan; goals for employment and retention of employees for work on development projects; reporting requirements**

Sec. 5.4. (a) For purposes of this section, "northwest Indiana plan" refers to the activities of the Indiana plan for equal employment in its northwest Indiana region.

(b) Subject to subsection (c), the development authority shall set a goal to achieve employment and retention of employees from certain northwest Indiana cities for work on development authority projects. The goal must be to attain, by not later than January 1, 2020, a workforce for each project that consists of at least twenty percent (20%) of employees who are individuals who reside in cities that:

- (1) are within the boundaries of the development authority; and
- (2) have an unemployment rate that exceeds the state unemployment rate by more than twenty percent (20%).

(c) The goal set forth in subsection (b) applies:

- (1) to development authority investments of state and local funds on capital projects that require construction or demolition; and
- (2) unless attainment of the goal is inconsistent with any federal or state law or regulation.

(d) The development authority shall before November 1 of each year issue a report to the legislative council, the budget committee, and the governor concerning the operations and activities of the development authority during the preceding state fiscal year as indicated in section 3 of this chapter. In addition, the development authority shall report on progress toward meeting the goal set forth in subsection (b) for the previous year and report any obstacles to achieving the goal set forth in subsection (b) and the use of the northwest Indiana plan in the report to the legislative council. The report to the legislative council must be in an electronic format under IC 5-14-6.

*As added by P.L.192-2015, SEC.13.*

**IC 36-7.5-3-6 Version a**

**Northwest Indiana regional development authority commuter rail construction fund; establishment; uses**

*Note: This version of section effective until 1-1-2017. See also following version of this section, effective 1-1-2017.*

Sec. 6. (a) As used in this section, "fund" refers to the northwest Indiana regional development authority commuter rail construction fund established by subsection (b).

(b) The northwest Indiana regional development authority commuter rail construction fund is established within the treasury of

the development authority as a restricted fund for the purpose of holding money to be used to provide matching grants for projects that:

- (1) are related to the extension of the Chicago, South Shore, and South Bend Railway; and
  - (2) are approved by the development authority under this section.
- (c) The fund consists of the following:
- (1) Appropriations by the general assembly.
  - (2) Contributions received by the development authority under IC 36-7.5-4-1 and IC 36-7.5-4-2.
  - (3) Contributions of county economic development income tax revenue received by the fund in accordance with section 5 of this chapter.
  - (4) Federal grants.
  - (5) Gifts.
- (d) The development authority shall administer the fund.
- (e) Money in the fund that is not needed to satisfy the obligations of the fund may be invested in the manner that other public money may be invested. Interest or other investment returns received on investments of money in the fund becomes part of the fund.
- (f) Money in the fund may be disbursed from the fund only for the following purposes:
- (1) To pay debt service on bonds issued to fund construction projects extending the Chicago, South Shore, and South Bend Railway.
  - (2) To provide matching grants in accordance with the requirements of this section.
  - (3) To pay the expenses of the development authority in administering the fund.
  - (4) To return money to the entity that contributed the money to correct an error in the contribution amount or because the money is no longer needed for the purpose for which the money was contributed.

*As added by P.L.213-2015, SEC.266.*

#### **IC 36-7.5-3-6 Version b**

#### **Northwest Indiana regional development authority commuter rail construction fund; establishment; uses**

*Note: This version of section effective 1-1-2017. See also preceding version of this section, effective until 1-1-2017.*

Sec. 6. (a) As used in this section, "fund" refers to the northwest Indiana regional development authority commuter rail construction fund established by subsection (b).

(b) The northwest Indiana regional development authority commuter rail construction fund is established within the treasury of the development authority as a restricted fund for the purpose of holding money to be used to provide matching grants for projects

that:

- (1) are related to the extension of the Chicago, South Shore, and South Bend Railway; and
  - (2) are approved by the development authority under this section.
- (c) The fund consists of the following:
- (1) Appropriations by the general assembly.
  - (2) Contributions received by the development authority under IC 36-7.5-4-1 and IC 36-7.5-4-2.
  - (3) Contributions of the local income tax revenue received by the fund in accordance with section 5 of this chapter.
  - (4) Federal grants.
  - (5) Gifts.
- (d) The development authority shall administer the fund.
- (e) Money in the fund that is not needed to satisfy the obligations of the fund may be invested in the manner that other public money may be invested. Interest or other investment returns received on investments of money in the fund becomes part of the fund.
- (f) Money in the fund may be disbursed from the fund only for the following purposes:
- (1) To pay debt service on bonds issued to fund construction projects extending the Chicago, South Shore, and South Bend Railway.
  - (2) To provide matching grants in accordance with the requirements of this section.
  - (3) To pay the expenses of the development authority in administering the fund.
  - (4) To return money to the entity that contributed the money to correct an error in the contribution amount or because the money is no longer needed for the purpose for which the money was contributed.

*As added by P.L.213-2015, SEC.266. Amended by P.L.197-2016, SEC.141.*