Updated January 31, 2023 (2:36pm)

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HOUSE BILL No. 1005

Proposed Changes to January 26, 2023 printing by AM100506

DIGEST OF PROPOSED AMENDMENT

Housing. Deletes provisions requiring that loans from the fund must be allocated as follows: (1) 70% of the money in the fund must be used for housing infrastructure in municipalities with a population of less than 50,000. (2) 30% of the money in the fund must be used for housing infrastructure in all other political subdivisions. Provides that a particular political subdivision may not receive more than 20% of the amount available for loans or benefits during the biennium. Deletes criteria related to development ordinances, zoning regulations, and impact fee ordinances from criteria that must be included in a project prioritization system. Makes an appropriation.

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

SECTION 1. IC 5-1.2-2-26, AS AMENDED BY P.L.154-2021, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 26. (a) "Financial assistance agreement", for purposes of the wastewater program and drinking water program established under IC 5-1.2-10, the supplemental program established under IC 5-1.2-11, the Indiana brownfields program established under IC 5-1.2-12, the flood control program established under IC 5-1.2-13, the water infrastructure assistance program established under IC 5-1.2-14, the water infrastructure grant program established by IC 5-1.2-14.5, ~~and~~ the local transportation infrastructure program established under IC 5-1.2-15, **and the residential housing infrastructure assistance program established by IC 5-1.2-15.5,**[ ]refers to a financial assistance agreement, financial aid agreement, grant agreement, or any other obligation between the authority and a participant under those chapters establishing the terms and conditions

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of a grant, loan, or other financial assistance, including forgiveness of principal if allowed under federal law, by the authority to the participant under those chapters.

(b) Nothing in this section restricts the authority from denominating any financial assistance agreement by any other name the authority determines to be administratively convenient.

SECTION 2. IC 5-1.2-2-54, AS AMENDED BY P.L.154-2021, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 54. "Participant" means the following:

(1) For purposes of the wastewater program established under IC 5-1.2-10:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under the federal Clean Water Act.

(2) For purposes of the drinking water program established under IC 5-1.2-10:

(A) a political subdivision; or

(B) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under the federal Safe Drinking Water Act.

(3) For purposes of the supplemental program established under IC 5-1.2-11, the Indiana brownfields program established under IC 5-1.2-12, the flood control program established under IC 5-1.2-13, the water infrastructure assistance program established under IC 5-1.2-14, and the water infrastructure grant program established by IC 5-1.2-14.5:

(A) a political subdivision;

(B) the Kankakee River basin and Yellow River basin development commission established by IC 14-13-9-6; or

(C) any person, entity, association, trust, or other manner of participant allowed by law to enter contractual arrangements for a purpose eligible for assistance under those chapters.

(4) For purposes of the local transportation infrastructure program established under IC 5-1.2-15:

(A) a political subdivision;

(B) an agency, authority, department, instrumentality, or body corporate and politic acting on behalf of a political subdivision; or

(C) a regional authority, instrumentality, or body corporate and politic acting on behalf of one (1) or more entities described in clause (A) or (B).

(5) For purposes of the residential housing infrastructure assistance program established by IC 5-1.2-15.5, a political subdivision.

SECTION 3. IC 5-1.2-2-59, AS AMENDED BY P.L.154-2021,

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SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 59. "Program" or "programs" means:

(1) the drinking water program established under IC 5-1.2-10;

(2) the Indiana brownfields program established under IC 5-1.2-12;

(3) the flood control program established under IC 5-1.2-13;

(4) the water infrastructure assistance program established under IC 5-1.2-14;

(5) the local transportation infrastructure program established under IC 5-1.2-15;

(6) the storm water management program;

(7) the supplemental program established under IC 5-1.2-11;

(8) the wastewater program established under IC 5-1.2-10; ~~and~~

(9) the water infrastructure grant program established by IC 5-1.2-14.5; **and**

(10) the residential housing infrastructure assistance program established by IC 5-1.2-15.5.

SECTION 4. IC 5-1.2-4-24, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 24. **(a)** The issuance of bonds and the adoption of rules under the referenced statutes need not comply with the requirements of any other state laws applicable to the issuance of the bonds or adoption of these rules. No proceedings, notice, or approval is required for the issuance of any bonds or any instrument or the security for the bonds or instrument, except as provided in the referenced statutes.

(b) All:

(1) economic development projects for which funds are advanced, loaned, or otherwise provided by the authority under IC 5-1.2-9; **and**

(2) eligible projects for which funds are loaned by the authority under IC 5-1.2-15.5;

must be in compliance with any land use, zoning, subdivision, and other laws of this state applicable to the land upon which the economic development project **or eligible project** is located or is to be constructed, but a failure to comply with these laws does not invalidate any bonds issued to finance an economic development project under IC 5-1.2-9 **or an eligible project under IC 5-1.2-15.5.**

SECTION 5. IC 5-1.2-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 15.5. Residential Housing Infrastructure Assistance Program

Sec. 1. The authority shall carry out the program established under this chapter.

Sec. 2. As used in this chapter, "eligible project" means a project for housing infrastructure.

Sec. 3. As used in this chapter, "fund" refers to the residential housing infrastructure assistance revolving fund established by

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section 9 of this chapter.

Sec. 4. As used in this chapter, "housing infrastructure" means the installation, replacement, upgrade, or improvement of public infrastructure for the support of residential housing.

Sec. 5. As used in this chapter, "program" refers to the residential housing infrastructure assistance program established by section 8 of this chapter.

Sec. 6. (a) As used in this chapter, "public infrastructure" means any of the following infrastructure that is or will be owned, maintained, or provided by a political subdivision:

(1) A water distribution system.

(2) A water treatment plant.

(3) A wastewater treatment plant.

(4) A sanitary sewer system.

(5) A storm sewer system.

(6) A lift station.

(7) A street, road, or bridge.

(8) A curb, gutter, or sidewalk.

(9) A traffic signal.

(10) A street light.

(11) An electric or gas distribution line.

(b) The term includes the purchase of land necessary to accommodate a project listed in this section, including any excavation and compaction.

(c) For purposes of subsection (a)(1) through (a)(4), a political subdivision is providing the infrastructure notwithstanding that, after completion of construction, the infrastructure is contributed by the political subdivision to a public utility (as defined in IC 8-1-2-1).

Sec. 7. As used in this chapter, "residential housing" means single family or multifamily housing for rent or sale. The term includes condominiums and townhouses located within an economic development target area that is designated under IC 6-1.1-12.1-7.

Sec. 8. The residential housing infrastructure assistance program is established.

Sec. 9. (a) The residential housing infrastructure assistance revolving fund is established. The fund is a revolving fund to provide money for loans under this chapter to or for the benefit of participants.

(b) The fund consists of:

(1) appropriations from the general assembly;

(2) grants and other gifts of money; and

(3) loan repayments, including interest, premiums, and penalties.

(c) The authority shall administer, hold, and manage the fund.

(d) The cost of administering the fund shall be paid from money in the fund.

(e) Money in the fund shall be used to make loans for public

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infrastructure for the support of residential housing.

(f) Money in the fund may not be used for any of the following purposes:

(1) Repayment of any debt incurred for a project other than an eligible project.

(2) Routine maintenance and repair projects.

(3) Upgrading utility poles.

(4) Fees for studies, reports, designs, or analyses prepared by consultants or engineers for an eligible project.

(g) Money in the fund is continuously appropriated for the purposes of this chapter.

(h) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

Sec. 10. ~~<Loans from the fund must be allocated and made available to participants as follows:~~

~~(1) Seventy percent (70%) of the money in the fund must be used for housing infrastructure in municipalities with a population of less than fifty thousand (50,000).~~

~~(2) Thirty percent (30%) of the money in the fund must be used for housing infrastructure in all other~~>[Of the money available from the fund during the biennium beginning July 1, 2023, and ending June 30, 2025, for loans under this chapter or for the benefit of participants under this chapter, a particular] political ~~<subdivisions>~~[subdivision may] not ~~<described in subdivision (1).~~

>[receive an amount that exceeds twenty percent (20%) of the total amount available.]

Sec. 11. (a) The authority shall invest the money in the fund in accordance with an investment policy adopted by the authority. Interest, premiums, gains, or other earnings from the investments shall be credited to and deposited in the fund.

(b) As an alternative to subsection (a), the authority may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to:

(1) a participant;

(2) the authority; or

(3) any person to which the authority or a participant is obligated, as provided in the trust agreement or indenture.

Sec. 12. This chapter does not require the authority to provide a loan to any participant to the extent the authority determines the loan is not in the best interests of the program and the authority.

Sec. 13. The authority shall do the following under this chapter:

(1) Manage the program.

(2) Prepare and provide program information to

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participants.

(3) Negotiate the negotiable aspects of each financial assistance agreement.

(4) Prepare or cause to be prepared each financial assistance agreement.

(5) Sign each financial assistance agreement.

(6) Conduct or cause to be conducted an evaluation as to the financial ability of each participant to pay the loan and other obligations evidencing the loans, if required to be paid, and comply with the financial assistance agreement.

(7) Review each proposed eligible project and financial assistance agreement to determine if the project meets the credit, economic, or fiscal criteria established by guidelines of the authority.

Sec. 14. (a) The authority shall develop and use a priority ranking system in making loans from the fund.

(b) The ranking system must prioritize making loans for eligible projects to participants that:

(1) have:

(A) invested in a housing study within the last five (5) years; or

(B) demonstrated the need for housing inventory as indicated by the Indiana state housing dashboard;~~<~~

~~**(2) have voluntarily revised unified development ordinances, zoning regulations, or other land development rules to allow for:**~~

~~**(A) higher density development;**~~

~~**(B) construction of other housing types including accessory dwelling units and manufactured and modular housing;**~~

~~**(C) adaptive reuse of commercial buildings for residential use; or**~~

~~**(D) waiver or elimination of regulations such as requirements for:**~~

~~**(i) garage size and placement;**~~

~~**(ii) steeper roof pitch;**~~

~~**(iii) minimum lot size and square footage;**~~

~~**(iv) greater setbacks;**~~

~~**(v) off-street parking; or**~~

~~**(vi) design standards that restrict or prohibit the use of code compliant products;**~~

~~**(3) do not have impact fee ordinances;**~~

~~**(4>**~~**[**

[2]) have secured private, local, state, or federal funds to contribute to the eligible project;

(~~**<5>**~~**[3]) have secured a letter of support from an employer stipulating that the public infrastructure will support residential housing that is in reasonable proximity to employment; or**

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(~~6~~[4]) assist:

(A) homeowners to age in place through restoration or renovation of existing homes; or

(B) communities in preparing for shovel ready housing.

Sec. 15. The authority shall establish the terms and conditions that the authority considers necessary or convenient to make loans under this chapter.

Sec. 16. (a) An application for a loan from the fund must be accompanied by all papers and opinions required by the authority.

(b) The authority may require that an application for a loan from the fund be accompanied by the following:

(1) A certification and guarantee of signatures.

(2) A certification that, as of the date of the loan, no litigation is pending challenging the validity of or entry into:

(A) the loan; or

(B) any security for the loan.

(3) Any other certifications, agreements, security, or requirements that the authority requests.

(4) An approving opinion of nationally recognized bond counsel.

Sec. 17. A participant receiving a loan from the fund shall enter into a financial assistance agreement. A financial assistance agreement related to the program is a valid, binding, and enforceable agreement of the participant.

Sec. 18. (a) The authority may pledge loans and other obligations of participants evidencing the loans from the fund to secure other loans from the fund to or for the benefit of participants.

(b) The authority must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the authority under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and that is received after the pledge is immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

(1) the fund; or

(2) the authority;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or another instrument by which a pledge is created does not have to be filed or recorded, except in the records of the authority.

(e) Action taken to:

(1) enforce a pledge under this section; and

(2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

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Sec. 19. (a) The authority shall establish the interest rate or parameters for establishing the interest rate on each loan made under this chapter, including parameters for establishing the amount of interest subsidies.

(b) The authority, in setting the interest rate or parameters for establishing the interest rate on each loan, may take into account the following:

(1) Credit risk.

(2) Affordability.

(3) Other fiscal factors the authority considers relevant, including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.

Based on the factors set forth in subdivisions (1) through (3), more than one (1) interest rate may be established and used for loans to different participants or for different loans to the same participants.

Sec. 20. (a) As an alternative to making loans to participants, the authority may use the money in the fund to provide a leveraged loan program to or for the benefit of participants, including using money in the fund to enhance the obligations of participants issued for the purposes of this chapter by:

(1) granting money to:

(A) be deposited in:

(i) a capital fund or reserve fund established under IC 5-1.2-4 or another statute or a trust agreement or indenture as contemplated by this chapter; or

(ii) an account established within a fund described in item (i); or

(B) provide interest subsidies;

(2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a participant or for bonds issued by the authority, if credit market access is improved or interest rates are reduced; or

(3) guaranteeing all or a part of obligations issued by participants or bonds issued by the authority.

(b) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

Sec. 21. Notwithstanding any other law, money in the fund, together with loan repayments to be deposited in the fund, may be used to establish a leveraged loan program in connection with the fund.

Sec. 22. The authority may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter.

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Sec. 23. Not later than August 1 of each year, the public finance director shall prepare for the budget committee established by IC 4-12-1-3 and the legislative council a report that includes the following:

(1) Information concerning the loans made available to participants from the fund during each fiscal year.

(2) Any other information requested by the budget committee and the legislative council.

The report to the legislative council must be submitted in an electronic format under IC 5-14-6.

[SECTION 6. [EFFECTIVE JULY 1, 2023] **(a) For the state fiscal year beginning July 1, 2023, and ending June 30, 2024, there is appropriated from the state general fund to the residential housing infrastructure assistance revolving fund established by IC 5-1.2-15.5-9 (as added by this act) fifty million dollars ($50,000,000) to be used for the purposes of the fund.**

(b) For the state fiscal year beginning July 1, 2024, and ending June 30, 2025, notwithstanding IC 4-13-2-19 and any other law, and subject to a request by the governor and review by the budget committee, any part of an appropriation in the biennial budget act made to the Indiana economic development corporation that remains unexpended and unencumbered at the close of the state fiscal year ending June 30, 2024, does not revert to the state general fund and instead shall revert to the residential housing infrastructure assistance revolving fund established by IC 5-1.2-15.5-9 (as added by this act) to be used for the purposes of the fund. However, the amount deposited under this subsection may not exceed one hundred million dollars ($100,000,000).

(c) This SECTION expires July 1, 2025.

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