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FISCAL IMPACT STATEMENT

LS 7627

BILL NUMBER: HB 1003

NOTE PREPARED: Jan 28, 2005

BILL AMENDED: Jan 27, 2005

SUBJECT: Economic Development.

FIRST AUTHOR: Rep. Borrer

FIRST SPONSOR: Sen. Ford

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill consolidates various provisions related to the Economic Development Corporation (IEDC) into one article of the Indiana Code. The bill provides that the Governor is the chairperson of the IEDC Board. The bill reduces the membership of the IEDC Board from 23 to 12 members. It also specifies that when making appointments to the IEDC Board, the Governor shall appoint at least five members belonging to the same political party as the Governor and at least three members who belong to a major political party other than the party of which the Governor is a member.

The bill abolishes the Department of Commerce, the 21st Century Research and Technology Fund Board, the Steel Industry Advisory Commission, the Enterprise Zone Board, the Small Business Development Corporation, the Film Commission, and the Business Modernization and Technology Corporation and transfers the duties and powers of these entities to the IEDC.

The bill specifies that certain programs related to tourism, community development, and energy that are currently administered by the Department of Commerce shall be administered by the Lieutenant Governor. It also repeals provisions related to functions of the Department of Commerce that are transferred to the IEDC. The bill abolishes the Office of Tourism and Community Development and the Office of Energy Policy, which were to take over certain duties of the Department of Commerce on July 1, 2005.

The bill eliminates the Strategic Development Program and Fund, the Growth Investment Program (GRIP), and the Local Labor Management Grant Program and Fund.

The bill specifies that a grant or loan from the 21st Century Research and Technology Fund may not be approved or recommended to the Budget Agency unless the grant or loan has received a positive

recommendation from a peer review panel.

The bill establishes the Indiana Promotion Fund and provides that the Fund consists of all private funding and donations received by the IEDC. The bill authorizes the IEDC to establish a nonprofit subsidiary to solicit and accept private sector funding.

The bill provides that members of the IEDC Board may not vote by proxy. The bill provides that the IEDC Board and employees of the IEDC are under the jurisdiction of the State Ethics Commission and are subject to ethics rules that apply to the executive branch of state government. The bill allows the IEDC board to adopt additional ethics rules that are more stringent than those adopted by the State Ethics Commission. The bill requires the IEDC to adopt rules under the statutory rule adoption process and authorizes the IEDC to adopt emergency rules.

The bill specifies that in transferring appropriations from the Department of Commerce to the IEDC or the Lieutenant Governor, the Budget Agency determines whether the appropriation to be transferred is related to economic development, community development, tourism, or energy.

The bill requires the State Board of Accounts to examine the IEDC and its funds, accounts, and financial affairs. The bill specifies explicitly that the IEDC and the IEDC Board are subject to the Open Door Law and the Public Records Law. The bill also makes conforming changes.

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) This bill implements the reorganization of economic development, community development, tourism, and energy programs outlined and scheduled to occur July 1, 2005, under current statute. However, the timetable for the reorganization is being moved up as the bill is effective upon passage. Under current statute, the Indiana Department of Commerce (IDOC) is abolished effective July 1, 2005, and at that time the Indiana Economic Development Corporation (IEDC) is established to administer the state's economic development programs. In addition, a Department of Tourism and Community Development is established July 1, 2005, to administer tourism and community development programs; and an Office of Energy Policy is established to administer energy programs (see *Background* discussion below).

The bill makes the following alterations to the reorganization specified under current statute.

(1) The provides that the State Budget Agency will make determinations as to whether existing appropriations to the IDOC are related to economic development and are to be transferred to the IEDC; or related to community development, tourism, or energy policy and are to be transferred to the Lt. Governor's Office (who will take over these functions).

(2) The bill establishes the position of Secretary of Commerce who is appointed by, and serves at the pleasure of, the Governor. The bill requires the Secretary of Commerce to be the chief executive officer of the IEDC. Current statute unchanged by the bill provides that the IEDC determine compensation and terms of service of IEDC employees.

(3) The bill establishes the position of President of the IEDC who is appointed by, and serves at the pleasure of, the Governor. The bill requires the President to report to the Secretary of Commerce. Current statute

unchanged by the bill provides that the IEDC determine compensation and terms of service of IEDC employees.

(4) The bill changes the membership of the IEDC Board. The bill reduces the IEDC Board from 23 to 12 members, makes the Governor a member and chairperson of the Board, and removes the Lt. Governor as a member of the Board. The bill also provides that the Governor appoint the remaining 11 members of the IEDC Board, with these members serving at the pleasure of the Governor. (See *Background* discussion below for the IEDC Board membership specified under current statute.) Current statute unchanged by the bill provides that the IEDC Board members are entitled to a salary per diem equal to the per diem for members of the General Assembly for attending meetings. While current statute provides that Board members are to be reimbursed for actual and necessary expenses on the same basis as state employees, the bill specifies that reimbursement is for traveling expenses and other expenses actually incurred in connection with the members' duties as approved by the State Budget Agency.

(5) The bill eliminates the following Boards and Commissions while moving the programmatic duties of these entities to the IEDC Board.

- (a) Business Modernization and Technology Board.
- (b) 21st Century Research and Technology Fund Board.
- (c) Small Business Development Corporation Board.
- (d) Steel Industry Advisory Commission.
- (e) Indiana Film Commission.
- (f) Indiana Enterprise Zone Board.

(6) The bill repeals current statute requiring the establishment of a Department of Tourism and Community Development, and an Office of Energy Policy effective July 1, 2005. The bill transfers all duties, functions, and responsibilities for tourism, community development, and energy programs to the Lt. Governor.

(7) The bill repeals current statute making the Indiana Development Finance Authority and the Indiana Economic Development Council subsidiaries of the IEDC. The Council Board of Directors would still be chaired by the Governor (the Chairperson of the IEDC Board), but the Lt. Governor would no longer be a member of the Council Board.

(8) The bill repeals the Strategic Development Program and Fund, the Growth Investment Program (GRIP), and the Local Labor Management Grant Program and Fund. No fund could be located that serves the Growth Investment Program or the Local Labor Management Grant Program. A revolving Strategic Development Fund currently exists with a balance totaling about \$34,117.

(9) The bill changes the relationship under current statute between the Indiana Economic Development Council and the IEDC. Current statute provides that the Council becomes a subsidiary of the IEDC. The bill, however, provides that the Governor (the Chairperson of the IEDC Board) is a member of the Council Board of Directors.

(10) The bill establishes the Indiana Promotion Fund to be administered by the IEDC. The bill provides that the IEDC deposit all private sector funding solicited by the IEDC for initiatives and all other gifts, donations, and contributions in the Promotion Fund. In addition, a noncode provision of the bill requires that \$20,000 of appropriations made to the Indiana Department of Commerce before the effective date of the bill is to be transferred to the Promotion Fund. The Promotion Fund is nonreverting. Money in the Fund can be transferred

to any other Fund administered by the IEDC. The bill also provides that money in the Fund is continuously appropriated to the IEDC.

(11) The bill specifically authorizes the IEDC to establish a nonprofit subsidiary corporation to solicit and accept private sector funding, gifts, donations, and other contributions. The subsidiary is required to use this money to carry out in any manner the purposes and programs of the IEDC. The subsidiary may deposit money in an account or fund it administers and that is not part of the State Treasury. The subsidiary must annually report the Budget Committee about its use of this money and the balances in any account or fund it establishes. The bill also requires the State Board of Accounts to annually audit the subsidiary.

(12) The bill repeals current statute authorizing the IEDC to incur debt, and specifies that the IEDC may not incur debt for purposes of the Small Business Development Program or the Business Modernization and Technology Program (transferred to the IEDC under the bill).

(13) The bill authorizes the IEDC to enter into contracts without the approval of the Attorney General or other state officials.

(14) The bill specifically provides that the IEDC Board and employees are under the jurisdiction of the State Ethics Commission, and are subject to the executive branch ethics rules.

(15) The bill specifically provides that the IEDC is subject to the Open Door Law and the Public Records Law.

(16) The bill specifically requires the IEDC to comply with current state law relating to the adoption of rules, and authorizes the IEDC to adopt emergency rules.

(17) The bill specifically requires the State Board of Accounts to do a financial audit of the IEDC every two years.

(18) The bill requires investment earnings from the following funds to be transferred to the state General Fund: the Trade Promotion Fund, Enterprise Zone Fund, Indiana 21st Century Research and Technology Fund, Microenterprise Partnership Program (revolving) Fund, Small Business Incubator (revolving) Fund, EDGE Fund, Investment Incentive Fund, and Industrial Development Grant Fund.

(19) The bill repeals current statute that provides that grants to Urban Enterprise Associations for brownfield remediation may only be made from the year-end balance in the Enterprise Zone (EZ) Fund. Money in the EZ Fund comes from registration fees paid to businesses that receive EZ incentives. The Fund had a year-end balance in FY 2004 of \$259,437.

Background: P. L. 224-2003 established the IEDC and the IEDC Board, and transferred the responsibilities of the Indiana Department of Commerce (IDOC) relating to economic development in Indiana to the IEDC as of July 1, 2005. P. L. 224-2003 provided that the IEDC is a body politic and corporate, an independent instrumentality and not a state agency. P. L. 224-2003 transferred the current duties of the IDOC relating to economic development to the IEDC on July 1, 2005. P. L. 224-2003 also made the entities listed below subsidiaries of the IEDC with oversight of the subsidiaries beginning on July 1, 2005. [Note: P. L. 224-2003 also made the Indiana Venture Fund, which does not exist, a subsidiary of the IEDC.]

(1) Indiana Small Business Development Corporation.

- (2) Indiana Economic Development Council.
- (3) Indiana Development Finance Authority.
- (4) Indiana 21st Century Research and Technology Fund.

P. L. 224-2003 also transferred the current duties of the IDOC relating to energy policy to a newly created Office of Energy Policy on July 1, 2005. P. L. 224-2003 established a Department of Tourism and Community Development on July 1, 2005, and transferred the current IDOC duties relating to tourism and community development to this agency.

Under P. L. 224-2003, as changed by P. L. 63-2004, the IEDC Board beginning July 1, 2005, is to be comprised of the following members: (1) the Lt. Governor; (2) 15 members appointed by the Governor who are employed in, or retired from, the private or nonprofit sector; and (3) 7 members appointed by the Governor who are employed in, or retired from, the private or nonprofit sector, or from academia. For one appointment each under (2) above, the Governor must consider the recommendation of Speaker of the House of Representatives, President Pro Tempore of the Senate, House Minority Leader, and Senate Minority Leader. For one appointment each under (3) above, the Governor must consider the recommendation of the presidents of Indiana University, Purdue University, Indiana State University, Ball State University, Ivy Tech State College, Vincennes University, and the University of Southern Indiana. Under P. L. 224-2003, IEDC Board members are entitled to a salary per diem equal to the per diem for members of the General Assembly for attending meetings. In addition, Board members are to be reimbursed for actual and necessary expenses on the same basis as state employees.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Governor; Lt. Governor; Indiana Economic Development Corporation; Indiana Department of Commerce; Indiana Economic Development Council Board; Business Modernization and Technology Board; 21st Century Research and Technology Fund Board; Small Business Development Corporation Board; Steel Industry Advisory Commission; Indiana Film Commission; Indiana Enterprise Zone Board; Indiana Development Finance Authority; EDGE Board.

Local Agencies Affected:

Information Sources:

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