

Adopted Rejected

COMMITTEE REPORT

YES: 11
NO: 1

MR. SPEAKER:

Your Committee on Public Policy, to which was referred House Bill 405, 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:

- 1 Page 1, delete lines 1 through 15.
- 2 Delete pages 2 through 3.
- 3 Page 4, delete lines 1 through 13, begin a new paragraph and insert:
- 4 "SECTION 3. IC 4-31-6-1 IS AMENDED TO READ AS
- 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section
- 6 does not apply to:
- 7 (1) law enforcement officers; or
- 8 (2) reporters or other media employees assigned to cover events
- 9 at a racetrack.
- 10 (b) A person must be a licensee in order to:
- 11 (1) participate in racing at a racetrack or at a satellite facility that
- 12 permits the pari-mutuel form of wagering; or
- 13 (2) work in any capacity **related to a permit holder's**
- 14 **pari-mutuel horse racing operation** for:
- 15 (A) a permit holder; or

1 (B) an employee or a subcontractor of a permit holder."

2 Page 8, delete lines 40 through 42.

3 Page 9, delete lines 1 through 3, begin a new paragraph and insert:

4 "SECTION 7. IC 4-33-2-6.5 IS ADDED TO THE INDIANA CODE
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
6 1, 2010]: **Sec. 6.5. "Development agreement" means an agreement
7 that:**

8 (1) is between a person or a unit of local government and:

9 (A) an operating agent or an affiliate of the operating
10 agent; or

11 (B) a licensed owner or an affiliate of the licensed owner;
12 and

13 (2) sets forth the operating agent's or licensed owner's
14 financial commitments to support economic development in
15 a unit or geographic region.

16 SECTION 8. IC 4-33-2-7.3 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2010]: **Sec. 7.3. "Economic development payment" means a
19 monetary amount:**

20 (1) paid by an operating agent (or an affiliate of the operating
21 agent) or a licensed owner (or an affiliate of the licensed
22 owner); and

23 (2) received by a unit of local government or any other entity
24 regardless of whether the entity is organized or operated for
25 private profit or gain;

26 in accordance with the terms of a development agreement."

27 Page 9, between lines 18 and 19, begin a new paragraph and insert:

28 "SECTION 9. IC 4-33-2-18.5 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2010]: **Sec. 18.5. "Third party recipient"
31 means an entity that receives a disbursement from money
32 originally received by the disbursing party as an economic
33 development payment."**

34 Page 10, between lines 41 and 42, begin a new paragraph and insert:

35 "SECTION 15. IC 4-33-4-22.5 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2010]: **Sec. 22.5. The commission has
38 continuous jurisdiction over development agreements. The**

1 **commission may verify and ensure that development agreements,**
 2 **economic development payments, disbursements to third party**
 3 **recipients, and expenditures of third party recipients:**

4 **(1) comport with the purposes of this article; and**

5 **(2) do not adversely affect the integrity of the riverboat**
 6 **gambling industry in Indiana.**

7 SECTION 16. IC 4-33-4-23, AS ADDED BY P.L.199-2005,
 8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2010]: Sec. 23. (a) An operating agent or a person holding an
 10 owner's license must report annually to the commission the following:

11 (1) The total dollar amounts and recipients of ~~incentive~~ **economic**
 12 **development** payments made.

13 (2) Any other items related to ~~the payments described in~~
 14 ~~subdivision (1)~~ **an economic development payment** that the
 15 commission may require.

16 (b) The commission shall prescribe, with respect to ~~the~~ **a report**
 17 **required by subsection (a): this section:**

18 (1) the format of the report;

19 (2) the deadline by which the report must be filed; and

20 (3) the manner in which the report must be maintained and filed.

21 **(c) Except as provided in subsection (g), an entity that receives**
 22 **an economic development payment shall annually report to the**
 23 **commission an accounting of:**

24 **(1) the economic development payment received by the entity;**
 25 **and**

26 **(2) any disbursements of economic development payment**
 27 **money received by the entity.**

28 **(d) A report required under subsection (c) must include:**

29 **(1) the legal name of the entity submitting the report;**

30 **(2) the date, amount, and purpose of each disbursement;**

31 **(3) the name of each third party recipient receiving a**
 32 **disbursement; and**

33 **(4) any other information required by the commission.**

34 **(e) Upon request of the commission, an entity submitting a**
 35 **report under subsection (c) shall furnish to the commission**
 36 **sufficient documentation to prove the validity of a transaction**
 37 **described in the report.**

38 **(f) A report submitted under subsection (c) or (h) must be made**

1 available electronically through the computer gateway
 2 administered by the office of technology established by
 3 IC 4-13.1-2-1.

4 (g) An entity that is required to file a report under IC 5-11-1-4
 5 is not required to submit the report required by subsection (c).

6 (h) A third party recipient shall annually report to the
 7 commission an accounting of:

8 (1) the aggregate amount of money received by the third party
 9 recipient that is attributable to an economic development
 10 payment; and

11 (2) all expenditures for the benefit of any person that:

12 (A) are attributable to disbursements from an economic
 13 development payment; and

14 (B) exceed five thousand dollars (\$5,000) in the aggregate
 15 during the preceding calendar year.

16 (i) The accounting of the expenditures required by subsection
 17 (h)(2) must include an itemized list stating:

18 (1) the legal name of the recipient of the expenditure;

19 (2) the date of each expenditure;

20 (3) the amount of each expenditure; and

21 (4) the purpose of each expenditure.

22 (j) A report required by this section is a public record.

23 SECTION 17. IC 4-33-4-23.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2010]: **Sec. 23.5. The commission may do any**
 26 **of the following when exercising its jurisdiction over a development**
 27 **agreement:**

28 (1) Issue and serve a subpoena for the production of records,
 29 including records stored in electronic data processing systems,
 30 books, papers, and documents for inspection by the
 31 commission.

32 (2) Issue and serve a subpoena for the appearance of a person
 33 to provide testimony under oath.

34 (3) Apply to a court with jurisdiction to enforce a subpoena
 35 described in subdivision (1) or (2).

36 (4) Refer any matter to the attorney general, a local
 37 prosecuting attorney, or a law enforcement agency."

38 Page 13, line 28, strike "Except as provided in subsection".

- 1 Page 13, line 29, strike "(b),".
- 2 Page 13, line 29, delete "those" and insert "Those".
- 3 Page 14, delete lines 25 through 42.
- 4 Page 17, line 32, delete "an event" and insert "**a card tournament**".
- 5 Page 17, line 40, delete "an event" and insert "**a card tournament**".
- 6 Page 17, line 42, delete "an" and insert "**a card tournament**".
- 7 Page 18, line 1, delete "event".
- 8 Page 18, line 4, delete "event." and insert "**card tournament**".
- 9 Page 18, line 9, delete "or other large gaming events".
- 10 Page 18, line 14, delete "gaming event" and insert "**card**
- 11 **tournament**".
- 12 Page 18, line 26, delete "gaming event." and insert "**card**
- 13 **tournament**".
- 14 Page 33, line 26, strike "incentive" and insert "**economic**
- 15 **development**".
- 16 Page 33, delete lines 32 through 39.
- 17 Page 38, delete lines 22 through 42.
- 18 Page 39, delete lines 1 through 13.
- 19 Page 40, between lines 8 and 9, begin a new paragraph and insert:
- 20 "SECTION 42. IC 36-7-7.6-18, AS AMENDED BY P.L.39-2007,
- 21 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 22 JULY 1, 2010]: Sec. 18. (a) The commission shall prepare and adopt
- 23 an annual appropriation budget for its operation. The appropriation
- 24 budget shall be apportioned to each participating county on a pro rata
- 25 per capita basis. After adoption of the appropriation budget, any
- 26 amount that does not exceed an amount for each participating county
- 27 equal to seventy cents (\$0.70) per capita for each participating county
- 28 shall be certified to the respective county auditor.
- 29 (b) A county's portion of the commission's appropriation budget may
- 30 be paid from any of the following, as determined by the county fiscal
- 31 body:
- 32 (1) Property tax revenue as provided in subsections (c) and (d).
- 33 (2) Any other local revenue, other than property tax revenue,
- 34 received by the county, including local option income tax revenue
- 35 under IC 6-3.5, excise tax revenue, riverboat admissions tax
- 36 revenue, riverboat wagering tax revenue, ~~riverboat incentive~~
- 37 **economic development** payments (**as defined in IC 4-33-2-7.3**),
- 38 and any funds received from the state that may be used for this

1 purpose.

2 (c) The county auditor shall:

3 (1) advertise the amount of property taxes that the county fiscal
4 body determines will be levied to pay the county's portion of the
5 commission's appropriation budget, after the county fiscal body
6 determines the amount of other local revenue that will be paid
7 under subsection (b)(2); and

8 (2) establish the rate necessary to collect that property tax
9 revenue;

10 in the same manner as for other county budgets.

11 (d) The tax levied under this section and certified shall be estimated
12 and entered upon the tax duplicates by the county auditor and shall be
13 collected and enforced by the county treasurer in the same manner as
14 other county taxes are estimated, entered, collected, and enforced. The
15 tax collected by the county treasurer shall be transferred to the
16 commission.

17 (e) In fixing and determining the amount of the necessary levy for
18 the purpose provided in this section, the commission shall take into
19 consideration the amount of revenue, if any, to be derived from federal
20 grants, contractual services, and miscellaneous revenues above the
21 amount of those revenues considered necessary to be applied upon or
22 reserved upon the operation, maintenance, and administrative expenses
23 for working capital throughout the year.

24 (f) After the budget is approved, amounts may not be expended
25 except as budgeted unless the commission authorizes their expenditure.
26 Before the expenditure of sums appropriated as provided in this
27 section, a claim must be filed and processed as other claims for
28 allowance or disallowance for payment as provided by law.

29 (g) Any two (2) of the following officers may allow claims:

30 (1) Chairperson.

31 (2) Vice chairperson.

32 (3) Secretary.

33 (4) Treasurer.

34 (h) The treasurer of the commission may receive, disburse, and
35 otherwise handle funds of the commission, subject to applicable
36 statutes and to procedures established by the commission.

37 (i) The commission shall act as a board of finance under the statutes
38 relating to the deposit of public funds by political subdivisions.

1 (j) Any appropriated money remaining unexpended or
 2 unencumbered at the end of a year becomes part of a nonreverting
 3 cumulative fund to be held in the name of the commission. Unbudgeted
 4 expenditures from this fund may be authorized by vote of the
 5 commission and upon other approval as required by statute. The
 6 commission is responsible for the safekeeping and deposit of the
 7 amounts in the nonreverting cumulative fund, and the state board of
 8 accounts shall prescribe the methods and forms for keeping the
 9 accounts, records, and books to be used by the commission. The books,
 10 records, and accounts of the commission shall be audited periodically
 11 by the state board of accounts, and those audits shall be paid for as
 12 provided by statute."

13 Page 41, between lines 15 and 16, begin a new paragraph and insert:
 14 "SECTION 43. IC 36-7.5-4-1, AS AMENDED BY
 15 P.L.182-2009(ss), SECTION 425, IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) The development
 17 board shall establish and administer a development authority fund.

18 (b) The development authority fund consists of the following:

19 (1) Riverboat admissions tax revenue, riverboat wagering tax
 20 revenue, or ~~riverboat incentive~~ **economic development** payments
 21 **(as defined in IC 4-33-2-7.3)** received by a city or county
 22 described in IC 36-7.5-2-3(b) and transferred by the county or city
 23 to the fund.

24 (2) County economic development income tax revenue received
 25 under IC 6-3.5-7 by a county or city and transferred by the county
 26 or city to the fund.

27 (3) Amounts distributed under IC 8-15-2-14.7.

28 (4) Food and beverage tax revenue deposited in the fund under
 29 IC 6-9-36-8.

30 (5) Funds received from the federal government.

31 (6) Appropriations to the fund by the general assembly.

32 (7) Other local revenue appropriated to the fund by a political
 33 subdivision.

34 (8) Gifts, donations, and grants to the fund.

35 (c) The development authority shall establish a development
 36 authority fund. The development board shall establish and administer
 37 a general account, a lease rental account, and such other accounts in the
 38 fund as are necessary or appropriate to carry out the powers and duties

1 of the development authority. Except as otherwise provided by law or
2 agreement with holders of any obligations of the development
3 authority, all money transferred to the development authority fund
4 under subsection (b)(1), (b)(2), and (b)(4) shall be deposited in the
5 lease rental account and used only for the payment of or to secure the
6 payment of obligations of an eligible political subdivision under a lease
7 entered into by an eligible political subdivision and the development
8 authority under this chapter. However, any money deposited in the
9 lease rental account and not used for the purposes of this subsection
10 shall be returned by the treasurer of the development authority to the
11 respective counties and cities that contributed the money to the
12 development authority.

13 (d) If the amount of money transferred to the development authority
14 fund under subsection (b)(1), (b)(2), and (b)(4) for deposit in the lease
15 rental account in any one (1) calendar year is greater than an amount
16 equal to:

- 17 (1) one and twenty-five hundredths (1.25); multiplied by
18 (2) the total of the highest annual debt service on any bonds then
19 outstanding to their final maturity date, which have been issued
20 under this article and are not secured by a lease, plus the highest
21 annual lease payments on any leases to their final maturity, which
22 are then in effect under this article;

23 all or a portion of the excess may instead be deposited in the general
24 account.

25 (e) Except as otherwise provided by law or agreement with the
26 holders of obligations of the development authority, all other money
27 and revenues of the development authority may be deposited in the
28 general account or the lease rental account at the discretion of the
29 development board. Money on deposit in the lease rental account may
30 be used only to make rental payments on leases entered into by the
31 development authority under this article. Money on deposit in the
32 general account may be used for any purpose authorized by this article.

33 (f) The development authority fund shall be administered by the
34 development authority.

35 (g) Money in the development authority fund shall be used by the
36 development authority to carry out this article and does not revert to
37 any other fund.

38 SECTION 44. IC 36-7.5-4-2, AS AMENDED BY P.L.182-2009(ss),

1 SECTION 426, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in
3 subsection (b), beginning in 2006 the fiscal officer of each city and
4 county described in IC 36-7.5-2-3(b) shall each transfer three million
5 five hundred thousand dollars (\$3,500,000) each year to the
6 development authority for deposit in the development authority fund
7 established under section 1 of this chapter. However, if a county having
8 a population of more than one hundred forty-five thousand (145,000)
9 but less than one hundred forty-eight thousand (148,000) ceases to be
10 a member of the development authority and two (2) or more
11 municipalities in the county have become members of the development
12 authority as authorized by IC 36-7.5-2-3(i), the transfer of county
13 economic development income tax transferred under
14 IC 6-3.5-7-13.1(b)(4) is the contribution of the municipalities in the
15 county that have become members of the development authority.

16 (b) This subsection applies only if:

17 (1) the fiscal body of the county described in IC 36-7.5-2-3(e) has
18 adopted an ordinance under IC 36-7.5-2-3(e) providing that the
19 county is joining the development authority;

20 (2) the fiscal body of the city described in IC 36-7.5-2-3(e) has
21 adopted an ordinance under IC 36-7.5-2-3(e) providing that the
22 city is joining the development authority; and

23 (3) the county described in IC 36-7.5-2-3(e) is an eligible county
24 participating in the development authority.

25 Beginning in 2007, the fiscal officer of the county described in
26 IC 36-7.5-2-3(e) shall transfer two million six hundred twenty-five
27 thousand dollars (\$2,625,000) each year to the development authority
28 for deposit in the development authority fund established under section
29 1 of this chapter. Beginning in 2007, the fiscal officer of the city
30 described in IC 36-7.5-2-3(e) shall transfer eight hundred seventy-five
31 thousand dollars (\$875,000) each year to the development authority for
32 deposit in the development authority fund established under section 1
33 of this chapter.

34 (c) The following apply to the transfers required by subsections (a)
35 and (b):

36 (1) Except for transfers of money described in subdivision (4)(D),
37 the transfers shall be made without appropriation by the city or
38 county fiscal body or approval by any other entity.

1 (2) Except as provided in subdivision (3), after December 31,
 2 2005, each fiscal officer shall transfer eight hundred seventy-five
 3 thousand dollars (\$875,000) to the development authority fund
 4 before the last business day of January, April, July, and October
 5 of each year. Food and beverage tax revenue deposited in the fund
 6 under IC 6-9-36-8 is in addition to the transfers required by this
 7 section.

8 (3) After December 31, 2006, the fiscal officer of the county
 9 described in IC 36-7.5-2-3(e) shall transfer six hundred fifty-six
 10 thousand two hundred fifty dollars (\$656,250) to the development
 11 authority fund before the last business day of January, April, July,
 12 and October of each year. The county is not required to make any
 13 payments or transfers to the development authority covering any
 14 time before January 1, 2007. The fiscal officer of a city described
 15 in IC 36-7.5-2-3(e) shall transfer two hundred eighteen thousand
 16 seven hundred fifty dollars (\$218,750) to the development
 17 authority fund before the last business day of January, April, July,
 18 and October of each year. The city is not required to make any
 19 payments or transfers to the development authority covering any
 20 time before January 1, 2007.

21 (4) The transfers shall be made from one (1) or more of the
 22 following:

23 (A) Riverboat admissions tax revenue received by the city or
 24 county, riverboat wagering tax revenue received by the city or
 25 county, or ~~riverboat incentive economic development~~
 26 payments (as defined in IC 4-33-2-7.3) received from a
 27 riverboat licensee by the city or county.

28 (B) Any county economic development income tax revenue
 29 received under IC 6-3.5-7 by the city or county.

30 (C) Any other local revenue other than property tax revenue
 31 received by the city or county.

32 (D) In the case of a county described in IC 36-7.5-2-3(e) or a
 33 city described in IC 36-7.5-2-3(e), any money from the major
 34 moves construction fund that is distributed to the county or
 35 city under IC 8-14-16.

36 SECTION 45. IC 36-7.6-4-2, AS ADDED BY P.L.232-2007,
 37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2010]: Sec. 2. (a) Beginning January 1 of the year following

1 the year in which a development authority is established, the fiscal
2 officer of each county and each municipality that is a member of the
3 development authority shall transfer the amount determined under
4 subsection (b) to the development authority for deposit in the
5 development authority fund.

6 (b) The amount of the transfer required each year by subsection (a)
7 from each county and each municipality is equal to the amount that
8 would be distributed to the county or the municipality as certified
9 distributions of county economic development income tax revenue
10 raised from a county economic development income tax rate of
11 five-hundredths of one percent (0.05%) in the county.

12 (c) Notwithstanding subsection (b), if the additional county
13 economic development income tax under IC 6-3.5-7-28 is in effect in
14 a county, the obligations of the county and each municipality in the
15 county under this section are satisfied by the transfer to the
16 development fund of all county economic development income tax
17 revenue derived from the additional tax and deposited in the county
18 regional development authority fund.

19 (d) The following apply to the transfers required by this section:

20 (1) The transfers shall be made without appropriation by the fiscal
21 body of the county or the fiscal body of the municipality.

22 (2) Except as provided in subdivision (3), the fiscal officer of
23 each county and each municipality that is a member of the
24 development authority shall transfer twenty-five percent (25%) of
25 the total transfers due for the year before the last business day of
26 January, April, July, and October of each year.

27 (3) County economic development income tax revenue derived
28 from the additional county economic development income tax
29 under IC 6-3.5-7-28 must be transferred to the development fund
30 not more than thirty (30) days after being deposited in the county
31 regional development fund.

32 (4) This subdivision does not apply to a county in which the
33 additional county economic development income tax under
34 IC 6-3.5-7-28 has been imposed or to any municipality in the
35 county. The transfers required by this section may be made from
36 any local revenue (other than property tax revenue) of the county
37 or municipality, including excise tax revenue, income tax
38 revenue, local option tax revenue, riverboat tax revenue,

1 distributions, ~~incentive~~ **economic development** payments (**as**
2 **defined in IC 4-33-2-7.3**), or money deposited in the county's or
3 municipality's local major moves construction fund under
4 IC 8-14-16."

5 Renumber all SECTIONS consecutively.

(Reference is to SB 405 as reprinted February 2, 2010.)

and when so amended that said bill do pass.

Representative Van Haften