HOUSE BILL No. 1319

DIGEST OF HB1319 (Updated January 22, 1998 10:52 am - DI 58)

Citations Affected: IC 6-3.1-19; IC 36-7-13.

Synopsis: Community revitalization enhancement districts. Allows a municipality or county to request a local advisory commission on industrial development to designate an area as a community revitalization enhancement district. Provides that the advisory commission may designate an area as a community revitalization enhancement district only if: (1) the area contains a building or buildings with at least 1,000,000 square feet of usable interior floor space or at least 500 acres of property zoned for industrial use; (2) at least 1,000 fewer persons are employed in the area than were employed

(Continued next page)

Effective: July 1, 1998; January 1, 1999; March 1, 2001.

Bales, Kruzan, Tincher, Stevenson

January 13, 1998, read first time and referred to Committee on Ways and Means.
January 26, 1998, reported — Do Pass.

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Digest Continued

in the area ten years previously; (3) certain specified obstacles to redevelopment of the area exist; and (4) the unit has expended, appropriated, or pledged at least $100,000 for purposes of addressing the redevelopment obstacles. Provides a credit against certain state and local tax liability for a taxpayer that makes an investment for the redevelopment or rehabilitation of property located within a community revitalization enhancement district. Provides that the credit is equal to 25% of the investment. Provides that the incremental amount of state and local income taxes and state gross retail taxes collected from a community revitalization enhancement district shall be distributed to the district for deposit in the district's industrial development fund. Provides that a unit may use this revenue to pay bonds issued to finance the redevelopment in a community revitalization enhancement district.

C o p y

January 27, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1319

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 6-3.1-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]:

Chapter 19. Community Revitalization Enhancement District Tax Credit

Sec. 1. As used in this chapter, "state and local tax liability" means a taxpayer's total tax liability incurred under:

(1) IC 6-2.1 (the gross income tax);

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(3) IC 6-3-8 (the supplemental net income tax);

(4) IC 6-3.5-1.1 (county adjusted gross income tax);

(5) IC 6-3.5-6 (county option income tax);

(6) IC 6-3.5-7 (county economic development income tax);

(7) IC 6-5-10 (the bank tax);

(8) IC 6-5-11 (the savings and loan association tax);

(9) IC 6-5.5 (the financial institutions tax); and

(10) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 2. As used in this chapter, "qualified investment" means the amount of a taxpayer's expenditures that is:

(1) for redevelopment or rehabilitation of property located within a community revitalization enhancement district designated under IC 36-7-13;

(2) made under a plan adopted by an advisory commission on industrial development under IC 36-7-13; and

(3) approved by the department of commerce before the expenditure is made.

Sec. 3. (a) Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property located in a community revitalization enhancement district. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

Sec. 4. If the amount of the credit determined under section 3 of this chapter for a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the immediately following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 5. (a) Except as provided in subsection (b), a taxpayer is not

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entitled to claim the credit provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within the district.

(b) Notwithstanding subsection (a), a taxpayer's substantial reduction or cessation of operations in Indiana in order to relocate operations to a district does not make a taxpayer ineligible for a credit under this chapter if:

(1) the taxpayer had existing operations in the district; and

(2) the operations relocated to the district are an expansion of the taxpayer's operations in the district.

(c) A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. Determinations under this section shall be made by the department of state revenue.

Sec. 6. To receive the credit provided by this section, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue all information that the department determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an expenditure was for a qualified investment.

SECTION 2. IC 36-7-13-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 1.6. As used in this chapter, "district" refers to a community revitalization enhancement district designated under section 12 of this chapter.**

SECTION 3. IC 36-7-13-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 2.4. As used in this chapter, "gross retail base period amount" means the aggregate amount of state gross retail and use taxes remitted under IC 6-2.5 by the businesses operating in the territory comprising a district during the full state fiscal year that precedes the date on which an advisory commission on industrial development adopted a resolution designating the district.**

SECTION 4. IC 36-7-13-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 2.6. As used in this chapter, "gross retail incremental amount" means the remainder of:**

(1) the aggregate amount of state gross retail and use taxes

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that are remitted under IC 6-2.5 by businesses operating in a district during a state fiscal year; minus

(2) the gross retail base period amount;

as determined by the department of state revenue under section 14 of this chapter.

SECTION 5. IC 36-7-13-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 3.2. As used in this chapter, "income tax base period amount" means the aggregate amount of state and local income taxes paid by employees employed in the territory comprising a district with respect to wages and salary earned for work in the district for the state fiscal year that precedes the date on which an advisory commission on industrial development adopted a resolution designating the district.**

SECTION 6. IC 36-7-13-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 3.4. As used in this chapter, "income tax incremental amount" means the remainder of:**

(1) the aggregate amount of state and local income taxes paid by employees employed in a district with respect to wages earned for work in the district for a particular state fiscal year; minus

(2) the income tax base period amount;

as determined by the department of state revenue under section 14 of this chapter.

SECTION 7. IC 36-7-13-3.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 3.8. As used in this chapter, "state and local income taxes" means taxes imposed under any of the following:**

(1) IC 6-2.1 (the gross income tax).

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(3) IC 6-3-8 (the supplemental net income tax).

(4) IC 6-3.5-1.1 (county adjusted gross income tax).

(5) IC 6-3.5-6 (county option income tax).

(6) IC 6-3.5-7 (county economic development income tax).

SECTION 8. IC 36-7-13-4, AS AMENDED BY P.L.262-1993, SECTION 3 (CURRENT VERSION), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) To provide money for the purposes set forth in section 3 of this chapter, the unit shall create a special revolving fund to be known as the industrial development fund, into which any available and unappropriated money of the unit may be transferred by the unit's legislative body.

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(b) The legislative body may also by ordinance levy a tax not to exceed five cents ($0.05) on each one hundred dollars ($100) of assessed value of all personal and real property within its jurisdiction. The proceeds of this tax shall be deposited in the industrial development fund. The unit may collect the tax as other municipal or county taxes are collected, or may set up a system for the collection and enforcement of the tax in the unit. **The proceeds of the tax may be used for any purpose authorized by this chapter and may be pledged for the payment of principal and interest on bonds or other obligation issued under this chapter.**

SECTION 9. IC 36-7-13-4, AS AMENDED BY P.L.6-1997, SECTION 208 (DELAYED VERSION), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2001]: Sec. 4. (a) To provide money for the purposes set forth in section 3 of this chapter, the unit shall create a special revolving fund to be known as the industrial development fund, into which any available and unappropriated money of the unit may be transferred by the unit's legislative body.

(b) The legislative body may also by ordinance levy a tax not to exceed one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of assessed value of all personal and real property within its jurisdiction. The proceeds of this tax shall be deposited in the industrial development fund. The unit may collect the tax as other municipal or county taxes are collected, or may set up a system for the collection and enforcement of the tax in the unit. **The proceeds of the tax may be used for any purpose authorized by this chapter and may be pledged for the payment of principal and interest on bonds or other obligation issued under this chapter.**

SECTION 10. IC 36-7-13-5, AS AMENDED BY P.L.1-1994, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) In order to coordinate the efforts of the unit and any private industrial development committee in the community, an advisory commission on industrial development shall be appointed by the unit's executive.

(b) **Except as provided in subsection (d),** the commission shall be composed of six (6) members, including at least one (1) representative of the unit's government, at least one (1) representative of the local industrial development committee, at least one (1) representative of a local banking institution, at least one (1) representative of a local utility company, and at least one (1) representative of organized labor from the building trades. A member of the commission may represent more than one (1) of the organizations enumerated.

(c) The unit's legislative body shall request the commission's

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recommendations. The legislative body may not conduct any business requiring expenditures from the industrial development fund or make any sale or lease of property acquired by the unit under this chapter without the approval, in writing, of a majority of the members of the commission.

(d) In addition to the members described in subsection (b), if the executive of a unit has submitted a petition to a commission under section 10 of this chapter, the following persons are members of the commission:

(1) A member appointed by the governor.

(2) A member appointed by the lieutenant governor.

(3) A member appointed by the director of the department of workforce development.

SECTION 11. IC 36-7-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. When the purposes for which the industrial development fund was established have been accomplished **and all districts designated by the unit have been terminated under section 19 of this chapter,** the balance remaining in that fund shall be transferred to the general fund of the unit and the authority for the levy of the tax provided by section 4 of this chapter ceases.

SECTION 12. IC 36-7-13-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 10. (a) After approval by ordinance or resolution of the legislative body of a municipality, the executive of the municipality may submit an application to an advisory commission on industrial development requesting that an area within the municipality be designated as a district.**

(b) After approval by ordinance or resolution of the legislative body of a county, the executive of the county may submit an application to an advisory commission on industrial development requesting that an area within the county, but not within a municipality, be designated as a district.

SECTION 13. IC 36-7-13-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 11. If a municipal or county executive submits an application requesting an area to be designated as a district under this chapter, the advisory commission on industrial development shall do the following:**

(1) Compile information necessary to make a determination concerning whether the area meets the conditions necessary for designation as a district.

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(2) Prepare maps showing the boundaries of the proposed district.

(3) Prepare a plan describing the ways in which the development obstacles described in section 12(b)(3) of this chapter in the proposed district will be addressed.

SECTION 14. IC 36-7-13-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b).**

(b) An advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains:

(A) a building or buildings with at least one million (1,000,000) square feet of usable interior floor space; or

(B) at least five hundred (500) acres of property zoned for industrial use.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

SECTION 15. IC 36-7-13-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 of this chapter, the advisory commission shall send a certified copy of**

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the resolution designating the district to the department of state revenue by certified mail.

(b) Not later than sixty (60) days after receiving a copy of the resolution designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

SECTION 16. IC 36-7-13-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 14. Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.**

SECTION 17. IC 36-7-13-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 15. (a) If an advisory commission on industrial development designates a district under this chapter, the treasurer of state shall establish an incremental tax financing fund for the county. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.**

(b) Before July 2 of each calendar year, the department of state revenue, after reviewing the recommendation of the budget agency, shall estimate and certify to the advisory commission on industrial development the amount of the income tax incremental amount and the gross retail incremental amount that will be collected from the district during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year. The amount certified shall be deposited into the fund and shall be distributed on the dates specified in subsection (e) for the following calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department of state revenue may certify an amount that is greater than the estimated twelve (12) month income tax incremental amount collection and gross retail incremental amount collection if the department, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of incremental income tax revenue or incremental gross retail tax revenue available for distribution from the fund.

(d) The department of state revenue may certify an amount less than the estimated twelve (12) month incremental amount collection and gross retail incremental amount collection if the

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department, after reviewing the recommendation of the budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified amount for the current calendar year.

(e) The auditor of state shall disburse a district's certified amount to the district's advisory commission on industrial development in equal semiannual installments on May 31 and November 30 of each year.

SECTION 18. IC 36-7-13-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 16. (a) A unit may issue bonds or other obligations to finance the costs of addressing the development obstacles described in section 12(b)(3) of this chapter in the district.**

(b) The district bonds are special obligations of indebtedness of the district. The district bonds issued under this section, and interest on the district bonds, are payable solely out of amounts deposited in the industrial development fund under this chapter.

SECTION 19. IC 36-7-13-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 17. Money in the industrial development fund may be pledged by an advisory commission to the following purposes:**

(1) To pay debt service on bonds or other obligations issued under this chapter.

(2) To establish and maintain a debt service reserve established by the advisory commission.

SECTION 20. IC 36-7-13-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 18. (a) As used in this section, "developer" means a person that:**

(1) proposes to enter into, or has entered into, a financing agreement with a unit for the development or redevelopment of a facility located in a district; and

(2) has entered into a separate agreement with some other person for the use or operation of the financed facility.

(b) A unit may establish goals or benchmarks concerning the development or redevelopment of property by a developer. The unit may provide that a developer that meets or exceeds the goals or benchmarks shall be paid a specified fee from the industrial development fund.

SECTION 21. IC 36-7-13-19 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 19. When the advisory commission determines that the purposes for which a district was established have been accomplished and that all bonds or other obligations issued under this chapter and all interest on those bonds or obligations have been fully paid, the advisory commission shall adopt a resolution terminating the district. If an advisory commission adopts a resolution under this section, the advisory commission shall send a certified copy of the resolution by certified mail to the department.**

SECTION 22. IC 36-7-13-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 20. The general assembly covenants that this chapter will not be repealed or amended in a manner that will adversely affect the owner of bonds or other obligations issued under this chapter.**

SECTION 23. [EFFECTIVE JANUARY 1, 1999] **IC 6-3.1-19, as added by this act, applies only to taxable years beginning after December 31, 1998.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1319, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BAUER, Chair

Committee Vote: yeas 22, nays 1.

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