

SENATE BILL No. 29

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-7; IC 36-7-29.

Synopsis: Financing of Tippecanoe County hazardous waste removal and remediation. Provides that the additional county option income tax rate imposed by the Tippecanoe County income tax council to fund remedial action and removal of hazardous substances terminates effective December 31, 1998. Abolishes the special taxing district established in Tippecanoe County to fund remedial action and removal of hazardous substances. (The special taxing district established in Columbia City for the same purposes is not affected.) Repeals and reenacts a provision concerning the special taxing district in Columbia City to make a conforming change and recognize 1997 legislation.

Effective: Upon passage.

Gery, Harrison

January 6, 1998, read first time and referred to Committee on Finance.



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.

SENATE BILL No. 29

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 6-3.5-7-5, AS AMENDED BY P.L.99-1995,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the
4 county economic development income tax may be imposed on the adjusted
5 gross income of county taxpayers. The entity that may impose the tax is:
6 (1) the county income tax council (as defined in IC 6-3.5-6-1) if the
7 county option income tax is in effect on January 1 of the year the
8 county economic development income tax is imposed;
9 (2) the county council if the county adjusted gross income tax is in
10 effect on January 1 of the year the county economic development tax
11 is imposed; or
12 (3) the county income tax council or the county council, whichever
13 acts first, for a county not covered by subdivision (1) or (2).
14 To impose the county economic development income tax, a county income
15 tax council shall use the procedures set forth in IC 6-3.5-6 concerning the
16 imposition of the county option income tax.
17 (b) Except as provided in subsections (c) and (g), the county economic
18 development income tax may be imposed at a rate of:



- 1 (1) one-tenth percent (0.1%);
 2 (2) two-tenths percent (0.2%);
 3 (3) twenty-five hundredths percent (0.25%);
 4 (4) three-tenths percent (0.3%);
 5 (5) thirty-five hundredths percent (0.35%);
 6 (6) four-tenths percent (0.4%);
 7 (7) forty-five hundredths percent (0.45%); or
 8 (8) five-tenths percent (0.5%);
 9 on the adjusted gross income of county taxpayers.
- 10 (c) The county economic development income tax rate plus the county
 11 adjusted gross income tax rate, if any, that are in effect on January 1 of
 12 a year may not exceed one and twenty-five hundredths percent (1.25%).
 13 Except as provided in subsection (g), the county economic development
 14 tax rate plus the county option income tax rate, if any, that are in effect on
 15 January 1 of a year may not exceed one percent (1%).
- 16 (d) To impose the county economic development income tax, the
 17 appropriate body must, after January 1 but before April 1 of a year, adopt
 18 an ordinance. The ordinance must substantially state the following:
 19 "The _____ County _____ imposes the county economic
 20 development income tax on the county taxpayers of _____ County.
 21 The county economic development income tax is imposed at a rate of
 22 _____ percent (____%) on the county taxpayers of the county. This
 23 tax takes effect July 1 of this year."
 24 (e) Any ordinance adopted under this section takes effect July 1 of the
 25 year the ordinance is adopted.
- 26 (f) The auditor of a county shall record all votes taken on ordinances
 27 presented for a vote under the authority of this section and immediately
 28 send a certified copy of the results to the department by certified mail.
- 29 (g) This subsection applies to a county having a population of more
 30 than one hundred twenty-nine thousand (129,000) but less than one
 31 hundred thirty thousand six hundred (130,600). In addition to the rates
 32 permitted by subsection (b), the:
 33 (1) county economic development income tax may be imposed at a
 34 rate of:
 35 (A) fifteen-hundredths percent (0.15%);
 36 (B) two-tenths percent (0.2%); or
 37 (C) twenty-five hundredths percent (0.25%); and
 38 (2) county economic development income tax rate plus the county
 39 option income tax rate that are in effect on January 1 of a year may
 40 equal up to one and twenty-five hundredths percent (1.25%);
 41 if the county income tax council makes a determination to impose rates
 42 under this subsection and section 22 of this chapter. **However, an**



1 **additional rate imposed under this subsection terminates on**
 2 **December 31, 1998, and may not be collected after that date.**

3 SECTION 2. IC 6-3.5-7-22, AS AMENDED BY P.L.99-1995,
 4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 22. (a) This section only applies to a designated
 6 unit.

7 (b) The county income tax council may, by ordinance, determine that
 8 economic development income tax money is needed in the county to fund
 9 substance removal and remedial action, including the repayment of bonds
 10 or other debt incurred for substance removal or remedial action, and the
 11 actions taken to fund substance removal and remedial action serve a
 12 public purpose by promoting public health, welfare, and safety.

13 (c) If the county income tax council makes a determination under
 14 subsection (b), the county income tax council may adopt a tax rate under
 15 section 5(g) of this chapter. The tax rate may not be imposed:

16 (1) at a rate ~~or for a time~~ greater than is necessary to fund substance
 17 removal and remedial action in the county, including the repayment
 18 of bonds or other debt incurred for substance removal or remedial
 19 action; **or**

20 **(2) after December 31, 1998.**

21 (d) The county treasurer shall establish a substance removal and
 22 remedial action fund to be used only for the purposes described in this
 23 section. County economic development income tax revenues derived
 24 **before December 31, 1998**, from the tax rate imposed under section 5(g)
 25 of this chapter shall be deposited in the substance removal and remedial
 26 action fund before making a certified distribution under section 12 of this
 27 chapter.

28 (e) The county income tax council may, by ordinance, appropriate or
 29 pledge any part of the substance removal and remediation action fund to
 30 a political subdivision or to an entity formed by an interlocal cooperation
 31 agreement under IC 36-1-7 for the purposes set forth in this chapter in the
 32 county.

33 (f) The county auditor shall distribute the amount specified in the
 34 ordinance to the designated political subdivision or to an entity formed by
 35 an interlocal cooperation agreement under IC 36-1-7 from the substance
 36 removal and remedial action fund.

37 (g) Bonds issued by a political subdivision or an entity formed by an
 38 interlocal cooperation agreement under IC 36-1-7 payable from the
 39 substance removal and remedial action fund do not constitute debt of a
 40 designated unit or a city or town in the designated unit, and the bonds
 41 shall contain a statement on their face to that effect and to the effect that
 42 the bonds are payable solely from money in the substance removal and



1 remedial action fund, and other available funds, and are not supported by
2 the full faith and credit of the county, city, or town.

3 SECTION 3. IC 36-7-29-1, AS ADDED BY P.L.44-1994, SECTION
4 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
5 PASSAGE]: Sec. 1. This chapter applies to ~~the following units:~~

6 ~~(1) a city having a population of more than five thousand six~~
7 ~~hundred fifty (5,650) but less than five thousand seven hundred eight~~
8 ~~(5,708).~~

9 ~~(2) A county having a population of more than one hundred~~
10 ~~twenty-nine thousand five hundred (129,500) but less than one~~
11 ~~hundred thirty thousand six hundred (130,600):~~

12 SECTION 4. IC 36-7-29-9, AS ADDED BY P.L.44-1994, SECTION
13 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
14 PASSAGE]: Sec. 9. (a) A special taxing district to be known as the local
15 environmental response taxing district is created in a city described in
16 section ~~1(1) section 1~~ of this chapter ~~and in a county described in section~~
17 ~~1(2) of this chapter~~ for the purpose of funding substance removal or
18 remedial action for a qualified site. The district shall exist for the public
19 purpose of protecting the health, safety, and welfare of residents in the
20 district by substance removal or remedial action. The general assembly
21 finds that the actions and purposes set forth in this chapter are public
22 purposes.

23 (b) The district is coterminous with the territory of the ~~unit: city.~~

24 SECTION 5. IC 36-7-29-10, AS ADDED BY P.L.44-1994,
25 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 10. (a) The district shall be governed by a local
27 environmental response financing board.

28 (b) ~~If the unit is a city described in section 1(1) of this chapter,~~ The
29 board consists of five (5) members appointed by the city executive.

30 (c) ~~If the unit is a county described in section 1(2) of this chapter,~~ the
31 board consists of the following six (6) members:

32 ~~(1) Two (2) members appointed by the county executive:~~

33 ~~(2) One (1) member appointed by the county fiscal body:~~

34 ~~(3) Two (2) members appointed by the executive of the municipality~~
35 ~~having the largest population in the district:~~

36 ~~(4) One (1) member appointed by the executive of the municipality~~
37 ~~that has the second largest population in the district:~~

38 ~~All board members appointed under this subsection must be local elected~~
39 ~~officials. A board member appointed under this subsection who ceases to~~
40 ~~be a local elected official forfeits membership on the board:~~

41 ~~(d) (c) The term of office of a board member is four (4) years. The~~
42 ~~appointing authority city executive shall fill a vacancy on the board for~~



- 1 the unexpired term.
- 2 ~~(c)~~ (d) Board members are not entitled to compensation or
 3 reimbursement for any services or expenses.
- 4 SECTION 6. IC 36-7-29-12, AS ADDED BY P.L.44-1994,
 5 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 12. (a) The board may:
- 7 (1) receive and disburse funds;
 8 (2) sue and be sued;
 9 (3) plan, finance, and manage substance removal or remedial action
 10 at qualified sites;
 11 (4) make and contract for plans, surveys, studies, and investigations
 12 necessary for the purpose of substance removal or remedial action
 13 at qualified sites;
 14 (5) enter upon property to make surveys, soundings, borings, and
 15 examinations;
 16 (6) acquire by negotiation any property or rights or interest in
 17 property reasonably required for substance removal or remedial
 18 action under the bond resolution without following any other
 19 statutory procedures for that acquisition;
 20 (7) accept gifts, grants, or loans of money, other property, or
 21 services from any source, public or private, and comply with the
 22 terms of the gift, grant, or loan;
 23 (8) borrow in anticipation of taxes;
 24 (9) contract for professional services;
 25 (10) enter into an interlocal cooperation agreement under IC 36-1-7
 26 to obtain funds for:
 27 (A) fiscal;
 28 (B) administrative;
 29 (C) managerial; or
 30 (D) operational;
 31 services from a county or municipality;
 32 (11) conduct or contract for ongoing site maintenance, leachate
 33 collection, and long term monitoring at a qualified site after the
 34 substance removal or remedial action is complete;
 35 (12) enter into an agreement with a state or federal agency that
 36 regulates remedial action or removal;
 37 (13) pursue all legal remedies available as to other responsible
 38 persons who are not participating in the financing of the substance
 39 removal or remedial action through payment of property taxes that,
 40 in the sole judgment of the board, are commensurate with the
 41 responsible person's past use of the qualified site; and
 42 (14) otherwise do all things necessary or proper to accomplish the



- 1 purposes of this chapter.
- 2 (b) This subsection applies to a district located in a county described
 3 in section ~~1~~(2) of this chapter. In addition to the powers set forth in
 4 subsection (a), the board may levy a tax within the district to pay the costs
 5 of operation of the district, subject to regular budget and tax levy
 6 procedures. However, the maximum amount of taxes levied each year may
 7 not exceed fifty thousand dollars (\$50,000). The tax described in this
 8 subsection shall not be levied after substance removal and remedial action
 9 at a qualified site have been completed.
- 10 (c) ~~(b)~~ Money recovered by the district from responsible persons shall
 11 be used for any of the following:
- 12 (1) To redeem bonds issued under section 13 of this chapter.
 - 13 (2) To pay debt service on bonds issued under section 13 of this
 14 chapter.
 - 15 (3) To reimburse a unit in the district for costs associated with
 16 removal or remediation at the qualified site prior to the issuance of
 17 bonds issued under section 13 of this chapter.
 - 18 (4) To pay ongoing costs of the district associated with remediation
 19 or removal.
- 20 SECTION 7. IC 36-7-29-13, AS ADDED BY P.L.44-1994,
 21 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 UPON PASSAGE]: Sec. 13. (a) Subject to ~~section 15~~ **section 15.5** of this
 23 chapter, the board may issue district bonds under this section for the
 24 payment of the cost of substance removal or remedial action at a qualified
 25 site.
- 26 (b) On adopting a resolution ordering the issuance of district bonds,
 27 the board shall certify a copy of the resolution and a copy of the approval
 28 to the treasurer of the district, who shall prepare the district bonds.
- 29 (c) The district bonds are special obligations of indebtedness of the
 30 district. The district bonds issued under this section, and interest on the
 31 district bonds, are payable solely out of a special tax levied on all of the
 32 property of the district or other funds that may, under this chapter, or
 33 under any other law, be used to pay debt service on bonds. The district
 34 bonds must recite the terms on the face of the district bonds together with
 35 the purpose for which the district bonds are issued. For the purpose of
 36 raising money to pay district bonds issued under this section, the board
 37 shall levy each year a special tax on all of the property in the district in
 38 the amount and the manner necessary to meet and pay the principal of the
 39 district bonds as they severally mature, together with all accruing interest
 40 on them. The tax is declared to constitute the amount of benefits resulting
 41 to all of the property of the district.
- 42 (d) All proceeds from the sale of district bonds shall be kept as a



1 separate and specific fund, to pay the cost of substance removal or
 2 remedial action, and no part of the proceeds may be used for any other
 3 purpose, except as provided in IC 5-1-13 and IC 5-1-14.

4 (e) The tax levied each year shall be certified to the treasurer of the
 5 district and to the county auditor. The tax levied and certified shall be
 6 estimated and entered upon the tax duplicate by the county auditor and
 7 shall be collected and enforced. As the tax is collected by the county
 8 treasurer, the tax shall be transferred to the treasurer of the district, kept
 9 in a separate fund to be known as the district bond fund, and applied to the
 10 payment of the principal of and interest on the district bonds as the district
 11 bonds become due and to no other purpose, except as provided in
 12 IC 5-1-13 and IC 5-1-14.

13 (f) The special tax described in this section may not be levied after the
 14 last of the principal and interest on bonds issued under this chapter have
 15 been completely paid.

16 SECTION 8. IC 36-7-29-15.5 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 18 UPON PASSAGE]: **Sec. 15.5. (a) Except as provided in subsection**
 19 **(b), the amount of the district bonds issued under this chapter may**
 20 **not exceed the total amount that the board determines is reasonably**
 21 **necessary to be incurred in connection with the substance removal**
 22 **or remedial action. The board shall base a determination under this**
 23 **subsection on the best estimates available before the district bonds**
 24 **are issued.**

25 (b) Notwithstanding any other law, the total amount of the district
 26 bonds issued under this chapter, including district bonds already
 27 issued and outstanding under this chapter, may not exceed:

28 (1) four percent (4%) of the total assessed valuation of the
 29 district after deducting all mortgage exemptions in the district,
 30 for district bonds issued and outstanding before March 1, 2001;
 31 or

32 (2) four percent (4%) of the total adjusted value of taxable
 33 property in the district as determined under IC 36-1-15 of the
 34 district after deducting all mortgage exemptions in the district,
 35 for district bonds issued and outstanding after February 28,
 36 2001.

37 SECTION 9. IC 36-7-29-15 IS REPEALED [EFFECTIVE UPON
 38 PASSAGE].

39 SECTION 10. An emergency is declared for this act.

