



March 2, 1999

HOUSE BILL No. 1990

DIGEST OF HB 1990 (Updated March 1, 1999 10:52 am - DI 98)

Citations Affected: IC 6-1.1; IC 33-3; noncode.

Synopsis: Tax case procedures. Provides standards for the certification of a record of the proceedings before the state board of tax commissioners to the tax court. Specifies procedures for cases in the tax court. Requests the legislative council to consider establishing a 14 member interim study committee on tax court issues. Describes the committee's membership and duties. Provides that the committee operates under the policies and procedures of the legislative council.

Effective: July 1, 1999.

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January 27, 1999, read first time and referred to Committee on Courts and Criminal Code.
March 1, 1999, amended, reported — Do Pass.

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HB 1990—LS 8210/DI 51+



March 2, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

HOUSE BILL No. 1990

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

- 1 SECTION 1. IC 6-1.1-15-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) If an appeal is
3 initiated by a person under section 5 of this chapter, the secretary of the
4 state board of tax commissioners shall prepare a certified **transcript**
5 **record** of the proceedings related to the appeal. ~~However, the transcript~~
6 ~~shall not include the evidence compiled by the board with respect to the~~
7 ~~proceedings. The secretary of the board shall transmit the transcript to~~
8 ~~the clerk of the court designated by the appellant. The record must~~
9 **consist of the following documents:**
10 (1) **Copies of all papers submitted to the state board during**
11 **the course of the action and copies of all papers provided to**
12 **the parties by the state board. The term "papers" includes,**
13 **without limitation, all notices, petitions, motions,**
14 **photographs, and other written documents.**
15 (2) **The transcript of the evidence and proceedings at the**
16 **administrative hearing conducted by the division of appeals**
17 **of the state board.**

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1 **(3) Copies of all exhibits and physical objects provided to the**
 2 **division of appeals of the state board during the course of the**
 3 **administrative hearing conducted by the division of appeals.**
 4 **Copies of the exhibits that, because of their nature, cannot be**
 5 **incorporated into the record must be kept by the state board**
 6 **until the appeal is finally terminated. However, this evidence**
 7 **must be briefly named and identified in the transcript of the**
 8 **evidence and proceedings.**

9 **(b) If a report of all or part of the evidence or proceedings at the**
 10 **hearing conducted by the state board was not made, or if a**
 11 **transcript is unavailable, a party to the appeal initiated under**
 12 **section 5 of this chapter may prepare a statement of the evidence**
 13 **or proceedings. The statement must be submitted to the tax court**
 14 **and must also be served on all other parties who may then serve**
 15 **objections or prepare amendments to the statement within ten (10)**
 16 **days after service.**

17 SECTION 2. IC 33-3-5-14 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) With respect to
 19 determinations as to whether any issues or evidence may be heard in an
 20 original tax appeal that:

21 **(1) arises in an initial appeal of a final determination made by**
 22 **the department of state revenue; and**

23 **(2) was not heard in the administrative hearing or proceeding;**
 24 the tax court is governed by the law that applied before the creation of
 25 the tax court to appeals to trial courts of final determinations made by
 26 the department of state revenue. ~~and~~

27 **(b) With respect to determinations as to whether any issues or**
 28 **evidence may be heard in an original tax appeal that arises in an**
 29 **initial appeal of a final determination made by the state board of tax**
 30 **commissioners, the tax court is governed by the provisions of**
 31 **IC 4-21.5-5 (excluding IC 4-21.5-5-3) and, to the extent consistent**
 32 **with IC 4-21.5-5 (excluding IC 4-21.5-5-3) the law that applied**
 33 **before the creation of the tax court to appeals to trial courts of**
 34 **final determinations made by the state board of tax commissioners.**

35 SECTION 3. [EFFECTIVE JULY 1, 1999] (a) **The legislative**
 36 **council shall determine whether to establish the interim study**
 37 **committee on tax court issues (referred to in this SECTION as "the**
 38 **committee").**

39 **(b) The committee, if established, must consist of fourteen (14)**
 40 **members, appointed as follows:**

41 **(1) Four (4) members of the senate, not more than two (2) of**
 42 **whom may be of the same political party, to be appointed by**

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1 the president pro tempore of the senate.

2 (2) Four (4) members of the house of representatives, not
3 more than two (2) of whom may be of the same political party,
4 to be appointed by the speaker of the house of representatives.

5 (3) Six (6) persons with knowledge and experience in tax court
6 issues:

7 (1) two (2) of whom are to be appointed by the president
8 pro tempore of the senate;

9 (2) two (2) of whom are to be appointed by the speaker of
10 the house of representatives;

11 (3) one (1) of whom is to be appointed by the chief justice
12 of the Indiana supreme court; and

13 (4) one (1) of whom is to be appointed by the governor.

14 (c) The committee, if established, shall study tax law issues of
15 concern and make recommendations for their revision and
16 improvement. The committee's focus must include the following:

17 (1) Examining the jurisdiction of the tax court.

18 (2) Examining procedures involving tax cases in the tax court
19 and on appeal.

20 (3) Considering whether standards for the certification of a
21 record of proceedings before an agency within the executive
22 branch to the tax court should be developed.

23 (4) Considering the process for hearing a tax court case
24 involving:

25 (A) the constitutionality of a statute or rule; or

26 (B) a substantial question of great public importance.

27 (d) To implement its duties under this SECTION, the committee
28 shall do the following:

29 (1) Conduct meetings to hear the concerns of citizens of
30 Indiana and obtain advice from interested professionals.

31 (2) Issue a final report of its findings and recommendations to
32 the legislative council not later than November 1, 1999.

33 (e) Each member of the commission who is not a state employee
34 is entitled to the minimum salary per diem provided by
35 IC 4-10-11-2.1(b) and is entitled to reimbursement for traveling
36 expenses under IC 4-13-1-4 and other expenses actually incurred
37 in connection with the member's duties as provided in the state
38 policies and procedures established by the Indiana department of
39 administration and approved by the budget agency.

40 (f) Each member of the commission who is a state employee but
41 who is not a member of the general assembly is entitled to
42 reimbursement for traveling expenses under IC 4-13-1-4 and other



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1 expenses actually incurred in connection with the member's duties
2 as provided in the state policies and procedures established by the
3 Indiana department of administration and approved by the budget
4 agency.

5 (g) Each member of the commission who is a member of the
6 general assembly is entitled to receive the same per diem, mileage,
7 and travel allowance paid to members of the general assembly
8 serving on interim study committees established by the legislative
9 council.

10 (h) Eight (8) members of the commission constitute a quorum.
11 The affirmative votes of a majority of the voting members
12 appointed to the commission are required for the commission to
13 take action on any measure, including final reports.

14 (i) The legislative services agency shall provide staff support for
15 the commission.

16 (j) The commission is under the jurisdiction of the legislative
17 council and shall operate under policies and procedures established
18 by the legislative council.

19 (k) This SECTION expires December 1, 1999.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1990, 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:

Page 2, delete lines 17 through 35.

Page 3, after line 11, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 1999] (a) **The legislative council shall determine whether to establish the interim study committee on tax court issues (referred to in this SECTION as "the committee").**

(b) The committee, if established, must consist of fourteen (14) members, appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be of the same political party, to be appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be of the same political party, to be appointed by the speaker of the house of representatives.

(3) Six (6) persons with knowledge and experience in tax court issues:

(1) two (2) of whom are to be appointed by the president pro tempore of the senate;

(2) two (2) of whom are to be appointed by the speaker of the house of representatives;

(3) one (1) of whom is to be appointed by the chief justice of the Indiana supreme court; and

(4) one (1) of whom is to be appointed by the governor.

(c) The committee, if established, shall study tax law issues of concern and make recommendations for their revision and improvement. The committee's focus must include the following:

(1) Examining the jurisdiction of the tax court.

(2) Examining procedures involving tax cases in the tax court and on appeal.

(3) Considering whether standards for the certification of a record of proceedings before an agency within the executive branch to the tax court should be developed.

(4) Considering the process for hearing a tax court case involving:

(A) the constitutionality of a statute or rule; or

(B) a substantial question of great public importance.

(d) To implement its duties under this SECTION, the committee

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shall do the following:

- (1) Conduct meetings to hear the concerns of citizens of Indiana and obtain advice from interested professionals.
- (2) Issue a final report of its findings and recommendations to the legislative council not later than November 1, 1999.
- (e) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b) and is entitled to reimbursement for traveling expenses under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
- (f) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
- (g) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowance paid to members of the general assembly serving on interim study committees established by the legislative council.
- (h) Eight (8) members of the commission constitute a quorum. The affirmative votes of a majority of the voting members appointed to the commission are required for the commission to take action on any measure, including final reports.
- (i) The legislative services agency shall provide staff support for the commission.
- (j) The commission is under the jurisdiction of the legislative council and shall operate under policies and procedures established by the legislative council.
- (k) This SECTION expires December 1, 1999."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1990 as introduced.)

DVORAK, Chair

Committee Vote: yeas 10, nays 2.

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