

HOUSE BILL No. 1682

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-18.5-13.

Synopsis: Levy appeal for fire protection districts. Allows a fire protection district contracting with a municipality for fire protection to appeal to the state board of tax commissioners to increase the maximum permissible levy of the district to allow the district to pay a fair and reasonable amount to a municipality providing fire protection within the district. (Current law allows townships to make such an appeal.) Reconciles conflicts enacted by the 1995 general assembly (shown in italicized type).

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

Klinker, Ruppel, Scholer

January 21, 1999, read first time and referred to Committee on Local Government.

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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. 1682



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

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

1 SECTION 1. IC 6-1.1-18.5-13, AS AMENDED BY P.L.25-1995,
2 SECTION 31, AND P.L.87-1995, SECTION 1 (CURRENT
3 VERSIONS), IS CORRECTED AND IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. With respect to an
5 appeal filed under section 12 of this chapter, the local government tax
6 control board may recommend that a civil taxing unit receive any one
7 (1) or more of the following types of relief:
8 (1) Permission to the civil taxing unit to reallocate the amount set
9 aside as a property tax replacement credit as required by
10 IC 6-3.5-1.1 for a purpose other than property tax relief. However,
11 whenever this occurs, the local government tax control board
12 shall also state the amount to be reallocated.
13 (2) Permission to the civil taxing unit to increase its levy in excess
14 of the limitations established under section 3 of this chapter, if in
15 the judgment of the local government tax control board the
16 increase is reasonably necessary due to increased costs of the civil
17 taxing unit resulting from annexation, consolidation, or other

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1 extensions of governmental services by the civil taxing unit to
2 additional geographic areas or persons.

3 (3) Permission to the civil taxing unit to increase its levy in excess
4 of the limitations established under section 3 of this chapter, if the
5 local government tax control board finds that the civil taxing unit
6 needs the increase to meet the civil taxing unit's share of the costs
7 of operating a court established by statute enacted after December
8 31, 1973. Before recommending such an increase, the local
9 government tax control board shall consider all other revenues
10 available to the civil taxing unit that could be applied for that
11 purpose. The maximum aggregate levy increases that the local
12 government tax control board may recommend for a particular
13 court equals the civil taxing unit's share of the costs of operating
14 a court for the first full calendar year in which it is in existence.

15 (4) Permission to the civil taxing unit to increase its levy in excess
16 of the limitations established under section 3 of this chapter, if the
17 civil taxing unit's average three (3) year growth factor, as
18 determined in section 2 (STEP THREE) of this chapter, exceeds
19 one and one-tenth (1.1). However, any increase in the amount of
20 the civil taxing unit's levy recommended by the local government
21 tax control board under this subdivision may not exceed an
22 amount equal to the remainder of:

23 (A) the amount of ad valorem property taxes the civil taxing
24 unit could impose for the ensuing calendar year under section
25 3 of this chapter if at STEP TWO of subsection (a) or (b), as
26 the case may be, the amount determined in STEP THREE of
27 section 2 of this chapter is substituted for the amount
28 determined under STEP FIVE of section 2 of this chapter;
29 minus

30 (B) the amount of ad valorem property taxes the civil taxing
31 unit could impose under section 3 of this chapter for the
32 ensuing calendar year.

33 In addition, before the local government tax control board may
34 recommend the relief allowed under this subdivision, the civil
35 taxing unit must show a need for the increased levy because of
36 special circumstances, and the local government tax control board
37 must consider other sources of revenue and other means of relief.

38 (5) Permission to the civil taxing unit to increase its levy in excess
39 of the limitations established under section 3 of this chapter, if the
40 local government tax control board finds that the civil taxing unit
41 needs the increase to pay the costs of furnishing fire protection for
42 the civil taxing unit through a volunteer fire department. For

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1 purposes of determining a township's need for an increased levy,
 2 the local government tax control board shall not consider the
 3 amount of money borrowed under IC 36-6-6-14 during the
 4 immediately preceding calendar year. However, any increase in
 5 the amount of the civil taxing unit's levy recommended by the
 6 local government tax control board under this subdivision for the
 7 ensuing calendar year may not exceed the lesser of:

8 (A) ten thousand dollars (\$10,000); or

9 (B) twenty percent (20%) of:

10 (i) the amount authorized for operating expenses of a
 11 volunteer fire department in the budget of the civil taxing
 12 unit for the immediately preceding calendar year; plus

13 (ii) the amount of any additional appropriations authorized
 14 during that calendar year for the civil taxing unit's use in
 15 paying operating expenses of a volunteer fire department
 16 under IC 6-1.1-18.5; minus

17 (iii) the amount of money borrowed under IC 36-6-6-14
 18 during that calendar year for the civil taxing unit's use in
 19 paying operating expenses of a volunteer fire department.

20 (6) Permission to a civil taxing unit to increase its levy in excess
 21 of the limitations established under section 3 of this chapter in
 22 order to raise revenues for pension payments and contributions
 23 the civil taxing unit is required to make under IC 36-8. The
 24 maximum increase in a civil taxing unit's levy that may be
 25 recommended under this subdivision for an ensuing calendar year
 26 equals the amount, if any, by which the pension payments and
 27 contributions the civil taxing unit is required to make under
 28 IC 36-8 during the ensuing calendar year exceeds the product of
 29 one and one-tenth (1.1) multiplied by the pension payments and
 30 contributions made by the civil taxing unit under IC 36-8 during
 31 the calendar year that immediately precedes the ensuing calendar
 32 year. For purposes of this subdivision, "pension payments and
 33 contributions made by a civil taxing unit" does not include that
 34 part of the payments or contributions that are funded by
 35 distributions made to a civil taxing unit by the state.

36 (7) Permission to increase its levy in excess of the limitations
 37 established under section 3 of this chapter if the local government
 38 tax control board finds that:

39 (A) the township's poor relief ad valorem property tax rate is
 40 less than five cents (\$0.05) per one hundred dollars (\$100) of
 41 assessed valuation; and

42 (B) the township needs the increase to meet the costs of

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1 providing poor relief under IC 12-20 and IC 12-30-4.

2 The maximum increase that the board may recommend for a
3 township is the levy that would result from an increase in the
4 township's poor relief ad valorem property tax rate of five cents
5 (\$0.05) per one hundred dollars (\$100) of assessed valuation
6 minus the township's ad valorem property tax rate per one
7 hundred dollars (\$100) of assessed valuation before the increase.

8 (8) Permission to a civil taxing unit to increase its levy in excess
9 of the limitations established under section 3 of this chapter if:

10 (A) the increase has been approved by the legislative body of
11 the municipality with the largest population where the civil
12 taxing unit provides public transportation services; and

13 (B) the local government tax control board finds that the civil
14 taxing unit needs the increase to provide adequate public
15 transportation services.

16 The local government tax control board shall consider tax rates
17 and levies in civil taxing units of comparable population, and the
18 effect (if any) of a loss of federal or other funds to the civil taxing
19 unit that might have been used for public transportation purposes.
20 However, the increase that the board may recommend under this
21 subdivision for a civil taxing unit may not exceed the revenue that
22 would be raised by the civil taxing unit based on a property tax
23 rate of three cents (\$0.03) per one hundred dollars (\$100) of
24 assessed valuation.

25 (9) Permission to a civil taxing unit to increase the unit's levy in
26 excess of the limitations established under section 3 of this
27 chapter if the local government tax control board finds that:

28 (A) the civil taxing unit is:

29 (i) a county having a population of more than one hundred
30 twenty-nine thousand (129,000) but less than one hundred
31 thirty thousand six hundred (130,600);

32 (ii) a city having a population of more than forty-three
33 thousand seven hundred (43,700) but less than forty-four
34 thousand (44,000);

35 (iii) a city having a population of more than twenty-five
36 thousand five hundred (25,500) but less than twenty-six
37 thousand (26,000);

38 (iv) a city having a population of more than fifteen thousand
39 three hundred fifty (15,350) but less than fifteen thousand
40 five hundred seventy (15,570); or

41 (v) a city having a population of more than five thousand six
42 hundred fifty (5,650) but less than five thousand seven

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1 hundred eight (5,708); and
 2 (B) the increase is necessary to provide funding to undertake
 3 removal (as defined in ~~IC 13-7-8.7-1~~ **IC 13-11-2-187**) and
 4 remedial action (as defined in ~~IC 13-7-8.7-1~~ **IC 13-11-2-185**)
 5 relating to hazardous substances (as defined in ~~IC 13-7-8.7-1~~
 6 **IC 13-11-2-98**) in solid waste disposal facilities or industrial
 7 sites in the civil taxing unit that have become a menace to the
 8 public health and welfare.

9 The maximum increase that the local government tax control
 10 board may recommend for such a civil taxing unit is the levy that
 11 would result from a property tax rate of twenty cents (\$0.20) for
 12 each one hundred dollars (\$100) of assessed valuation. For
 13 purposes of computing the ad valorem property tax levy limit
 14 imposed on a civil taxing unit under section 3 of this chapter, the
 15 civil taxing unit's ad valorem property tax levy for a particular
 16 year does not include that part of the levy imposed under this
 17 subdivision. In addition, a property tax increase permitted under
 18 this subdivision may be imposed for only two (2) calendar years.
 19 (10) Permission for a county having a population of more than
 20 seventy-eight thousand (78,000) but less than eighty-five
 21 thousand (85,000) to increase the county's levy in excess of the
 22 limitations established under section 3 of this chapter, if the local
 23 government tax control board finds that the county needs the
 24 increase to meet the county's share of the costs of operating a jail
 25 or juvenile detention center, including expansion of the facility,
 26 if the jail or juvenile detention center is opened after December
 27 31, 1991. Before recommending an increase, the local
 28 government tax control board shall consider all other revenues
 29 available to the county that could be applied for that purpose. An
 30 appeal for operating funds for a jail or juvenile detention center
 31 shall be considered individually, if a jail and juvenile detention
 32 center are both opened in one (1) county. The maximum
 33 aggregate levy increases that the local government tax control
 34 board may recommend for a county equals the county's share of
 35 the costs of operating the jail or juvenile detention center for the
 36 first full calendar year in which the jail or juvenile detention
 37 center is in operation.

38 (11) Permission for a township **or fire protection district** to
 39 increase its levy in excess of the limitations established under
 40 section 3 of this chapter, if the local government tax control board
 41 finds that the township **or district** needs the increase so that the
 42 property tax rate to pay the costs of furnishing fire protection for

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1 a township **or district**, or a portion of a township **or district**,
 2 enables the township **or district** to pay a fair and reasonable
 3 amount under a contract with the municipality that is furnishing
 4 the fire protection. However, *for the first time an appeal is*
 5 *granted* the resulting rate *increase* may not exceed *fifty percent*
 6 *(50%) of the difference between* the rate imposed for fire
 7 protection within the municipality that is providing the fire
 8 protection to the township **or district** *and the township's or*
 9 **district's rate**. A township **or district** is *not* required to appeal a
 10 second time for an increase under this *subdivision if the township*
 11 **or district** *wants to further increase its rate. However, a*
 12 *township's or district's rate may be increased to equal but may*
 13 *chapter if the property tax rate the township is using in*
 14 *determining its maximum permissible levy does* not exceed the
 15 rate that is used by the municipality. More than one (1) township
 16 **or district** served by the same municipality may use this appeal.

17 SECTION 2. IC 6-1.1-18.5-13, AS AMENDED BY P.L.6-1997,
 18 SECTION 85 (DELAYED VERSION), IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE MARCH 1, 2001]: Sec. 13. With respect to
 20 an appeal filed under section 12 of this chapter, the local government
 21 tax control board may recommend that a civil taxing unit receive any
 22 one (1) or more of the following types of relief:

23 (1) Permission to the civil taxing unit to reallocate the amount set
 24 aside as a property tax replacement credit as required by
 25 IC 6-3.5-1.1 for a purpose other than property tax relief. However,
 26 whenever this occurs, the local government tax control board
 27 shall also state the amount to be reallocated.

28 (2) Permission to the civil taxing unit to increase its levy in excess
 29 of the limitations established under section 3 of this chapter, if in
 30 the judgment of the local government tax control board the
 31 increase is reasonably necessary due to increased costs of the civil
 32 taxing unit resulting from annexation, consolidation, or other
 33 extensions of governmental services by the civil taxing unit to
 34 additional geographic areas or persons.

35 (3) Permission to the civil taxing unit to increase its levy in excess
 36 of the limitations established under section 3 of this chapter, if the
 37 local government tax control board finds that the civil taxing unit
 38 needs the increase to meet the civil taxing unit's share of the costs
 39 of operating a court established by statute enacted after December
 40 31, 1973. Before recommending such an increase, the local
 41 government tax control board shall consider all other revenues
 42 available to the civil taxing unit that could be applied for that

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1 purpose. The maximum aggregate levy increases that the local
 2 government tax control board may recommend for a particular
 3 court equals the civil taxing unit's share of the costs of operating
 4 a court for the first full calendar year in which it is in existence.

5 (4) Permission to the civil taxing unit to increase its levy in excess
 6 of the limitations established under section 3 of this chapter, if the
 7 civil taxing unit's average three (3) year growth factor, as
 8 determined in section 2 (STEP THREE) of this chapter, exceeds
 9 one and one-tenth (1.1). However, any increase in the amount of
 10 the civil taxing unit's levy recommended by the local government
 11 tax control board under this subdivision may not exceed an
 12 amount equal to the remainder of:

13 (A) the amount of ad valorem property taxes the civil taxing
 14 unit could impose for the ensuing calendar year under section
 15 3 of this chapter if at STEP TWO of subsection (a) or (b), as
 16 the case may be, the amount determined in STEP THREE of
 17 section 2 of this chapter is substituted for the amount
 18 determined under STEP FIVE of section 2 of this chapter;
 19 minus

20 (B) the amount of ad valorem property taxes the civil taxing
 21 unit could impose under section 3 of this chapter for the
 22 ensuing calendar year.

23 In addition, before the local government tax control board may
 24 recommend the relief allowed under this subdivision, the civil
 25 taxing unit must show a need for the increased levy because of
 26 special circumstances, and the local government tax control board
 27 must consider other sources of revenue and other means of relief.

28 (5) Permission to the civil taxing unit to increase its levy in excess
 29 of the limitations established under section 3 of this chapter, if the
 30 local government tax control board finds that the civil taxing unit
 31 needs the increase to pay the costs of furnishing fire protection for
 32 the civil taxing unit through a volunteer fire department. For
 33 purposes of determining a township's need for an increased levy,
 34 the local government tax control board shall not consider the
 35 amount of money borrowed under IC 36-6-6-14 during the
 36 immediately preceding calendar year. However, any increase in
 37 the amount of the civil taxing unit's levy recommended by the
 38 local government tax control board under this subdivision for the
 39 ensuing calendar year may not exceed the lesser of:

40 (A) ten thousand dollars (\$10,000); or

41 (B) twenty percent (20%) of:

42 (i) the amount authorized for operating expenses of a

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1 volunteer fire department in the budget of the civil taxing
2 unit for the immediately preceding calendar year; plus

3 (ii) the amount of any additional appropriations authorized
4 during that calendar year for the civil taxing unit's use in
5 paying operating expenses of a volunteer fire department
6 under IC 6-1.1-18.5; minus

7 (iii) the amount of money borrowed under IC 36-6-6-14
8 during that calendar year for the civil taxing unit's use in
9 paying operating expenses of a volunteer fire department.

10 (6) Permission to a civil taxing unit to increase its levy in excess
11 of the limitations established under section 3 of this chapter in
12 order to raise revenues for pension payments and contributions
13 the civil taxing unit is required to make under IC 36-8. The
14 maximum increase in a civil taxing unit's levy that may be
15 recommended under this subdivision for an ensuing calendar year
16 equals the amount, if any, by which the pension payments and
17 contributions the civil taxing unit is required to make under
18 IC 36-8 during the ensuing calendar year exceeds the product of
19 one and one-tenth (1.1) multiplied by the pension payments and
20 contributions made by the civil taxing unit under IC 36-8 during
21 the calendar year that immediately precedes the ensuing calendar
22 year. For purposes of this subdivision, "pension payments and
23 contributions made by a civil taxing unit" does not include that
24 part of the payments or contributions that are funded by
25 distributions made to a civil taxing unit by the state.

26 (7) Permission to increase its levy in excess of the limitations
27 established under section 3 of this chapter if the local government
28 tax control board finds that:

29 (A) the township's poor relief ad valorem property tax rate is
30 less than one and sixty-seven hundredths cents (\$0.0167) per
31 one hundred dollars (\$100) of assessed valuation; and

32 (B) the township needs the increase to meet the costs of
33 providing poor relief under IC 12-20 and IC 12-30-4.

34 The maximum increase that the board may recommend for a
35 township is the levy that would result from an increase in the
36 township's poor relief ad valorem property tax rate of one and
37 sixty-seven hundredths cents (\$0.0167) per one hundred dollars
38 (\$100) of assessed valuation minus the township's ad valorem
39 property tax rate per one hundred dollars (\$100) of assessed
40 valuation before the increase.

41 (8) Permission to a civil taxing unit to increase its levy in excess
42 of the limitations established under section 3 of this chapter if:

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1 (A) the increase has been approved by the legislative body of
 2 the municipality with the largest population where the civil
 3 taxing unit provides public transportation services; and

4 (B) the local government tax control board finds that the civil
 5 taxing unit needs the increase to provide adequate public
 6 transportation services.

7 The local government tax control board shall consider tax rates
 8 and levies in civil taxing units of comparable population, and the
 9 effect (if any) of a loss of federal or other funds to the civil taxing
 10 unit that might have been used for public transportation purposes.
 11 However, the increase that the board may recommend under this
 12 subdivision for a civil taxing unit may not exceed the revenue that
 13 would be raised by the civil taxing unit based on a property tax
 14 rate of one cent (\$.01) per one hundred dollars (\$100) of
 15 assessed valuation.

16 (9) Permission to a civil taxing unit to increase the unit's levy in
 17 excess of the limitations established under section 3 of this
 18 chapter if the local government tax control board finds that:

19 (A) the civil taxing unit is:

20 (i) a county having a population of more than one hundred
 21 twenty-nine thousand (129,000) but less than one hundred
 22 thirty thousand six hundred (130,600);

23 (ii) a city having a population of more than forty-three
 24 thousand seven hundred (43,700) but less than forty-four
 25 thousand (44,000);

26 (iii) a city having a population of more than twenty-five
 27 thousand five hundred (25,500) but less than twenty-six
 28 thousand (26,000);

29 (iv) a city having a population of more than fifteen thousand
 30 three hundred fifty (15,350) but less than fifteen thousand
 31 five hundred seventy (15,570); or

32 (v) a city having a population of more than five thousand six
 33 hundred fifty (5,650) but less than five thousand seven
 34 hundred eight (5,708); and

35 (B) the increase is necessary to provide funding to undertake
 36 removal (as defined in ~~IC 13-7-8.7-1~~ **IC 13-11-2-187**) and
 37 remedial action (as defined in ~~IC 13-7-8.7-1~~ **IC 13-11-2-185**)
 38 relating to hazardous substances (as defined in ~~IC 13-7-8.7-1~~
 39 **IC 13-11-2-98**) in solid waste disposal facilities or industrial
 40 sites in the civil taxing unit that have become a menace to the
 41 public health and welfare.

42 The maximum increase that the local government tax control

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board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county having a population of more than seventy-eight thousand (78,000) but less than eighty-five thousand (85,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991. Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(11) Permission for a township **or fire protection district** to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township **or district** needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township **or district**, or a portion of a township **or district**, enables the township **or district** to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township **or district** and the township's **or district's** rate. A

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1 township **or district** is required to appeal a second time for an
 2 increase under this subdivision if the township **or district** wants
 3 to further increase its rate. However, a township's **or district's**
 4 rate may be increased to equal but may not exceed the rate that is
 5 used by the municipality. More than one (1) township **or district**
 6 served by the same municipality may use this appeal.

7 SECTION 3. [EFFECTIVE JULY 1, 1999] IC 6-1.1-18.5-13, as
 8 amended by this act, applies only to property taxes first due and
 9 payable after December 31, 1999.

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