



February 25, 2000

**ENGROSSED  
HOUSE BILL No. 1068**

DIGEST OF HB 1068 (Updated February 23, 2000 5:54 PM - DI 87)

**Citations Affected:** IC 6-1.1; IC 36-8.

**Synopsis:** Creation of fire districts and fire protection property tax levies. Allows a municipality that is located in two counties to establish a fire protection district. Repeals a conflicting provision. Provides that the property tax levy limits do not apply to property taxes imposed by a fire protection district for a cumulative firefighting building and equipment fund. Specifies that money in a fire protection territory equipment replacement fund may be used to purchase housing.

**Effective:** Upon passage; July 1, 2000; January 1, 2001.

**Oxley**

(SENATE SPONSORS — LANDSKE, YOUNG R)

January 10, 2000, read first time and referred to Committee on Local Government.  
January 13, 2000, amended, reported — Do Pass.  
January 18, 2000, read second time, ordered engrossed. Engrossed.  
January 19, 2000, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

January 27, 2000, read first time and referred to Committee on Governmental and Regulatory Affairs.  
February 24, 2000, amended, reported favorably — Do Pass.

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February 25, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

# ENGROSSED HOUSE BILL No. 1068



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 6-1.1-18.5-10.4 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 10.4. (a) The ad  
3 valorem property tax levy limits imposed by section 3 of this chapter  
4 do not apply to ad valorem property taxes imposed by a township **or a**  
5 **fire protection district** under IC 36-8-14.

6 (b) For purposes of computing the ad valorem property tax levy  
7 limit imposed on a township **or a fire protection district** under section  
8 3 of this chapter, the township's **or the fire protection district's** ad  
9 valorem property tax levy for a particular calendar year does not  
10 include that part of the levy imposed under IC 36-8-14.

11 SECTION 2. IC 36-8-11-2 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this  
13 chapter:

14 "Board" refers to the board of fire trustees of a fire protection  
15 district.

16 "Fiscal officer" means a bonded employee of the fire protection  
17 district charged with the faithful receipt and disbursement of the funds

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1 of the district.

2 "Freeholder" means an individual who holds land in fee, for life, or  
3 for some indeterminate period of time, whether or not in joint title.

4 "Interested person" includes a freeholder or corporation owning  
5 lands within the proposed or established fire protection district, a  
6 person whose property may be condemned or injured by the district, the  
7 proper officer of a municipality, an affected state agency, and all local  
8 plan commissions.

9 "Joint title" means joint tenancy, tenancy in common, or tenancy by  
10 the entirety.

11 **"Primary county" refers to the county where the largest portion**  
12 **of a municipality is located if the municipality is located in two (2)**  
13 **counties.**

14 **"Secondary county" refers to the county where the smallest**  
15 **portion of a municipality is located if the municipality is located in**  
16 **two (2) counties.**

17 SECTION 3. IC 36-8-11-4 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A county  
19 legislative body may establish fire protection districts for any of the  
20 following purposes:

21 (1) Fire protection, including the capability for extinguishing all  
22 fires that might be reasonably expected because of the types of  
23 improvements, personal property, and real property within the  
24 boundaries of the district.

25 (2) Fire prevention, including identification and elimination of all  
26 potential and actual sources of fire hazard.

27 (3) Other purposes or functions related to fire protection and fire  
28 prevention.

29 (b) Any area may be established as a fire protection district, but one  
30 (1) part of a district may not be completely separate from another part.  
31 A municipality may be included in a district, but only if it consents by  
32 ordinance, unless a majority of the freeholders of the municipality have  
33 petitioned to be included in the district.

34 (c) **Except as provided in subsection (d),** the territory of a district  
35 may consist of:

36 (1) one (1) or more townships and parts of one (1) or more  
37 townships in the same county; or

38 (2) all of the townships in the same county.

39 The boundaries of a district need not coincide with those of other  
40 political subdivisions.

41 (d) **The territory of a district may consist of a municipality that**  
42 **is located in more than one (1) county.**



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1 SECTION 4. IC 36-8-11-5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) Freeholders who  
 3 desire the establishment of a fire protection district must initiate  
 4 proceedings by filing a petition in the office of the county auditor **of**  
 5 **the county where the freeholder's land is located.** The petition may  
 6 also be filed by a municipality under an ordinance adopted by its  
 7 legislative body **in each county where the municipality is located.**

8 (b) The petition must be signed:

9 (1) by at least twenty percent (20%), with a minimum of five  
 10 hundred (500), of the freeholders owning land within the  
 11 proposed district; or

12 (2) by a majority of those freeholders owning land within the  
 13 proposed district;

14 whichever number is less.

15 (c) **This subsection applies to a district that consists of a**  
 16 **municipality located in two (2) counties. The petitions filed in each**  
 17 **county as set forth in section 5.1 of this chapter shall be considered**  
 18 **parts of one (1) petition. The signature requirement of subsection**  
 19 **(b) applies to the sum of the signatures on all parts of the petition.**

20 SECTION 5. IC 36-8-11-5.1 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 22 1, 2000]: Sec. 5.1. (a) **This section applies to a district that consists**  
 23 **of a municipality located in two (2) counties.**

24 (b) **This section does not apply to a merged district under**  
 25 **section 23 of this chapter.**

26 (c) **Freeholders within the proposed district who desire the**  
 27 **establishment of a fire protection district must initiate proceedings**  
 28 **by filing a petition to establish the district with the county auditor**  
 29 **of the county where the freeholder's land is located. Sections 6 and**  
 30 **7 of this chapter apply to a petition filed under this section. The**  
 31 **number of freeholders who signed a petition shall be certified by**  
 32 **the county auditor of the county that is the subject of the petition.**  
 33 **If a petition is filed in both counties, the county auditor of the**  
 34 **secondary county shall forward the petition to the primary county.**

35 (d) **The county auditor of the primary county shall present the**  
 36 **petition to the legislative body of the primary county at its next**  
 37 **regularly scheduled meeting or at a special meeting called for that**  
 38 **purpose. Before or at the meeting, the legislative body shall**  
 39 **determine whether the petition bears the necessary signatures and**  
 40 **complies with requirements as to form and content. The legislative**  
 41 **body may not dismiss a petition with the requisite signatures**  
 42 **because of alleged defects without permitting amendments to**



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1 correct errors in form or content.

2 (e) In determining whether the signers of a petition are  
3 freeholders, the names as they appear on the tax duplicates are  
4 prima facie evidence of the ownership of land.

5 (f) If the legislative body of the primary county determines that  
6 the petition conforms to the requirements of this chapter, the  
7 primary county or the secondary county, or both, may set a date  
8 for a public hearing on whether a fire protection district should, as  
9 a matter of public policy, be established in the area proposed in the  
10 petition. The district is established when both legislative bodies  
11 adopt an identical ordinance or resolution establishing the district.

12 SECTION 6. IC 36-8-11-9.5 IS ADDED TO THE INDIANA CODE  
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
14 1, 2000]: **Sec. 9.5. (a) This section applies to a district that contains  
15 a municipality located in two (2) counties.**

16 (b) This section does not apply to a merged district under  
17 section 23 of this chapter.

18 (c) The freeholders owning land within the proposed district  
19 may file a petition opposing the establishment of the district with  
20 the county auditor of the county where the freeholder's land is  
21 located. If a petition is filed in both counties, the county auditor of  
22 the secondary county shall forward the petition to the primary  
23 county and certify to the primary county the number of  
24 freeholders who signed the petition. A petition against the  
25 establishment of the fire protection district must be presented to  
26 the legislative body of the primary county at or after a hearing on  
27 the petition to establish a district and before the adoption of an  
28 ordinance or resolution establishing the district.

29 (d) If the legislative body of the primary county finds that the  
30 petition contains the signatures of fifty-one percent (51%) of the  
31 freeholders within the proposed district or of the freeholders who  
32 own two-thirds (2/3) of the real property within the proposed  
33 district, determined by assessed valuation, the legislative body shall  
34 dismiss the petition for the establishment of the district.

35 SECTION 7. IC 36-8-11-11 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. To add area to a fire  
37 protection district already established, the same procedure must be  
38 followed as is provided for the establishment of a district. The petition  
39 must be addressed to the legislative body of ~~the~~ **each** county in which  
40 the district is located.

41 SECTION 8. IC 36-8-11-22.1 IS ADDED TO THE INDIANA  
42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2000]: **Sec. 22.1. (a) This section applies to a**  
 2 **district that consists of a municipality that is located in two (2)**  
 3 **counties.**

4 **(b) This section does not apply to a merged district under**  
 5 **section 23 of this chapter.**

6 **(c) Sections 6 and 7 of this chapter apply to the petition.**

7 **(d) The board of fire trustees for the district shall be appointed**  
 8 **as prescribed by section 12 of this chapter. However, the legislative**  
 9 **body of each county within which the district is located shall jointly**  
 10 **appoint one (1) trustee from each township or part of a township**  
 11 **contained in the district and one (1) trustee from the municipality**  
 12 **contained in the district. The legislative body of each county shall**  
 13 **jointly appoint a member to fill a vacancy.**

14 **(e) Sections 13, 14, and 15 of this chapter relating to the board**  
 15 **of fire trustees apply to the board of the district. However, the**  
 16 **county legislative bodies serving the district shall jointly decide**  
 17 **where the board shall locate (or approve location of) its office.**

18 **(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the**  
 19 **taxing district, bonds, annual budget, tax levies, and disbanding of**  
 20 **fire departments apply to the district. However, the budget must**  
 21 **be approved by the county fiscal body and county board of tax**  
 22 **adjustment in each county in the district. In addition, the auditor**  
 23 **of each county in the district shall perform the duties described in**  
 24 **section 18(c) of this chapter.**

25 SECTION 9. IC 36-8-11-24 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. (a) Proceedings to  
 27 dissolve a fire protection district may be instituted by the filing of a  
 28 petition with the county legislative body that formed the district. **If the**  
 29 **proceedings are for dissolution of a district to which section 5.1 of**  
 30 **this chapter applies, the proceedings may be instituted by the filing**  
 31 **of a petition with the primary county or the secondary county, or**  
 32 **both.**

33 (b) The petition must be signed:

34 (1) by at least twenty percent (20%), with a minimum of five  
 35 hundred (500), of the freeholders owning land within the district;

36 or

37 (2) by a majority of those freeholders owning land within the  
 38 district;

39 whichever is less.

40 **(c) Except as provided in subsection (d), the provisions of section**  
 41 **8 of this chapter concerning a petition to establish a district apply to a**  
 42 **dissolution petition.**



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1 (d) **If the district is established under section 5.1 of this chapter,**  
 2 **the provisions of section 5.1 of this chapter apply to a petition to**  
 3 **dissolve the district.**

4 (e) **Except as provided in subsection (f),** a petition against the  
 5 dissolution of the fire protection district may be presented to the county  
 6 legislative body at or after a hearing on the petition to dissolve a district  
 7 and before the adoption of an ordinance or resolution dissolving the  
 8 district. If the legislative body finds that it contains the signatures of  
 9 fifty-one percent (51%) of the freeholders within the district or of the  
 10 freeholders who own two-thirds (2/3) of the real property within the  
 11 district, determined by assessed valuation, the legislative body shall  
 12 dismiss the petition for the dissolution of the district.

13 ~~(e)~~ (f) **If a district is established under section 5.1 of this chapter,**  
 14 **the provisions of section 9.5 of this chapter apply to a petition to**  
 15 **dissolve the district.**

16 (g) If, after the public hearing, the legislative body determines that  
 17 dissolution should occur, it shall adopt an ordinance dissolving the  
 18 district. **If the district is established under section 5.1 of this**  
 19 **chapter, both legislative bodies of the counties containing the**  
 20 **district must adopt ordinances dissolving the district after**  
 21 **determining in a public hearing that the district should be**  
 22 **dissolved.**

23 ~~(f)~~ (h) A dissolution takes effect three (3) months after the adoption  
 24 of the ordinance under subsection (a). The property owned by the  
 25 district after payment of debts and liabilities shall be disposed of in the  
 26 manner chosen by the county legislative body **or county legislative**  
 27 **bodies**. Dissolution of a district does not affect the validity of any  
 28 contract to which the district is a party.

29 ~~(g)~~ (i) A person aggrieved by a decision made by the county  
 30 legislative body **or county legislative bodies** under this section may,  
 31 within thirty (30) days, appeal the decision to the circuit court for ~~the~~  
 32 **any** county in which the district is located. The appeal is instituted by  
 33 giving written notice to ~~the each~~ county legislative body **within which**  
 34 **the district is located** and filing with the circuit court clerk a bond in  
 35 the sum of five hundred dollars (\$500), with surety approved by the  
 36 legislative body **or legislative bodies**. The bond must provide that the  
 37 appeal will be duly prosecuted and that the appellants will pay all costs  
 38 if the appeal is decided against them. When an appeal is instituted, the  
 39 county legislative body **or county legislative bodies** shall file with the  
 40 circuit court clerk a transcript of all proceedings in the case, together  
 41 with all papers filed in the case. The county legislative body **or county**  
 42 **legislative bodies** may not take further action in the case until the



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1 appeal is heard and determined. An appeal under this subsection shall  
 2 be heard by the circuit court without a jury. Change of venue from the  
 3 judge may be granted, but change of venue from the county may not be  
 4 granted.

5 SECTION 10. IC 36-8-19-8.5 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a)  
 7 Participating units may agree to establish an equipment replacement  
 8 fund under this section to be used to purchase fire protection  
 9 equipment, **including housing**, that will be used to serve the entire  
 10 territory. To establish the fund, the legislative bodies of all  
 11 participating units must adopt identical ordinances after January 1 but  
 12 before April 1 authorizing the provider unit to establish the fund. The  
 13 ordinance must include at least the following:

- 14 (1) The name of each participating unit and the provider unit.
- 15 (2) An agreement to impose a uniform tax rate upon all of the  
 16 taxable property within the territory for the equipment  
 17 replacement fund.
- 18 (3) The contents of the agreement to establish the fund.

19 An ordinance adopted under this section takes effect July 1 of the year  
 20 the ordinance is adopted.

21 (b) If a fund is established, the participating units may agree to:

- 22 (1) impose a property tax to provide for the accumulation of  
 23 money in the fund to purchase fire protection equipment;
- 24 (2) incur debt to purchase fire protection equipment and impose  
 25 a property tax to retire the loan; or
- 26 (3) transfer an amount from the fire protection territory fund to  
 27 the fire equipment replacement fund not to exceed five percent  
 28 (5%) of the levy for the fire protection territory fund for that year;

29 or any combination of these options. The property tax rate for the levy  
 30 imposed under this section may not exceed ten cents (\$0.10). Before  
 31 debt may be incurred, the fiscal bodies of all participating units must  
 32 adopt identical ordinances specifying the amount and purpose of the  
 33 debt. In addition, the state board of tax commissioners must approve  
 34 the incurrence of the debt using the same standards as applied to the  
 35 incurrence of debt by civil taxing units.

36 (c) Money in the fund may be used by the provider unit only for  
 37 those purposes set forth in the agreement among the participating units  
 38 that permits the establishment of the fund.

39 SECTION 11. IC 36-8-11-1 IS REPEALED [EFFECTIVE JULY 1,  
 40 2000].

41 SECTION 12. [EFFECTIVE JULY 1, 2000] **IC 6-1.1-18.5-10.4, as**  
 42 **amended by this act, applies to property taxes first due and**

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1 payable after December 31, 2000.  
2 SECTION 13. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1068, 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 3, line 20, after "section." insert "**The number of freeholders who signed a petition shall be certified by the county auditor of the county that is the subject of the petition.**".

Page 3, line 22, after "primary county" insert ".".

Page 3, delete line 23.

and when so amended that said bill do pass.

(Reference is to HB 1068 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1068, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-18.5-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 10.4. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a township **or a fire protection district** under IC 36-8-14.

(b) For purposes of computing the ad valorem property tax levy limit imposed on a township **or a fire protection district** under section 3 of this chapter, the township's **or the fire protection district's** ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-14."

Page 6, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 10. IC 36-8-19-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) Participating units may agree to establish an equipment replacement fund under this section to be used to purchase fire protection equipment, **including housing**, that will be used to serve the entire territory. To establish the fund, the legislative bodies of all participating units must adopt identical ordinances after January 1 but before April 1 authorizing the provider unit to establish the fund. The ordinance must include at least the following:

- (1) The name of each participating unit and the provider unit.
- (2) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.
- (3) The contents of the agreement to establish the fund.

An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(b) If a fund is established, the participating units may agree to:

- (1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;
- (2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or
- (3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent



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(5%) of the levy for the fire protection territory fund for that year; or any combination of these options. The property tax rate for the levy imposed under this section may not exceed ten cents (\$0.10). Before debt may be incurred, the fiscal bodies of all participating units must adopt identical ordinances specifying the amount and purpose of the debt. In addition, the state board of tax commissioners must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund."

Page 6, after line 38, begin a new paragraph and insert:

**"SECTION 12. [EFFECTIVE JULY 1, 2000] IC 6-1.1-18.5-10.4, as amended by this act, applies to property taxes first due and payable after December 31, 2000.**

**SECTION 13. An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1068 as printed January 14, 2000.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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