

SENATE BILL No. 236

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5; IC 6-6-12; IC 8-14-2-4.

Synopsis: County motor fuel tax. Provides that a county motor fuel tax may be imposed by a county. Provides for a rate of \$0.01 per gallon of gasoline or special fuel. Requires the procedures for adoption under the county option income tax. Prohibits the adoption of the county motor vehicle excise surtax and county wheel tax if the county motor fuel tax is in effect. Establishes a state general fund account and county, city, and town motor fuel tax funds for a county in which the county motor fuel tax is imposed. Requires revenue to be collected by the state and distributed to the county and the cities and towns in the county. Provides that a portion of the revenue is distributed in the same manner as funds from the local road and street account. Allows the issuance of bonds payable from county, city, and town motor fuel tax funds. Provides that the revenue may be used for the maintenance and improvement of streets, to pay bonds issued under the new law, and to pay for public safety, including salaries for public safety officials.

Effective: July 1, 2000.

Meeks C

January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.

C
O
P
Y



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.

C
O
P
Y

SENATE BILL No. 236



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 6-3.5-4-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The county
3 council of any county may, subject to the limitation imposed by
4 subsection (c), adopt an ordinance to impose an annual license excise
5 surtax at the same rate or amount on each motor vehicle listed in
6 subsection (b) that is registered in the county. The county council may
7 impose the surtax either:
8 (1) at a rate of not less than two percent (2%) nor more than ten
9 percent (10%); or
10 (2) at a specific amount of at least seven dollars and fifty cents
11 (\$7.50) and not more than twenty-five dollars (\$25).
12 However, the surtax on a vehicle may not be less than seven dollars and
13 fifty cents (\$7.50). The county council shall state the surtax rate or
14 amount in the ordinance which imposes the tax.
15 (b) The license excise surtax applies to the following vehicles:
16 (1) Passenger vehicles.
17 (2) Motorcycles.



1 (3) Trucks with a declared gross weight that does not exceed
2 eleven thousand (11,000) pounds.

3 (c) The county council may not adopt an ordinance to impose the
4 surtax unless it concurrently adopts an ordinance under IC 6-3.5-5 to
5 impose the wheel tax **and the county motor fuel tax under IC 6-6-12**
6 **is not in effect on July 1 of the year of adoption.**

7 (d) Notwithstanding any other provision of this chapter or
8 IC 6-3.5-5, ordinances adopted by a county council before June 1,
9 1983, to impose or change the annual license excise surtax and the
10 annual wheel tax in the county remain in effect until the ordinances are
11 amended or repealed under this chapter or IC 6-3.5-5.

12 SECTION 2. IC 6-3.5-5-2 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The county
14 council of any county may, subject to the limitation imposed by
15 subsection (b), adopt an ordinance to impose an annual wheel tax on
16 each vehicle which:

17 (1) is included in one (1) of the classes of vehicles listed in
18 section 3 of this chapter;

19 (2) is not exempt from the wheel tax under section 4 of this
20 chapter; and

21 (3) is registered in the county.

22 (b) The county council of a county may not adopt an ordinance to
23 impose the wheel tax unless it concurrently adopts an ordinance under
24 IC 6-3.5-4 to impose the annual license excise surtax **and the county**
25 **motor fuel tax under IC 6-6-12 is not in effect on July 1 of the year**
26 **of adoption.**

27 (c) The county council may impose the wheel tax at a different rate
28 for each of the classes of vehicles listed in section 3 of this chapter. In
29 addition, the county council may establish different rates within the
30 classes of buses, semitrailers, trailers, tractors, and trucks based on
31 weight classifications of those vehicles that are established by the
32 bureau of motor vehicles for use throughout Indiana. However, the
33 wheel tax rate for a particular class or weight classification of vehicles
34 may not be less than five dollars (\$5) and may not exceed forty dollars
35 (\$40). The county council shall state the initial wheel tax rates in the
36 ordinance that imposes the tax.

37 SECTION 3. IC 6-6-12 IS ADDED TO THE INDIANA CODE AS
38 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
39 1, 2000]:

40 **Chapter 12. County Motor Fuel Tax**

41 **Sec. 1. This chapter applies to all counties.**

42 **Sec. 2. As used in this chapter, "department" means the**

C
O
P
Y



1 department of state revenue.

2 Sec. 3. As used in this chapter, "fiscal body" has the meaning set
3 forth in IC 36-1-2-6.

4 Sec. 4. Except as provided in this chapter, the definitions in
5 IC 6-6-1.1-103 and IC 6-6-2.5 apply throughout this chapter.

6 Sec. 5. (a) A county motor fuel tax council is established on
7 January 1 for each county that will not have the county excise
8 surtax and county wheel tax in effect for registrations in that year.
9 The membership of each county motor fuel tax council consists of
10 the fiscal body of the county and the fiscal body of each city or
11 town that is located either partially or entirely within the county.

12 (b) In the case of a city or town that is located within more than
13 one (1) county, the county auditor of each county shall base the
14 allocations required by subsection (c) on the population of that
15 part of the city or town that is located within the county where the
16 allocations are being made.

17 (c) Each county motor fuel tax council has a total of one
18 hundred (100) votes. Each member of the county motor fuel tax
19 council is allocated a percentage of the one hundred (100) votes
20 that may be cast. The percentage that a city or town is allocated for
21 a year equals the same percentage that the population of the city or
22 town bears to the population of the county. The percentage that the
23 county is allocated for a year equals the same percentage that the
24 population of all areas in the county not located in a city or town
25 bears to the population of the county. Before January 1 of each
26 year, the county auditor shall certify to each member of the county
27 motor fuel tax council the number of votes, rounded to the nearest
28 one-hundredth (0.01), that each member of the county motor fuel
29 tax council has for that year.

30 Sec. 6. (a) The county motor fuel tax may be imposed by the
31 county motor fuel tax council on the sale within the county of:

- 32 (1) gasoline subject to the gasoline tax under IC 6-6-1.1; and
33 (2) special fuel that is subject to the special fuel tax under
34 IC 6-6-2.5, including the placing of special fuel into the
35 taxable storage facility of an authorized unlicensed user or an
36 authorized unlicensed special fuel dealer.

37 (b) The county motor fuel tax may be imposed at a rate of one
38 cent (\$0.01) for each gallon of gasoline and special fuel.

39 (c) Distributors, dealers, users, and all persons selling gasoline
40 or special fuel must state the rate of the county motor fuel tax
41 separately on every statement showing the price of gasoline or
42 special fuel.

C
O
P
Y

1 **Sec. 7. (a) To impose the county motor fuel tax, a county motor**
 2 **fuel tax council must:**

3 **(1) use the procedures established in IC 6-3.5-6 for imposing**
 4 **the county option income tax; and**

5 **(2) after January 1 but before April 1 of the year the tax will**
 6 **be effective, pass a recommendation regarding the imposition**
 7 **of the county motor fuel tax in a form that substantially states**
 8 **the following:**

9 **"We recommend that the county motor fuel tax be**
 10 **imposed at a rate of one cent (\$0.01) for each gallon of**
 11 **gasoline and special fuel sold within _____ County. This**
 12 **tax takes effect July 1 of this year."**

13 **(b) A recommendation by the county motor fuel tax council**
 14 **must be adopted by ordinance by the county fiscal body before the**
 15 **tax may take effect. If a recommendation by a county motor fuel**
 16 **tax council is not adopted by ordinance by the county fiscal body**
 17 **before July 1, that particular recommendation for the ordinance**
 18 **expires.**

19 **(c) The county auditor shall record all votes taken by the fiscal**
 20 **body regarding ordinances under this chapter and shall**
 21 **immediately certify the results to the department.**

22 **(d) An ordinance under this chapter adopted by the county**
 23 **fiscal body takes effect July 1 of the year the ordinance is adopted.**

24 **Sec. 8. Except as permitted by this chapter, a city, town, county,**
 25 **township, or municipal corporation may not impose:**

26 **(1) an excise tax on or measured by the sale, receipt,**
 27 **distribution, or use of gasoline; or**

28 **(2) an excise, a privilege, or an occupational tax on the**
 29 **business of manufacturing, selling, or distributing gasoline.**

30 **Sec. 9. (a) The county motor fuel tax council may recommend**
 31 **rescinding the county motor fuel tax rate. To rescind the county**
 32 **motor fuel tax rate the county motor fuel tax council must, after**
 33 **January 1 but before April 1, adopt a resolution that substantially**
 34 **states the following:**

35 **"We recommend the county motor fuel tax rate be rescinded**
 36 **within _____ County effective July 1 of this year."**

37 **(b) A recommendation by the county motor fuel tax council**
 38 **must be adopted by ordinance by the county fiscal body before the**
 39 **rescission may take effect. If a recommendation by a county motor**
 40 **fuel tax council is not adopted by ordinance by the county fiscal**
 41 **body before July 1, that particular recommendation for the**
 42 **ordinance expires.**



C
O
P
Y

1 (c) The auditor of a county shall record all votes taken by the
2 fiscal body regarding ordinances under this chapter and shall
3 immediately certify the results to the department.

4 (d) An ordinance under this chapter adopted by the county
5 fiscal body takes effect July 1 of the year the ordinance is adopted.

6 Sec. 10. (a) A person that purchases gasoline shall initially pay
7 the tax on the billed gallonage of all gasoline the person receives in
8 the county. The person shall then add the per gallon amount of tax
9 to the selling price of each gallon of gasoline sold in Indiana and
10 collected from the purchaser so that the ultimate consumer bears
11 the burden of the tax.

12 (b) A person required to pay special fuel taxes under IC 6-6-2.5
13 shall remit the tax due under this chapter for taxable special fuel
14 that is purchased in a county that has imposed the county motor
15 fuel tax.

16 Sec. 11. A person desiring to receive gasoline within a county
17 with a county motor vehicle fuel tax without paying gasoline tax to
18 the supplier must hold an uncanceled license under IC 6-6-1.1
19 issued by the administrator to do business as a distributor. For
20 purposes of this chapter, "supplier" means a distributor or person
21 who sells gasoline.

22 Sec. 12. To determine a person's tax liability under this chapter,
23 the person shall file a sworn report with the administrator by the
24 twentieth day of each calendar month that includes an itemized
25 statement of the number of invoiced gallons of gasoline or special
26 fuel received by the person in each county with a county motor
27 vehicle fuel tax.

28 Sec. 13. At the time of filing each monthly report, each person
29 shall pay to the department the full amount of tax due under this
30 chapter for the preceding calendar month. The payment must be
31 included with the payment of gasoline taxes under IC 6-6-1.1 or
32 special fuel taxes under IC 6-6-2.5.

33 Sec. 14. Every person other than a licensed distributor who
34 purchases or otherwise acquires taxable gasoline and unknowingly
35 fails to pay the gasoline tax to either a licensed Indiana distributor
36 or Indiana dealer shall make the same reports and payment
37 required of distributors under this chapter. However, the person
38 is not entitled to deductions or credits.

39 Sec. 15. Until a person pays to the department the county motor
40 fuel tax on gasoline or special fuel the person receives, the tax
41 money collected is state money. A person who collects the tax shall
42 hold it in trust for the state and for payment to the department as

C
O
P
Y

1 provided in this chapter. In the case of a corporate or partnership
 2 distributor, every officer, employee, or member of the employer
 3 who in that capacity is under a duty to collect the tax is personally
 4 liable for the tax, penalty, and interest.

5 **Sec. 16. (a)** Notwithstanding any other provision, a special fuel
 6 user may pay the tax imposed by this chapter to the user's supplier
 7 if:

- 8 (1) the supplier is a licensed special fuel dealer; and
 9 (2) the special fuel user, supplier, and administrator enter into
 10 a written agreement authorizing payment of the tax in that
 11 manner.

12 (b) A special fuel dealer may pay the tax imposed by this
 13 chapter to the dealer's supplier if the:

- 14 (1) supplier is a licensed special fuel dealer;
 15 (2) special fuel dealer has not more than two (2) taxable
 16 special fuel pumps at any business location; and
 17 (3) special fuel dealer, supplier, and administrator enter into
 18 a written agreement authorizing payment of the tax in that
 19 manner.

20 (c) Upon agreement under this section, the administrator shall
 21 notify concerned parties in writing of the authorization granted.

22 (d) Authorizations under this section are effective upon the date
 23 determined by the administrator.

24 (e) All taxes due and payable before the effective date of an
 25 agreement must be paid in full before the effective date of the
 26 agreement under this section.

27 (f) A party to an agreement under this section may terminate
 28 the agreement with thirty (30) days written notice to the other
 29 parties.

30 (g) A separate agreement is necessary for each supplier to whom
 31 the tax will be paid under this section.

32 (h) A person that pays taxes under this section is not required
 33 to file the monthly reports under section 12 of this chapter.

34 **Sec. 17. (a)** There is established in the state general fund a
 35 county motor fuel tax account for each county that adopts a county
 36 motor fuel tax.

37 (b) Revenue generated by the county motor fuel tax from each
 38 county that adopts the tax must be placed into that county's motor
 39 fuel tax account in the state general fund.

40 (c) Income earned on each county motor fuel tax account
 41 becomes a part of that account.

42 (d) The money in the county motor fuel tax account does not

C
O
P
Y



1 revert to the state general fund.

2 **Sec. 18. (a)** Revenue derived from the imposition of the county
3 motor fuel tax shall, in the manner prescribed by this section, be
4 distributed to the county that imposed the tax. The amount that is
5 to be distributed to a county during an ensuing calendar year
6 equals the amount of county motor fuel tax revenue that the
7 department, after reviewing the recommendation of the budget
8 agency, estimates will be received from that county during the
9 twelve (12) month period beginning July 1 of the immediately
10 preceding calendar year and ending June 30 of the ensuing
11 calendar year.

12 **(b)** Before June 16 of each calendar year, the department, after
13 reviewing the recommendation of the budget agency, shall estimate
14 and certify to the county auditor of each adopting county the
15 amount of county motor fuel tax revenue that will be collected
16 from that county during the twelve (12) month period beginning
17 July 1 of that calendar year and ending June 30 of the immediately
18 succeeding calendar year. The amount certified is the county's
19 "certified distribution" for the immediately succeeding calendar
20 year. The amount certified may be adjusted under subsection (c)
21 or (d).

22 **(c)** The department may certify to an adopting county an
23 amount that is greater than the estimated twelve (12) month
24 revenue collection if the department, after reviewing the
25 recommendation of the budget agency, determines that there will
26 be a greater amount of revenue available for distribution from the
27 county's account established under section 17 of this chapter.

28 **(d)** The department may certify an amount less than the
29 estimated twelve (12) month revenue collection if the department,
30 after reviewing the recommendation of the budget agency,
31 determines that a part of those collections needs to be distributed
32 during the current calendar year so that the county will receive its
33 full certified distribution for the current calendar year.

34 **(e)** One-twelfth (1/12) of each adopting county's certified
35 distribution for a calendar year shall be distributed from its
36 account established under section 17 of this chapter to the
37 appropriate county treasurer on the first day of each month of that
38 calendar year.

39 **(f)** Upon receipt, each monthly payment of a county's certified
40 distribution shall be allocated among, distributed to, and used by
41 the county, cities in the county, and towns in the county as
42 provided in sections 19 and 20 of this chapter.

C
O
P
Y

1 (g) All distributions from an account established under section
 2 17 of this chapter shall be made by warrants issued by the auditor
 3 of state to the treasurer of state ordering the appropriate
 4 payments.

5 Sec. 19. (a) The certified distributions received by the county
 6 must be distributed by the county auditor as follows:

7 (1) Seventy-five percent (75%) of the certified distribution
 8 must be distributed as follows:

9 (A) Thirty-two percent (32%) of the amount is to be
 10 divided among the cities and towns in the county according
 11 to the population of the city or town in relation to the
 12 county population.

13 (B) Sixty-eight percent (68%) of the amount is for the
 14 county.

15 (2) Twenty-five percent (25%) of the certified distribution
 16 must be distributed in the same manner as money from the
 17 local road and street account is allocated to the county under
 18 IC 8-14-2.

19 (b) The Indiana department of transportation shall provide each
 20 county with the fractional amount of the distribution the county is
 21 entitled to receive under subsection (a)(2).

22 (c) Distributions received by a county, city, or town under this
 23 section must be deposited into the motor fuel tax fund established
 24 in the particular unit.

25 Sec. 20. Revenues from the motor fuel tax fund may be used as
 26 follows:

27 (1) The money distributed to cities and towns must be
 28 annually budgeted as required by law and may only be used:

29 (A) for the maintenance and improvement of:

30 (i) streets;

31 (ii) roads; and

32 (iii) alleys;

33 (B) to pay bonds issued under section 21 of this chapter; or

34 (C) to pay for public safety, including salaries for public
 35 safety officials.

36 (2) The money distributed to counties must be annually
 37 budgeted as required by law and may only be used:

38 (A) for the maintenance and improvement of:

39 (i) county highways; or

40 (ii) bridges on county highways;

41 (B) to pay bonds issued under section 21 of this chapter;

42 or

C
O
P
Y



- 1 (C) to pay for public safety, including salaries for public
2 safety officials.
- 3 **Sec. 21. (a) The fiscal body of a county, city, or town may issue**
4 **bonds payable from the unit's motor fuel tax fund. The bonds must**
5 **be for purposes set forth in section 20 of this chapter.**
- 6 (b) If there are bonds outstanding that have been issued under
7 this section, the county motor fuel tax council and the county fiscal
8 body may not reduce the county motor fuel tax rate below a rate
9 that would produce one and twenty-five hundredths (1.25) times
10 the total of the highest annual debt service on the bonds to their
11 final maturity, based on an average of the tax collections for the
12 immediately preceding three (3) years. If the tax has not been
13 imposed for the preceding three (3) years, the county motor fuel
14 tax council and the county fiscal body may not reduce the rate
15 below a rate that would produce one and twenty-five hundredths
16 (1.25) times the total of the highest annual debt service, based upon
17 a study by a qualified public accountant or financial adviser.
- 18 (c) IC 6-1.1-20 does not apply to the issuance of bonds under this
19 section.
- 20 (d) Bonds issued under this section may be sold at a public sale
21 in accordance with IC 5-1-11 or may be sold at a negotiated sale.
- 22 (e) After a sale of bonds under this section, the county auditor
23 shall prepare a debt service schedule for the bonds.
- 24 (f) The general assembly covenants that it will not repeal or
25 amend this chapter in a manner that would adversely affect owners
26 of outstanding bonds issued or payment of any lease rentals due
27 under this section.
- 28 **Sec. 22. Except as provided in this chapter, the provisions of**
29 **IC 6-6-1.1 and IC 6-6-2.5 concerning:**
- 30 (1) definitions;
31 (2) filing of reports or returns;
32 (3) shrinkage allowances and remittances;
33 (4) penalties and interest; and
34 (5) refunds;
- 35 **apply to the imposition, collection, and administration of the tax**
36 **imposed by this chapter.**
- 37 **Sec. 23. Before February 1 of each year, the department shall**
38 **submit a report to each county that has adopted a tax under this**
39 **chapter indicating the amount credited to the county's motor fuel**
40 **tax account during the preceding year.**
- 41 SECTION 4. IC 8-14-2-4 IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) The auditor of state shall

C
O
P
Y

1 establish a special account to be called the "local road and street
2 account" and credit this account monthly with forty-five percent (45%)
3 of the money deposited in the highway road and street fund.

4 (b) The auditor shall distribute:

5 (1) to units of local government **in each county** money from ~~this~~
6 **the local road and street** account each month; **and**

7 (2) to units of local government **in a county that has adopted**
8 **a county motor fuel tax under IC 6-6-12 the portion of the**
9 **certified distribution under IC 6-6-12-19(a)(2) from the**
10 **county motor fuel tax account in the state general fund for**
11 **that particular county.**

12 (c) The auditor of state shall allocate to ~~each~~ **the appropriate**
13 county the money in ~~this account subsection (b)~~ on the basis of the
14 ratio of each county's passenger car registrations to the total passenger
15 car registrations of the state. The auditor shall further determine the
16 suballocation between the county and the cities within the county as
17 follows:

18 (1) In counties having a population of more than fifty thousand
19 (50,000), sixty percent (60%) of the money shall be distributed on
20 the basis of the population of the city or town as a percentage of
21 the total population of the county and forty percent (40%)
22 distributed on the basis of the ratio of city and town street mileage
23 to county road mileage.

24 (2) In counties having a population of fifty thousand (50,000) or
25 less, twenty percent (20%) of the money shall be distributed on
26 the basis of the population of the city or town as a percentage of
27 the total population of the county and eighty percent (80%)
28 distributed on the basis of the ratio of city and town street mileage
29 to county road mileage.

30 (3) For the purposes of allocating funds as provided in this
31 section, towns which become incorporated as a town between the
32 effective dates of decennial censuses shall be eligible for
33 allocations upon the effectiveness of a corrected population count
34 for the town under IC 1-1-3.5.

35 (4) Money allocated under the provisions of this section to
36 counties containing a consolidated city shall be credited or
37 allocated to the department of transportation of the consolidated
38 city.

39 (d) Each month the auditor of state shall inform the department of
40 the amounts allocated to each unit of local government from the local
41 road and street account.

C
O
P
Y

