
SENATE BILL No. 488

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-8; IC 6-8.1-1-1.

Synopsis: Local option beverage tax for education. Creates a local option beverage tax council in each county. Provides that the local option beverage tax council consists of members appointed by the governing bodies of school corporations located in the county. Provides that the local option beverage council may impose a 1% local option beverage tax for education on the sale of soft drinks in the county. Provides that the revenue from the tax shall be used for property tax replacement credits for school corporations in the county.

Effective: July 1, 2000.

Howard

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

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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.

SENATE BILL No. 488



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 6-3.5-8 IS ADDED TO THE INDIANA CODE AS
- 2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2000]:
- 4 **Chapter 8. Local Option Beverage Tax for Education**
- 5 **Sec. 1. Except as otherwise provided in this chapter, the**
- 6 **definitions set forth in IC 6-2.5-1 apply throughout this chapter.**
- 7 **Sec. 2. As used in this chapter, "ADM" for a specified calendar**
- 8 **year means the average daily membership (as defined in**
- 9 **IC 21-3-1.6-1.1) of a school corporation for the school year ending**
- 10 **in that calendar year.**
- 11 **Sec. 3. As used in this chapter, "department" means the**
- 12 **department of state revenue.**
- 13 **Sec. 4. As used in this chapter, "governing body" has the**
- 14 **meaning set forth in IC 20-6.1-1-3.**
- 15 **Sec. 5. As used in this chapter, "school corporation" has the**
- 16 **meaning set forth in IC 36-1-2-17.**
- 17 **Sec. 6. As used in this chapter, "soft drink" means any of the**



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1 following:

2 (1) A nonalcoholic flavored carbonated beverage, soda, soda
3 water, or fruitade.

4 (2) Artificial waters (whether carbonated or not).

5 (3) Bottled table waters, seltzer, or club soda.

6 Sec. 7. (a) A local option beverage tax council is established in
7 each county. The governing body of each school corporation
8 located in the county shall appoint one (1) member of the
9 governing body to be a member of the local option beverage tax
10 council.

11 (b) Using procedures described in this chapter, a local option
12 beverage tax council may, by majority vote, adopt an ordinance to
13 impose or rescind the local option beverage tax for education in the
14 county.

15 (c) Before a local option beverage tax council may adopt an
16 ordinance to impose or rescind a tax under this chapter, the local
17 option beverage tax council must hold a public hearing on the
18 proposed ordinance and provide the public with notice of the time
19 when and place where the public hearing will be held. The notice
20 required by this subsection must be given in accordance with
21 IC 5-3-1.

22 (d) The county auditor shall record all votes taken on an
23 ordinance presented for a vote under this chapter.

24 Sec. 8. (a) Each local option beverage tax council has a total of
25 one hundred (100) votes. Each member of the local option beverage
26 tax council is allocated a percentage of the total one hundred (100)
27 votes that may be cast. The percentage that a member is allocated
28 for a year equals the same percentage that the ADM of the
29 member's school corporation bears to the sum of each school
30 corporation's ADM for all school corporations in the county.

31 (b) In the case of a school corporation that is located in more
32 than one (1) county, the school corporation's ADM, for purposes
33 of determining the number of votes allocated under subsection (a)
34 to the member representing the school corporation on a county's
35 local option beverage tax council, equals the amount determined
36 under the following STEPS:

37 **STEP ONE:** Determine the assessed value of taxable property
38 located in the part of the school corporation territory that is
39 within the county.

40 **STEP TWO:** Divide the amount determined in STEP ONE by
41 the total assessed value of all taxable property that is located
42 in the school corporation's territory.



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1 **STEP THREE: Multiply the quotient determined under STEP**
 2 **TWO by the school corporation's ADM.**

3 (c) Before January 2 of each year, the county auditor shall
 4 certify to each member of the local option beverage tax council the
 5 number of votes, rounded to the nearest one-hundredth (0.01), that
 6 the member has for that year.

7 **Sec. 9. (a) The local option beverage tax council may impose a**
 8 **local option gross retail tax on the transactions described in section**
 9 **10 of this chapter. A local option beverage tax council adopting an**
 10 **ordinance under this section must indicate in the ordinance the**
 11 **date the tax becomes effective.**

12 (b) A tax imposed under this chapter may not take effect until
 13 at least sixty (60) days after the date on which the ordinance
 14 imposing the tax is adopted.

15 **Sec. 10. If a local option beverage tax council imposes the local**
 16 **option beverage tax for education in the county, an excise tax is**
 17 **imposed upon the sale of soft drinks in the county.**

18 **Sec. 11. (a) A tax imposed under this chapter does not apply to**
 19 **a transaction to the extent that the transaction is exempt from the**
 20 **state gross retail tax under IC 6-2.5.**

21 (b) A tax imposed under this chapter does not apply to the gross
 22 retail income derived from a unitary retail transaction to the extent
 23 the gross retail income is attributable to a tax under IC 6-2.5 or
 24 IC 6-9.

25 **Sec. 12. A local option beverage tax council that has imposed a**
 26 **tax under this chapter may adopt an ordinance to rescind the tax.**
 27 **The governing body must specify in the ordinance the date on**
 28 **which the rescission of the tax takes effect.**

29 **Sec. 13. If a local option beverage tax council adopts an**
 30 **ordinance to impose or rescind a tax under this chapter, the local**
 31 **option beverage tax council shall send a certified copy of the**
 32 **ordinance to the department by certified mail not more than thirty**
 33 **(30) days after the ordinance is adopted.**

34 **Sec. 14. (a) A tax imposed under this chapter may be imposed**
 35 **only at the rate of one percent (1%) of the gross retail income**
 36 **derived from retail transactions described in section 10 of this**
 37 **chapter.**

38 (b) If the tax imposed under this chapter for a particular
 39 transaction results in a fraction of at least one-half cent (\$0.005),
 40 the amount of the tax shall be rounded to the next additional cent.

41 **Sec. 15. (a) A person who receives a soft drink in a retail**
 42 **transaction that is taxed under this chapter is liable for the tax.**



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1 **The person shall pay the tax to the retail merchant as a separate**
 2 **amount added to the consideration for the soft drink. The retail**
 3 **merchant shall collect the tax as an agent for the state.**

4 **(b) A tax imposed under this chapter shall be imposed, paid, and**
 5 **collected in the same manner in which the state gross retail tax is**
 6 **imposed, paid, and collected under IC 6-2.5. However, the**
 7 **department shall determine whether a return that is filed for the**
 8 **payment of the tax imposed under this chapter shall be a separate**
 9 **return or shall be combined with the return filed for the payment**
 10 **of the state gross retail tax.**

11 **Sec. 16. (a) A special account within the state general fund shall**
 12 **be established for each county in which a tax is imposed under this**
 13 **chapter. Revenue collected under this chapter from transactions in**
 14 **a county shall be deposited in that county's account in the state**
 15 **general fund.**

16 **(b) Income earned on money held in an account established**
 17 **under subsection (a) becomes a part of that account.**

18 **(c) Revenue remaining in an account established under**
 19 **subsection (a) at the end of a state fiscal year does not revert to the**
 20 **state general fund.**

21 **Sec. 17. (a) Revenue derived from a tax imposed in a county**
 22 **under this chapter shall be distributed to the county in the manner**
 23 **prescribed by this section. The amount to be distributed to a**
 24 **county during a calendar year equals the amount of local option**
 25 **beverage tax revenue that the department, after reviewing the**
 26 **recommendation of the budget agency, estimates will be received**
 27 **from the county during the twelve (12) month period beginning**
 28 **July 1 of the immediately preceding calendar year and ending June**
 29 **30 of that calendar year.**

30 **(b) Before July 2 of each calendar year, the department, after**
 31 **reviewing the recommendation of the budget agency, shall estimate**
 32 **and certify to the county auditor of each county the amount of tax**
 33 **revenue that will be collected from the county under this chapter**
 34 **during the twelve (12) month period beginning July 1 of the**
 35 **calendar year and ending June 30 of the immediately succeeding**
 36 **calendar year. The amount certified is the county's certified**
 37 **distribution for the immediately succeeding calendar year. The**
 38 **amount certified may be adjusted under subsection (c) or (d).**

39 **(c) The department may certify to a county an amount that is**
 40 **greater than the estimated twelve (12) month revenue collection if**
 41 **the department, after reviewing the recommendation of the budget**
 42 **agency, determines that there will be a greater amount of revenue**



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1 available for distribution from the county's account established by
2 section 16 of this chapter.

3 (d) The department may certify an amount less than the
4 estimated twelve (12) month revenue collection if the department,
5 after reviewing the recommendation of the budget agency,
6 determines that a part of the revenue collection needs to be
7 distributed during the current calendar year so that the county will
8 receive the county's full certified distribution for the current
9 calendar year.

10 **Sec. 18. (a) One-half (1/2) of each county's certified distribution**
11 **for a calendar year shall be distributed from the county's account**
12 **established under section 16 of this chapter to the appropriate**
13 **county treasurer before May 1 of the calendar year and the other**
14 **one-half (1/2) shall be distributed before November 1 of the**
15 **calendar year.**

16 (b) Distributions made to a county treasurer under subsection
17 (a) shall be treated as though they were property taxes that were
18 due and payable during that same calendar year.

19 (c) All distributions from an account established under section
20 16 of this chapter shall be made by warrants issued by the auditor
21 of state to the treasurer of state ordering the appropriate
22 payments.

23 **Sec. 19. The certified distribution received by a county treasurer**
24 **under this chapter shall be allocated as property tax replacement**
25 **credits under section 20 of this chapter.**

26 **Sec. 20. (a) The county auditor shall distribute among the school**
27 **corporations of the county the county's certified distribution under**
28 **this chapter for the calendar year. The amount that the county**
29 **auditor shall allocate to a school corporation for property tax**
30 **replacement credits is equal to the amount determined under STEP**
31 **THREE of the following formula:**

32 **STEP ONE: Determine the amount of the certified**
33 **distribution available for distribution in the calendar year.**

34 **STEP TWO: Determine the percentage of votes that the**
35 **member of the local option sales tax council representing the**
36 **school corporation is allocated for the calendar year under**
37 **section 8 of this chapter.**

38 **STEP THREE: Multiply the STEP ONE amount by the STEP**
39 **TWO percentage.**

40 (b) The property tax replacement credits described in
41 subsection (a) shall be allocated among each fund for which a
42 distinct property tax levy is imposed. The amount that must be

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1 allocated to each fund equals:

2 (1) the amount determined under STEP THREE of subsection

3 (a) for the school corporation; multiplied by

4 (2) the amount determined in STEP THREE of the following
5 formula:

6 STEP ONE: Determine the property taxes collected for
7 each fund by the school corporation during that calendar
8 year.

9 STEP TWO: Determine the sum of the total property taxes
10 collected for all funds by the school corporation.

11 STEP THREE: Divide the STEP ONE amount by the
12 STEP TWO amount.

13 (c) The state board of tax commissioners shall certify to the
14 auditor of each county in which a school corporation is located the
15 property tax rate applicable to each fund after the property tax
16 replacement credits have been allocated.

17 (d) If a school corporation in a county in which the local option
18 beverage tax is imposed does not impose a property tax levy for a
19 particular fund that is first due and payable in a calendar year in
20 which property tax replacement credits are being distributed, the
21 school corporation is not required to allocate to that fund a part of
22 the property tax replacement credits to be distributed to the school
23 corporation.

24 (e) The state board of tax commissioners shall provide each
25 county auditor with the amount of property tax replacement
26 credits that each school corporation in the county is entitled to
27 receive. The county auditor shall then certify to each school
28 corporation the amount of property tax replacement credits the
29 school corporation is entitled to receive during that calendar year.
30 The county auditor shall also certify the distributions to the county
31 treasurer.

32 Sec. 21. (a) A school corporation shall treat property tax
33 replacement credits that the school corporation receives or is to
34 receive during a particular calendar year under this chapter as a
35 part of the school corporation's property tax levy for each fund for
36 that same calendar year for purposes of fixing the school
37 corporation's budget and for purposes of the property tax levy
38 limits imposed by IC 6-1.1-19.

39 (b) The property tax replacement credits do not reduce the total
40 county tax levy that is used to compute the state property tax
41 replacement credit under IC 6-1.1-21. In addition, for the purposes
42 of computing and distributing excise taxes under IC 6-6-5 during

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1 **a year, distributions that are used as property tax replacement**
 2 **credits shall be treated as though they were property taxes that**
 3 **were due and payable during that same calendar year.**

4 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.181-1999,
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2000]: Sec. 1. "Listed taxes" or "taxes" includes only the
 7 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 8 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 9 the gross income tax (IC 6-2.1); the state gross retail and use taxes
 10 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
 11 income tax (IC 6-3-8); the county adjusted gross income tax
 12 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
 13 economic development income tax (IC 6-3.5-7); **the local option**
 14 **beverage tax for education (IC 6-3.5-8)**; the auto rental excise tax
 15 (IC 6-6-9); the bank tax (IC 6-5-10); the savings and loan association
 16 tax (IC 6-5-11); the production credit association tax (IC 6-5-12); the
 17 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
 18 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
 19 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
 20 collected under a reciprocal agreement under IC 6-8.1-3; the motor
 21 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
 22 (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the
 23 cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
 24 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
 25 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the
 26 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 27 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
 28 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
 29 (IC 16-44-2); the emergency and hazardous chemical inventory form
 30 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
 31 and IC 9-30); the fees and penalties assessed for overweight vehicles
 32 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
 33 the solid waste management fee (IC 13-20-22); and any other tax or fee
 34 that the department is required to collect or administer.

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