



Reprinted
January 23, 2004

HOUSE BILL No. 1008

DIGEST OF HB 1008 (Updated January 22, 2004 11:49 am - DI 92)

Citations Affected: IC 6-3.5.

Synopsis: Local taxation. Authorizes a fiscal body of a city, town, or county to impose an additional income tax. Requires at least 75% of the revenue to be used for property tax relief. Requires the property tax relief to be in addition to local property tax relief provided from other revenue sources.

Effective: Upon passage.

Lytle, Goodin, Aguilera

(SENATE SPONSORS — KENLEY, BRODEN, DILLON, LEWIS)

December 4, 2003, read first time and referred to Committee on Ways and Means.
January 15, 2004, amended, reported — Do Pass.
January 20, 2004, read second time, amended, ordered engrossed.
January 21, 2004, engrossed.
January 22, 2004, read third time, recommitted to a Committee of One, amended; passed.
Yeas 52, nays 47.

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HB 1008—LS 6607/DI 51+



Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1008

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 6-3.5-9 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:
4 **Chapter 9. Local Option Taxes**
5 **Sec. 1. This chapter does not apply to a township.**
6 **Sec. 2. Except as otherwise provided in this chapter, the**
7 **definitions in IC 36-1-2 apply to this chapter.**
8 **Sec. 3. As used in this chapter, "adjusted gross income" has the**
9 **meaning set forth in IC 6-3-1-3.5(a).**
10 **Sec. 4. As used in this chapter, "income tax" means a tax on the**
11 **adjusted gross income of a taxpayer of the unit.**
12 **Sec. 5. As used in this chapter, "nonresident unit income**
13 **taxpayer", as it relates to a particular unit, means any unit income**
14 **taxpayer who maintains the taxpayer's principal place of business**
15 **or employment in that unit on January 1 of a year but does not**
16 **reside in that unit on January 1 of a year.**
17 **Sec. 6. As used in this chapter, "resident unit income taxpayer",**



1 as it relates to a particular unit, means any unit income taxpayer
2 who resides in that unit on January 1 of a year.

3 Sec. 7. As used in this chapter, "unit income taxpayer" as it
4 relates to a particular unit, means any individual:

- 5 (1) who resides in that unit on January 1 of a year; or
- 6 (2) who maintains the individual's principal place of business
7 or employment in that unit on January 1 of a year.

8 Sec. 8. (a) The fiscal body of a unit may adopt an ordinance to
9 impose an income tax.

10 (b) The ordinance must specify:

- 11 (1) the rate at which a tax is imposed; and
- 12 (2) the use of revenues that are not required to be used as
13 provided in section 12 of this chapter.

14 (c) The executive of the unit must approve the use of the
15 revenues as described in the ordinance.

16 Sec. 9. Except as provided in section 10 of this chapter, the
17 ordinance must provide that at least seventy-five percent (75%) of
18 the revenues from the tax will be used to provide targeted property
19 tax relief to:

- 20 (1) all property taxpayers;
- 21 (2) certain classes of taxpayers;
- 22 (3) certain classes of property; or
- 23 (4) real property or personal property located in specific
24 geographic areas within the unit;

25 excluding taxpayers subject to the adjusted gross income tax that
26 are corporations (as defined in IC 6-3-1-10) or public utility
27 companies (as defined in IC 6-1.1-8-2), to the extent permitted by
28 the Constitution of the State of Indiana.

29 Sec. 10. (a) The seventy-five percent (75%) set aside
30 requirement in section 9 of this chapter does not apply if the unit
31 is able to:

- 32 (1) eliminate all property tax levied by:
 - 33 (A) the unit; and
 - 34 (B) all special taxing districts that act in the name of the
35 unit;

36 other than property tax levies that may not be eliminated
37 because they have been pledged to the payment of bonds,
38 leases, or other obligations of the unit or a special taxing
39 district that acts in the name of the unit; and

- 40 (2) otherwise provide for the payment of all bonds, leases, or
41 other obligations of the unit or a special taxing district that
42 acts in the name of the unit to which property taxes have been

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pledged;
 with revenues from a tax imposed under this chapter.
 (b) The seventy-five percent (75%) set aside requirement in section 9 of this chapter may not be used to replace property tax relief provided by a unit:
 (1) before the date the unit adopts an ordinance to impose or increase the income tax authorized by this chapter; and
 (2) using money received under:
 (A) IC 4-33;
 (B) IC 6-3.5-1.1;
 (C) IC 6-3.5-6;
 (D) IC 6-3.5-7; or
 (E) any other statute.

Sec. 11. If an income tax is imposed under this chapter, the ordinance must provide that the income tax will be paid and collected in the unit in the same manner as the county option income tax is paid and collected in a county under IC 6-3.5-6.

Sec. 12. (a) A fiscal body of a unit that introduces an ordinance under this chapter must immediately provide written notice of the introduction of the ordinance to:
 (1) the fiscal body of the county in which the unit is located; and
 (2) the fiscal body of each municipality located in the county.
 (b) An ordinance introduced under this chapter may not be adopted at the same meeting or on the same day as the ordinance was introduced.

Sec. 13. (a) Subject to subsection (c), the maximum rate of an income tax imposed under this chapter by a unit on the adjusted gross income of a unit income taxpayer may not exceed two percent (2%).
 (b) Subject to subsection (c), the maximum combined rate of an income tax imposed under this chapter by a unit and the county in which the unit is located on the adjusted gross income of a unit income taxpayer may not exceed two percent (2%).
 (c) The combined rates of all income taxes imposed on a unit taxpayer by all units in the county under:
 (1) this chapter;
 (2) IC 6-3.5-1.1-2;
 (3) IC 6-3.5-6-8; and
 (4) IC 6-3.5-7-5;
 may not exceed two percent (2%) of the unit income taxpayer's adjusted gross income, excluding any part of the additional

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1 combined tax rate for county adjusted gross income taxes, county
2 option income taxes, and county economic development income
3 taxes above one and twenty-five hundredths percent (1.25%) that
4 is authorized under IC 6-3.5-7-5.

5 (d) The rate of an income tax imposed on nonresident unit
6 income taxpayers by all units imposing an income tax under this
7 chapter is twenty-five hundredths (0.25) of the rate imposed by the
8 unit on its resident unit income taxpayers, rounded to the nearest
9 one hundredth (0.01).

10 (e) The combined rates of all income taxes imposed on a
11 nonresident unit income taxpayer by all units in the county under:

- 12 (1) this chapter;
- 13 (2) IC 6-3.5-1.1-2;
- 14 (3) IC 6-3.5-6-8; and
- 15 (4) IC 6-3.5-7-5;

16 may not exceed one-half percent (0.5%) of the nonresident unit
17 income taxpayer's adjusted gross income.

18 (f) Subject to this section, an ordinance imposing an income tax
19 under this chapter may provide that the income tax may be
20 imposed at a rate of:

- 21 (1) twenty-five hundredths percent (0.25%);
- 22 (2) five tenths percent (0.5%);
- 23 (3) seventy-five hundredths percent (0.75%); or
- 24 (4) one percent (1.0%);

25 on the adjusted gross income of resident unit income taxpayers.

26 (g) Subject to this section, an ordinance imposing an income tax
27 under this chapter may provide that the rate at which the income
28 tax is imposed on the adjusted gross income of resident unit income
29 taxpayers increases annually at a rate of twenty-five hundredths
30 percent (0.25%) until the rate reaches one percent (1.0%).

31 Sec. 14. Two (2) or more units may adopt substantially identical
32 ordinances to jointly impose a tax under this chapter. Ordinances
33 jointly imposing a tax under this section must include a provision
34 for the distribution of revenues among the units acting jointly.

35 Sec. 15. If a county imposes a tax under this chapter, the
36 ordinance must provide for the distribution of revenues among all
37 units within the county.

38 Sec. 16. (a) A special account within the state general fund shall
39 be established for each unit that adopts an income tax under this
40 chapter. Any revenue derived from the imposition of the income
41 tax by a unit shall be deposited in that unit's account in the state
42 general fund.

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1 (b) Any income earned on money held in an account under
2 subsection (a) becomes a part of that account.

3 (c) Any revenue remaining in an account established under
4 subsection (a) at the end of a fiscal year does not revert to the state
5 general fund.

6 Sec. 17. (a) Revenue derived from the imposition of an income
7 tax under this chapter shall, in the manner prescribed by this
8 section, be distributed to the unit that imposed it. The amount that
9 is to be distributed to a unit during an ensuing calendar year
10 equals the amount of income tax revenue under this chapter that
11 the department, after reviewing the recommendation of the budget
12 agency, determines has been:

13 (1) received from that unit for a taxable year ending in a
14 calendar year preceding the calendar year in which the
15 determination is made; and

16 (2) reported on an annual return or amended return
17 processed by the department in the state fiscal year ending
18 before July 1 of the calendar year in which the determination
19 is made;

20 as adjusted (as determined after review of the recommendation of
21 the budget agency) for refunds of income tax under this chapter
22 made in the state fiscal year.

23 (b) Before August 2 of each calendar year, the department, after
24 reviewing the recommendation of the budget agency, shall certify
25 to the fiscal officer of each adopting unit the amount determined
26 under subsection (a) plus the amount of interest in the unit's
27 account that has accrued and has not been included in a
28 certification made in a preceding year. The amount certified is the
29 unit's "certified distribution" for the immediately succeeding
30 calendar year. The amount certified shall be adjusted, as
31 necessary, under subsections (c), (d), and (e). The department shall
32 provide with the certification an informative summary of the
33 calculations used to determine the certified distribution.

34 (c) The department shall certify an amount less than the amount
35 determined under subsection (b) if the department, after reviewing
36 the recommendation of the budget agency, determines that the
37 reduced distribution is necessary to offset overpayments made in
38 a calendar year before the calendar year of the distribution. The
39 department, after reviewing the recommendation of the budget
40 agency, may reduce the amount of the certified distribution over
41 several calendar years so that any overpayments are offset over
42 several years rather than in one (1) lump sum.

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1 (d) The department, after reviewing the recommendation of the
2 budget agency, shall adjust the certified distribution of a county to
3 correct for any clerical or mathematical errors made in any
4 previous certification under this section. The department, after
5 reviewing the recommendation of the budget agency, may reduce
6 the amount of the certified distribution over several calendar years
7 so that any adjustment under this subsection is offset over several
8 years rather than in one (1) lump sum.

9 (e) This subsection applies to a unit that:
10 (1) initially imposed a tax under this chapter; or
11 (2) increased the rate of a tax imposed under this chapter;
12 in the same calendar year in which the department makes a
13 certification under this section. The department, after reviewing
14 the recommendation of the budget agency, shall adjust the certified
15 distribution of a unit to provide for a distribution in the
16 immediately following calendar year and in each calendar year
17 thereafter. The department shall provide for a full transition to
18 certification of distributions as provided in subsection (a)(1)
19 through (a)(2) in the manner provided in subsection (c).

20 (f) One-twelfth (1/12) of each adopting unit's certified
21 distribution for a calendar year shall be distributed from its
22 account established under section 16 of this chapter to the fiscal
23 officer of the unit on the first day of each month of that calendar
24 year.

25 (g) Upon receipt, each monthly payment of a unit's certified
26 distribution shall be used as provided in this chapter.

27 (h) All distributions from an account established under section
28 16 of this chapter shall be made by warrants issued by the auditor
29 of state to the treasurer of state ordering the appropriate
30 payments.

31 Sec. 18. (a) Before October 2 of each year, the department shall
32 submit a report to the fiscal officer of each unit that has adopted
33 an income tax under this chapter. The report must indicate the
34 balance in the unit's special account as of the cutoff date set by the
35 budget agency.

36 (b) If, after receiving a recommendation from the budget
37 agency, the department determines that a sufficient balance exists
38 in a unit's account in excess of the amount necessary, when added
39 to other money that will be deposited in the account after the date
40 of the recommendation, to make certified distributions to the unit
41 in the ensuing year, the department shall make a supplemental
42 distribution to the unit from the unit's special account.

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(c) A supplemental distribution described in subsection (b) must be made in January of the ensuing calendar year and be used as provided in this chapter.

(d) A determination under this section must be made before October 2.

Sec. 19. The authority provided by this chapter is supplemental and in addition to the authority provided to a unit under any other provision of Indiana law.

Sec. 20. The department of local government finance may not require a unit to reduce its property tax levy by the amount of revenue received from a tax imposed under this chapter.

Sec. 21. An ordinance adopted under this chapter imposing an income tax takes effect on January 1 or July 1 immediately following adoption of the ordinance.

Sec. 22. The general assembly covenants with the respective units and the purchasers and owners of bonds, leases, obligations, or any other evidences of indebtedness of a unit payable from a tax imposed under this chapter that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of a tax imposed under this article so long as the principal, interest, or lease rentals due under those bonds, leases, obligations, or other evidences of indebtedness of a unit that are payable from a tax imposed under this chapter remain unpaid.

SECTION 2. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1008, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1008 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 18, nays 9.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 2, line 17, delete "sixty percent (60%)" and insert "seventy-five percent (75%)".

Page 2, line 29, delete "sixty percent (60%)" and insert "seventy-five percent (75%)".

(Reference is to HB 1008 as printed January 16, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 4, delete lines 26 through 38, begin a new paragraph and insert:

"Sec. 16. (a) A special account within the state general fund shall be established for each unit that adopts an income tax under this chapter. Any revenue derived from the imposition of the income tax by a unit shall be deposited in that unit's account in the state general fund.

(b) Any income earned on money held in an account under subsection (a) becomes a part of that account.

(c) Any revenue remaining in an account established under subsection (a) at the end of a fiscal year does not revert to the state general fund.

Sec. 17. (a) Revenue derived from the imposition of an income tax under this chapter shall, in the manner prescribed by this section, be distributed to the unit that imposed it. The amount that is to be distributed to a unit during an ensuing calendar year equals the amount of income tax revenue under this chapter that the department, after reviewing the recommendation of the budget agency, determines has been:

(1) received from that unit for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination



is made;
 as adjusted (as determined after review of the recommendation of the budget agency) for refunds of income tax under this chapter made in the state fiscal year.

(b) Before August 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall certify to the fiscal officer of each adopting unit the amount determined under subsection (a) plus the amount of interest in the unit's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the unit's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), and (e). The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.

(c) The department shall certify an amount less than the amount determined under subsection (b) if the department, after reviewing the recommendation of the budget agency, determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a unit that:

- (1) initially imposed a tax under this chapter; or
 - (2) increased the rate of a tax imposed under this chapter;
- in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a unit to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1)

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through (a)(2) in the manner provided in subsection (c).

(f) One-twelfth (1/12) of each adopting unit's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the fiscal officer of the unit on the first day of each month of that calendar year.

(g) Upon receipt, each monthly payment of a unit's certified distribution shall be used as provided in this chapter.

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

Sec. 18. (a) Before October 2 of each year, the department shall submit a report to the fiscal officer of each unit that has adopted an income tax under this chapter. The report must indicate the balance in the unit's special account as of the cutoff date set by the budget agency.

(b) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance exists in a unit's account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the unit in the ensuing year, the department shall make a supplemental distribution to the unit from the unit's special account.

(c) A supplemental distribution described in subsection (b) must be made in January of the ensuing calendar year and be used as provided in this chapter.

(d) A determination under this section must be made before October 2."

Page 4, line 39, delete "Sec. 17." and insert "Sec. 19."

Page 4, line 42, delete "Sec. 18." and insert "Sec. 20."

Page 5, line 3, delete "Sec. 19." and insert "Sec. 21."

Page 5, line 6, delete "Sec. 20." and insert "Sec. 22."

Page 5, delete lines 15 through 20.

Renumber all SECTIONS consecutively.

(Reference is to HB 1008 as printed January 16, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be amended to read as follows:

Page 2, line 25, after "taxpayers" insert "**subject to the adjusted gross income tax**".

(Reference is to HB 1008 as printed January 16, 2004.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1008 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 4, delete "Taxes." and insert "**Taxes**".

Page 2, line 29, after "10." insert "**(a)**".

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"(b) The seventy-five percent (75%) set aside requirement in section 9 of this chapter may not be used to replace property tax relief provided by a unit:

(1) before the date the unit adopts an ordinance to impose or increase the income tax authorized by this chapter; and

(2) using money received under:

(A) IC 4-33;

(B) IC 6-3.5-1.1;

(C) IC 6-3.5-6;

(D) IC 6-3.5-7; or

(E) any other statute."

Page 3, line 17, delete "taxpayers" and insert "**taxpayer**".

(Reference is to HB 1008 as reprinted January 21, 2004.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1008, begs leave to report that said bill has been amended as directed.

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