# SENATE BILL No. 123

DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8-19.

**Synopsis:** Fire protection territories. Specifies that a township must adopt a resolution (instead of an ordinance) to participate in or withdraw from a fire protection territory. Specifies that a township must adopt a resolution (instead of an ordinance) to establish an equipment replacement fund for the territory. Legalizes and validates a resolution adopted by a township before July 1, 2007.

**Effective:** Upon passage; July 1, 2007.

**Drozda**

January 8, 2007, read first time and referred to Committee on Local Government and Elections.

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Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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# SENATE BILL No. 123

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:*

SECTION 1. IC 36-8-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, "participating unit" refers to a unit that adopts an ordinance **or a resolution** under section 6 of this chapter.

SECTION 2. IC 36-8-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) To establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must adopt ~~identical ordinances~~ **an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:**

**(1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units desiring to become a part of the proposed territory.**

**(2) The ordinance or resolution is adopted** after January 1 but before April 1. ~~authorizing~~

**(3) The ordinance or resolution authorizes** the unit to become

a party to an agreement for the establishment of a fire protection territory. ~~Before adopting an ordinance under this section, a~~

**(4) The ordinance or resolution is adopted after the** legislative body ~~must hold~~ **holds** a public hearing to receive public comment on the proposed ordinance **or resolution.** The legislative body must give notice of the hearing under IC 5-3-1.

(b) The notice required under this section shall include all of the following:

(1) A list of the provider unit and all participating units in the proposed territory.

(2) The date, time, and location of the hearing.

(3) The location where the public can inspect the proposed ordinance **or resolution.**

(4) A statement as to whether the proposed ordinance **or resolution** requires uniform tax rates or different tax rates within the territory.

(5) The name and telephone number of a representative of the unit who may be contacted for further information.

(c) The ordinance **or resolution** adopted under this section shall include at least the following:

(1) The boundaries of the proposed territory.

(2) The identity of the provider unit and all other participating units desiring to be included within the territory.

(3) An agreement to impose:

(A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or

(B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

(4) The contents of the agreement to establish the territory.

(d) An ordinance **or a resolution** adopted under this section takes effect July 1 of the year the ordinance **or resolution** is adopted.

SECTION 3. IC 36-8-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Upon the adoption of identical ordinances **or resolutions, or both, by the participating units** under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The

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purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

(1) All receipts from the tax imposed under this section.

(2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

(1) the levy in the following year shall be increased by the amount required to be transferred; and

(2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. ~~All~~ **Each** participating ~~units~~ **unit** must agree to the amount to be transferred by ~~adoption of identical ordinances specifying the amount.~~ **adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.**

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(f) The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5 for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001.

(g) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory, the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

(1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance **or resolution** making the unit a participating unit in the fire protection territory; and

(2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

SECTION 4. IC 36-8-19-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: 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~~ **each** participating ~~units~~ **unit** must adopt ~~identical ordinances~~ **an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that meets the following requirements:**

**(1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other participating units under this section.**

**(2) The ordinance or resolution is adopted** after January 1 but before April 1. ~~authorizing~~

**(3) The ordinance or resolution authorizes** the provider unit to establish the fund.

**(4)** The ordinance ~~must include~~ **or resolution includes** at least the following:

~~(1)~~ **(A)** The name of each participating unit and the provider unit.

~~(2)~~ **(B)** An agreement to impose a uniform tax rate upon all of

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the taxable property within the territory for the equipment replacement fund.

~~(3)~~ **(C)** The contents of the agreement to establish the fund.

An ordinance **or a resolution** adopted under this section takes effect July 1 of the year the ordinance **or resolution** 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 (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 three and thirty-three hundredths cents ($0.0333) per one hundred dollars ($100) of assessed value. Before debt may be incurred, the fiscal ~~bodies~~ **body** of ~~all~~ **a** participating ~~units~~ **unit** must adopt ~~identical ordinances specifying~~ **an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies** the amount and purpose of the debt. **The ordinance or resolution must be identical to the other ordinances and resolutions adopted by the participating units.** In addition, the department of local government finance 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.

SECTION 5. IC 36-8-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance **(if the unit is a municipality) or resolution (if the unit is a township)** to do so.

SECTION 6. IC 36-8-19-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) If a unit elects to withdraw from a fire protection territory established under this chapter, the unit must after January 1 but before April 1, adopt an ordinance **(if the unit is a county or municipality) or a resolution (if the unit is a township)** providing for the withdrawal. An ordinance **or resolution** adopted under this section takes effect July 1 of the year that the ordinance **or resolution** is adopted.

(b) If an ordinance **or a resolution** is adopted under subsection (a):

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(1) the unit's maximum permissible ad valorem property tax levy with respect to fire protection services shall be initially increased by the amount of the particular unit's previous year levy under this chapter; and

(2) additional increases with respect to fire protection services levy amounts are subject to the tax levy limitations under IC 6-1.1-18.5, except for the part of the unit's levy that is necessary to retire the unit's share of any debt incurred while the unit was a participating unit.

SECTION 7. [EFFECTIVE UPON PASSAGE] **A resolution adopted by a township under IC 36-8-19 before July 1, 2007, that would have been valid under IC 36-8-19, as amended by this act, is legalized and validated.**

SECTION 8. **An emergency is declared for this act.**

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