

HOUSE BILL No. 1732

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-42-2.

Synopsis: Common school fund. Allows for the transfer of congressional township school funds held by various counties to the treasurer of state.

Effective: July 1, 2007.

GiaQuinta

January 26, 2007, read first time and referred to Committee on Ways and Means.

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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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HOUSE BILL No. 1732



A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-42-2-1, AS ADDED BY P.L.2-2006, SECTION
2 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: Sec. 1. This chapter applies to a county that has money in a
4 fund **and has not surrendered custody of the fund to the treasurer
5 of state under section 4.5 of this chapter, or a predecessor law.**

6 SECTION 2. IC 20-42-2-4.5 IS ADDED TO THE INDIANA CODE
7 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2007]: **Sec. 4.5. (a) A county council may adopt a resolution to:**

9 (1) **elect to surrender the custody of the fund or any part of
10 the fund; and**

11 (2) **order the board of county commissioners, the county
12 auditor, and the county treasurer to take all steps necessary
13 to surrender the custody of the fund or part of the fund that
14 is to be surrendered.**

15 **If the county council adopts a resolution under this section, the
16 amount of money designated by the resolution distributed to and
17 held in trust by the county is to be transferred to the treasurer of**



1 state over a period not to exceed twenty (20) years. A county
2 council may elect whether the county shall surrender all or any
3 part of the fund. If the county retains custody of any money in the
4 fund, the county shall loan the money as otherwise provided by
5 law.

6 (b) Within ten (10) days after the passage of the resolution by a
7 county council of a county electing to surrender the custody of the
8 fund or part of the fund, the county auditor shall prepare and file
9 with the board of commissioners of the county a report showing the
10 following:

- 11 (1) The total amount of the fund that has been entrusted to
- 12 and is held in trust by the county.
- 13 (2) The total amount of the fund that is loaned as provided by
- 14 law.
- 15 (3) The total amount of the fund, if any, loaned to the county
- 16 and which loans are unpaid.
- 17 (4) The total amount of the fund held in cash in the possession
- 18 and custody of the county and that is not loaned.
- 19 (5) A separate schedule of past due loans. The schedule must
- 20 show the unpaid balance of principal and the amount of
- 21 delinquent interest due and unpaid on each delinquent loan.

22 (c) The board of county commissioners shall examine the
23 reports, and, if found correct, the board of county commissioners
24 shall order:

- 25 (1) that the report be entered on its records; and
- 26 (2) the county auditor to draw the county auditor's warrant,
- 27 payable to the treasurer of state, for the amount of the fund
- 28 that is not loaned and is held in cash in the custody and
- 29 possession of the county as shown by the report.

30 The county auditor shall forward the warrants to the auditor of
31 state together with a certified copy of the report. The county
32 auditor shall also forward with the payment a certified copy of the
33 resolution of the county council electing to surrender the custody
34 of the fund or any part of the fund.

35 (d) After passage by the county council of a resolution electing
36 to surrender the custody of the fund or any part of the fund, no
37 part of the fund up to the amount designated in the resolution that
38 is not surrendered to the treasurer of state and is in the custody of
39 the county may be loaned by the county or by any official of the
40 county. Except as provided in this subsection, all outstanding loans
41 of the fund not part of the amount retained by the county at the
42 time of the passage of the resolution shall be collected when due.

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1 Any loan that comes due and payable after the passage of the
2 resolution may be renewed for one (1) additional five (5) year
3 period, on the application of the person owing the loan as provided
4 by law. However, a loan that is more than one (1) year delinquent
5 in payment of principal or interest at the time of the passage of the
6 resolution of the county council may not be renewed.

7 (e) The maximum time to surrender money that the county
8 designates in the resolution is for a period not to exceed twenty (20)
9 years. On:

10 (1) May 1 or November 1 immediately after the passage of the
11 resolution electing to surrender the fund or any part of the
12 fund; and

13 (2) each May 1 and November 1 thereafter;
14 all the money collected and on hand up to the amount designated
15 in the resolution that belongs to the fund that is to be surrendered
16 shall be paid to the treasurer of state. If at the time for a
17 semiannual payment the amount collected and paid to the
18 treasurer of state when added to the amounts previously paid to
19 the treasurer of state is less than the result determined by
20 multiplying two and one-half percent (2.5%) of the amount in the
21 resolution by the number of semiannual payments that have
22 occurred after the passage of the resolution, the county auditor
23 shall draw the county auditor's warrant on the general fund of the
24 county for an amount sufficient to pay to the treasurer of state the
25 difference between the amount paid and the amount equal to the
26 result of multiplying two and one-half percent (2.5%) of the
27 amount designated in the resolution by the number of semiannual
28 payments that have occurred after the passage of the resolution.

29 (f) The board of county commissioners shall, in its annual
30 budget estimate, include an estimate of the amount necessary to
31 make the payments from the county general fund as required by
32 this section, and the county council shall appropriate the amount
33 of the estimate.

34 (g) A county is subrogated to all the rights and remedies of the
35 state with respect to loans made from a fund held in trust by the
36 county to the extent of any and all payments made from the county
37 general fund under this chapter.

38 (h) If a county elects to transfer custody of the fund or any part
39 of the fund to the treasurer of state, the treasurer of state shall
40 ensure that the principal of the fund belonging to any congressional
41 township or a part of a congressional township shall never be
42 diminished in amount.

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1 (i) If a county elects to transfer custody of the fund or any part
2 of the fund to the treasurer of state, the treasurer of state shall take
3 steps to ensure that the income of the fund belonging to any
4 congressional township or a part of a congressional township may
5 not be:

- 6 (1) diminished by an apportionment; or
- 7 (2) diverted or distributed to another township.

8 SECTION 3. IC 20-42-2-6, AS ADDED BY P.L.2-2006, SECTION
9 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2007]: Sec. 6. The payment of annual interest must be full and
11 complete every year. The payment must appear in the county auditor's
12 or state treasurer's report to the state superintendent. The state
13 superintendent shall, at any time when the state superintendent
14 discovers that there is a deficit in the amount collected, direct the
15 attention of the board of county commissioners and the county auditor
16 to the fact. The board of commissioners shall provide for the deficit in
17 the commissioners' respective counties.

18 SECTION 4. IC 20-42-2-7, AS ADDED BY P.L.2-2006, SECTION
19 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
20 1, 2007]: Sec. 7. The county auditor of each county or the state
21 treasurer shall, semiannually, on the second Monday of July and on
22 the last Monday in January make apportionment of the amount of the
23 congressional township school revenue belonging to each school
24 corporation. The apportionment shall be paid to each school
25 corporation's treasurer.

26 SECTION 5. IC 20-42-2-8, AS ADDED BY P.L.2-2006, SECTION
27 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 2007]: Sec. 8. The county auditor or state treasurer shall report the
29 amount apportioned to the state superintendent, verified by affidavit.

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