
HOUSE BILL No. 1245

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-9.5-7; IC 36-9-42.

Synopsis: Transit districts. Provides that a county, city, or town may establish a transit district to improve transportation infrastructure within the transit district. Provides for a transit district commission consisting of five members to govern the transit district. Provides that a transit district captures a part of the: (1) sales taxes collected in the transit district; and (2) adjusted gross income tax withheld from the wages of employees that work in the transit district. Provides that a transit district may issue bonds payable from captured sales tax and adjusted gross income tax revenues. Repeals the automated transit district statute.

Effective: July 1, 2008.

Austin

January 14, 2008, read first time and referred to Committee on Ways and Means.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1245



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:

1 SECTION 1. IC 36-9-42 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]:

4 **Chapter 42. Transit Districts**

5 **Sec. 1. This chapter applies to all units except townships.**

6 **Sec. 2. As used in this chapter, "gross retail base period**
7 **amount" means the total amount of state gross retail and use taxes**
8 **remitted under IC 6-2.5 by the businesses operating in the territory**
9 **comprising a transit district during the full state fiscal year that**
10 **precedes the date on which the transit district was established**
11 **under section 6 of this chapter.**

12 **Sec. 3. As used in this chapter, "gross retail incremental**
13 **amount" means the remainder of:**

- 14 (1) the total amount of state gross retail and use taxes that are
15 remitted under IC 6-2.5 by businesses operating in the
16 territory comprising a transit district during a state fiscal
17 year; minus



1 (2) the gross retail base period amount;
2 as determined by the department of state revenue.

3 Sec. 4. As used in this chapter, "income tax base period
4 amount" means the total amount of the following taxes paid by
5 employees employed in the territory comprising a transit district
6 with respect to wages and salary earned for work in the transit
7 district for the state fiscal year that precedes the date on which the
8 transit district was established under section 6 of this chapter:

- 9 (1) The adjusted gross income tax.
- 10 (2) The county adjusted gross income tax.
- 11 (3) The county option income tax.
- 12 (4) The county economic development income tax.

13 Sec. 5. As used in this chapter, "income tax incremental
14 amount" means the remainder of:

- 15 (1) the total amount of state adjusted gross income taxes,
16 county adjusted gross income taxes, county option income
17 taxes, and county economic development income taxes paid by
18 employees employed in the territory comprising the transit
19 district with respect to wages and salary earned for work in
20 the territory comprising the transit district for a particular
21 state fiscal year; minus
- 22 (2) the sum of the:
 - 23 (A) income tax base period amount; and
 - 24 (B) tax credits awarded by the economic development for
25 a growing economy board under IC 6-3.1-13 to businesses
26 operating in a transit district as the result of wages earned
27 for work in the transit district for the state fiscal year;

28 as determined by the department of state revenue.

29 Sec. 6. The fiscal body of a unit may adopt an ordinance to
30 establish a transit district. The ordinance creating a transit district
31 must specify the territorial boundaries of the district.

32 Sec. 7. (a) The fiscal body of a unit may adopt an ordinance to
33 dissolve a transit district that was created by the unit. However,
34 the fiscal body of a unit may not adopt an ordinance to dissolve the
35 transit district under this subsection earlier than the date three (3)
36 years after the date on which the ordinance creating the transit
37 district was adopted.

38 (b) The commission of a transit district may adopt a resolution
39 to dissolve a transit district. However, the commission of a transit
40 district may not adopt a resolution to dissolve a transit district
41 under this subsection earlier than the date two (2) years after the
42 date on which the ordinance creating the transit district was

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adopted.

(c) A dissolution of a district under this section requires the unit that established the district to assume the obligations incurred by the district.

Sec. 8. (a) A district created under this chapter shall be governed by and under control of a commission having five (5) members, two (2) of whom shall be appointed by the executive of the unit, two (2) of whom shall be appointed by the unit's fiscal body, and one (1) of whom is the head of the unit's department of public works or department of transportation. The term of office for a commission member for a district created by the fiscal body is one (1) year after the member's appointment, except that the member shall serve until a successor has qualified for the office. Thereafter, the landowners, including corporate landowners, shall elect five (5) members to succeed the original members of the commission under the bylaws of the commission for a term of one (1) year. Each member, otherwise qualified, is eligible for reappointment to successive terms.

(b) Commission members shall not receive a salary for serving but shall receive a per diem payment and expenses similar to those paid members of other special taxing district boards.

(c) A commission shall elect, at the commission's first regular meeting and annually thereafter, one (1) of the commission members president, and another of the commission members vice president, who shall perform the duties of the president during the absence or disability of the president. A commission shall procure a suitable office where the commission shall keep the commission's maps, plans, documents, records, and accounts, subject to public inspection at all reasonable times.

(d) A commission shall by rule provide for regular meetings to be held not less than at semimonthly intervals throughout the year. A commission shall keep its meetings open to the public.

(e) A commission shall convene in a special meeting when a special meeting is called. The chairman or a majority of the members of a commission may call a special meeting. A commission shall establish a procedure for calling special meetings.

(f) Three (3) members of a commission constitute a quorum for a meeting. A commission may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(g) A commission shall keep a written record of the commission's proceedings, which shall be available for public

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1 inspection in the office of the commission. A commission shall
2 record the aye and nay vote on the passage of each item of
3 business.

4 (h) A commission shall adopt bylaws under which the
5 commission's meetings are held. A commission may suspend the
6 commission's bylaws by unanimous vote of the members of the
7 commission who are present at the meeting. A commission shall not
8 suspend the commission's bylaws beyond the duration of the
9 meeting at which the suspension of rules occurs.

10 (i) A commission may exercise the powers to supervise the
11 commission's internal affairs that are common to municipal
12 legislative and administrative bodies.

13 Sec. 9. In addition to the powers and duties conferred upon it
14 elsewhere in this chapter, a commission has full authority to do all
15 acts necessary or reasonably incident to carrying out the purposes
16 of this chapter, including the following:

- 17 (1) To sue and be sued collectively in the name of the
- 18 " _____ Transit District".
- 19 (2) To adopt ordinances to protect all property owned,
- 20 operated, or managed by the commission.
- 21 (3) To incur indebtedness in the name of the district in
- 22 accordance with the provisions of this chapter.
- 23 (4) To adopt administrative procedures and regulations.
- 24 (5) To acquire property, real, personal, or mixed by deed,
- 25 purchase, or lease, and dispose of the acquired property for
- 26 transit purposes, and to receive gifts, donations, bequests, and
- 27 public trusts and to agree to conditions and terms
- 28 accompanying a gift, donation, bequest, or public trust and
- 29 bind the district to carry out the agreed upon conditions and
- 30 terms.
- 31 (6) To determine matters of policy regarding internal
- 32 organization and operating procedures not specifically
- 33 provided for otherwise.
- 34 (7) To accept assistance from state or federal agencies for the
- 35 purposes of this chapter.
- 36 (8) To negotiate and execute contracts required to accomplish
- 37 the purposes of this chapter.
- 38 (9) To enter into agreements with any other agency of the
- 39 state, any of the state's political subdivisions, or any private
- 40 company for the rendition of any services, the rental or use of
- 41 any equipment or facilities, or the joint purchase and use of
- 42 any equipment or facilities that are considered proper by the

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contracting parties for use in the operation, maintenance, or construction of a transit system.

(10) To purchase supplies, materials, and equipment to carry out the duties and functions of the commission, in accordance with procedures adopted by the commission and in accordance with the general law of the state.

(11) To employ personnel that are necessary for the proper carrying out of the duties, functions, and powers of the commission.

(12) To sell any surplus or unneeded property in accordance with a procedure that the commission may prescribe.

(13) To adopt administrative regulations to carry out the commission's powers and duties governing the duties of the commission's officers, employees, and personnel and the internal management of the affairs of the commission.

(14) To fix the salaries or compensation of the various officers and employees of such district except where a different provision is made by this chapter.

(15) To carry out the purposes and objectives of the district.

(16) To acquire land, easements, and rights-of-way, and to establish, construct, improve, equip, maintain, control, lease, and regulate a transit system within the jurisdictional limits of the district.

(17) To acquire property within the jurisdiction of the district for the purpose of establishing parking facilities for the purpose of increasing the usefulness of a transit system and to charge a parking fee to be established by ordinance.

(18) To provide parking facilities and services related to the provision of a transit system.

Sec. 10. A commission may take any action the commission considers proper to recover damages for the breach of any agreement, express or implied, relating to or growing out of the operation, control, leasing, management, or improvement of property under the commission's control, and for penalties for the violation of any ordinances or of any of the commission's regulations and for injury to the personal or real property under the commission's control and to recover possession of any property under the commission's control. All regulations that a commission adopts under this chapter shall be published for at least ten (10) days in a newspaper of general circulation in the district.

Sec. 11. In any district served by a public transportation corporation created under IC 36-9-4, the commission may enter

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1 into an interlocal agreement with the corporation to operate and
2 maintain transmit systems and to provide connecting service to,
3 from, and between the areas served by the district and the
4 corporation to provide improved public transportation facilities
5 and service to the community.

6 Sec. 12. (a) The commission shall appoint a person to act as
7 treasurer of the district. The person shall give bond in the sum and
8 with any condition prescribed by the commission and with surety
9 to the approval of the commission. The term of a treasurer
10 appointed under this subsection is one (1) year unless earlier
11 removed for cause. All money payable to the district shall be paid
12 to the treasurer, and the treasurer shall deposit the same under the
13 general laws of the state relating to the deposit of public funds by
14 municipal corporations. A treasurer of a commission shall keep an
15 accurate account of all appropriations made and all revenue
16 received by the district, of all money owing or due to the district,
17 and of all money received and disbursed. A treasurer of a
18 commission shall preserve all vouchers for payments and
19 disbursements made.

20 (b) A treasurer of a commission shall issue warrants for all
21 payments of money from the funds of the district, but a treasurer
22 shall not issue a warrant for the payment of any claim until the
23 claim has been allowed in accordance with the procedure
24 prescribed by the regulations of the commission. The president of
25 the commission shall countersign all warrants. Whenever the
26 treasurer is called upon to issue any warrant, the treasurer may
27 require evidence that the amount claimed is justly due and in
28 conformity with law, and for that purpose may summon before the
29 treasurer any officer, agent or employee of the district, or other
30 person, and examine the person on oath or affirmation relating to
31 the claim, which oath or affirmation the treasurer may administer.

32 Sec. 13. The treasurer shall submit to the commission annually,
33 and more often if required by the commission, a report of the
34 accounts exhibiting the revenues, receipts, and disbursements and
35 the sources from which the revenues and funds are derived and in
36 what manner the revenues, receipts, or funds have been disbursed.

37 Sec. 14. A treasurer of a commission shall annually, and more
38 often if required by the commission, submit the treasurer's records
39 of account as treasurer of the district to a person or firm, being a
40 certified public accountant or firm of certified public accountants,
41 as designated or selected by the commission, for audit. The person
42 or firm shall prepare and submit a certified report of the

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1 treasurer's records of accounts to the board exhibiting the
 2 revenues, receipts, and disbursements and the sources from which
 3 the revenues and funds are derived and in what manner the
 4 revenues, receipts, or funds have been disbursed.

5 Sec. 15. The commission shall annually prepare a budget for the
 6 operation and capital expenditures of the district.

7 Sec. 16. (a) To facilitate the carrying out of the preliminary
 8 proceedings and provide funds for the payment of expenses before
 9 the issuance of bonds, the commission may by resolution authorize
 10 the making of loans. The loans must be evidenced by callable
 11 warrants payable out of the proceeds of bonds, when available. The
 12 warrants must be sold at public sale under notice given in
 13 accordance with IC 5-3-1. The warrants shall be sold to the bidder
 14 offering to purchase the warrants at the lowest actual interest cost
 15 to the district and shall be executed in the name of the district by
 16 the president or vice president of the commission.

17 (b) A unit, including a township, any part of the territory of
 18 which is included within a transit district, has authority to advance
 19 funds to the district upon being authorized so to do by the unit's
 20 fiscal body. Advancements under this subsection may be made
 21 without appropriation, and warrants evidencing the advancement
 22 shall be issued by the district, bearing a rate of interest that is
 23 provided for in the resolution or other action authorizing the
 24 making of the advancements.

25 Sec. 17. (a) To procure funds to pay the cost of acquisition of
 26 property or the cost of improvements to the transportation
 27 infrastructure of the transit district, or both, and in anticipation of
 28 the receipt of revenues under section 19 of this chapter, the
 29 commission may by resolution direct that bonds be issued in the
 30 name of the district. The amount of such bonds shall not exceed the
 31 sum of:

- 32 (1) the total cost of property to be acquired and the total
 33 amount of damages to be awarded on account of property
 34 injuriously affected but not acquired;
 35 (2) the cost of transportation infrastructure improvements;
 36 (3) an amount sufficient to pay the cost of supervision and
 37 inspection during the period of construction or rehabilitation;
 38 (4) all general, administrative, legal, engineering, and
 39 incidental expenses not otherwise provided for and incurred
 40 on account of or in connection with the establishment of the
 41 district, the administration of its affairs, the acquisition of
 42 property, and the improvements to the transportation

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1 infrastructure of the transit district; and
2 (5) the expenses to be incurred in connection with the issuance
3 and sale of bonds.

4 A bond issue authorized under this section must also include an
5 amount sufficient to pay any outstanding warrants issued to obtain
6 funds with which to meet expenses before the issuance of bonds.
7 The bonds may not, in any respect, be a corporate obligation or
8 indebtedness of the city, the territory of which shall be included in
9 whole or in part in the district, but shall be and constitute an
10 indebtedness of the district, and shall be payable solely out of the
11 funds of the district. The bonds must recite these terms upon their
12 face, together with the purpose for which the bonds are issued.

13 (b) If the transit district is unable to pay any bonds or the
14 interest thereon when the payments are due, by reason of
15 insufficiency of funds or other causes, refunding bonds may be
16 issued and sold under this section to obtain money for that
17 purpose, and the refunding bonds are to be payable within a
18 period, not to exceed ten (10) years, that the commission
19 determines.

20 (c) All bonds issued under this chapter, together with the
21 interest thereon, are exempt from taxation. No suit to question the
22 validity of any of the bonds issued under this chapter, or to prevent
23 their issuance, shall be instituted after the time fixed in the bond
24 sale notice for the receiving of bids thereon, and all of the bonds
25 from and after that time are incontestable for any cause
26 whatsoever.

27 Sec. 18. Before the first business day in October of each year,
28 the department of state revenue shall calculate the income tax
29 incremental amount and the gross retail incremental amount for
30 the preceding state fiscal year for each transit district designated
31 under this chapter.

32 Sec. 19. (a) The treasurer of state shall establish an incremental
33 tax financing fund. Within the incremental tax financing fund, the
34 treasurer of state shall establish an incremental tax financing
35 account for each transit district designated under this chapter. The
36 treasurer of state shall administer the fund. Money in the fund does
37 not revert to the state general fund at the end of a state fiscal year.

38 (b) Subject to subsection (c), the following amounts shall be
39 deposited during each state fiscal year in the incremental tax
40 financing account established for a transit district under subsection
41 (a):

42 (1) The total amount of state gross retail and use taxes that

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are remitted under IC 6-2.5 by businesses operating in the transit district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the transit district.

(2) The total amount of the following taxes paid by employees employed in the transit district with respect to wages earned for work in the transit district, until the amount deposited equals the income tax incremental amount:

- (A) The adjusted gross income tax.
- (B) The county adjusted gross income tax.
- (C) The county option income tax.
- (D) The county economic development income tax.

(c) Not more than five million dollars (\$5,000,000) may be deposited in a particular incremental tax financing account for a transit district over the life of the transit district.

(d) On or before the twentieth day of each month, the treasurer of state shall distribute all amounts held in the incremental tax financing account established for a transit district to the transit district commission for deposit in the transit district tax increment fund established under section 20 of this chapter.

Sec. 20. (a) Each unit that establishes a transit district under this chapter shall establish a fund to receive money distributed to the transit district under section 19 of this chapter.

(b) Money deposited in the transit system tax increment fund may be used by a transit district commission only for one (1) or more of the following purposes:

- (1) The improvement, including construction and rehabilitation, of transportation infrastructure within the transit district.
- (2) The operation of transit systems within the transit district.
- (3) The payment of the principal of and interest on any obligations that are payable solely or in part from money deposited in the fund and that are incurred by the transit district for the purpose of financing or refinancing the development of transportation infrastructure in the transit district.
- (4) The establishment, augmentation, or restoration of the debt service reserve for obligations described in subdivision (3).
- (5) The payment of the principal of and interest on bonds issued by the transit district to pay for public facilities in or serving the transit district.

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- 1 **(6) The payment of premiums on the redemption before**
- 2 **maturity of bonds described in subdivision (3).**
- 3 **(7) The payment of amounts due under leases payable from**
- 4 **money deposited in the fund.**
- 5 **(8) The reimbursement to the unit for expenditures made by**
- 6 **the unit for public facilities in or serving the transit district.**
- 7 **(9) The payment of expenses incurred by the transit district**
- 8 **for public facilities that are in the transit district or serving**
- 9 **the transit district.**
- 10 **(10) For any purpose authorized by an agreement between a**
- 11 **transit district and a public transportation corporation**
- 12 **entered into under section 11 of this chapter.**
- 13 SECTION 2. IC 8-9.5-7 IS REPEALED [EFFECTIVE JULY 1,
- 14 2008].

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