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# SENATE BILL No. 435

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-18.5-13.

**Synopsis:** Levy appeals for townships. Reinstates the levy appeal for townships that have been required to borrow for firefighting on an emergency basis in the three previous years. Provides that the maximum amount of the levy increase is the average (rather than the lowest amount) of the amounts borrowed for firefighting on an emergency basis in the three previous years. Specifies that if a township is granted such a levy increase for property taxes due in a particular year, the township may not in the three years following that year borrow funds on an emergency basis to furnish fire protection.

**Effective:** July 1, 2009.

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January 12, 2009, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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## SENATE BILL No. 435



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 6-1.1-18.5-13, AS AMENDED BY P.L.146-2008,  
2 SECTION 180, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2009]: Sec. 13. With respect to an appeal filed  
4 under section 12 of this chapter, the local government tax control board  
5 may recommend that a civil taxing unit receive any one (1) or more of  
6 the following types of relief:

7 (1) Permission to the civil taxing unit to increase its levy in excess  
8 of the limitations established under section 3 of this chapter, if in  
9 the judgment of the local government tax control board the  
10 increase is reasonably necessary due to increased costs of the civil  
11 taxing unit resulting from annexation, consolidation, or other  
12 extensions of governmental services by the civil taxing unit to  
13 additional geographic areas or persons. With respect to  
14 annexation, consolidation, or other extensions of governmental  
15 services in a calendar year, if those increased costs are incurred  
16 by the civil taxing unit in that calendar year and more than one (1)  
17 immediately succeeding calendar year, the unit may appeal under



1 section 12 of this chapter for permission to increase its levy under  
2 this subdivision based on those increased costs in any of the  
3 following:

- 4 (A) The first calendar year in which those costs are incurred.
- 5 (B) One (1) or more of the immediately succeeding four (4)
- 6 calendar years.

7 (2) A levy increase may not be granted under this subdivision for  
8 property taxes first due and payable after December 31, 2008.  
9 Permission to the civil taxing unit to increase its levy in excess of  
10 the limitations established under section 3 of this chapter, if the  
11 local government tax control board finds that the civil taxing unit  
12 needs the increase to meet the civil taxing unit's share of the costs  
13 of operating a court established by statute enacted after December  
14 31, 1973. Before recommending such an increase, the local  
15 government tax control board shall consider all other revenues  
16 available to the civil taxing unit that could be applied for that  
17 purpose. The maximum aggregate levy increases that the local  
18 government tax control board may recommend for a particular  
19 court equals the civil taxing unit's estimate of the unit's share of  
20 the costs of operating a court for the first full calendar year in  
21 which it is in existence. For purposes of this subdivision, costs of  
22 operating a court include:

- 23 (A) the cost of personal services (including fringe benefits);
- 24 (B) the cost of supplies; and
- 25 (C) any other cost directly related to the operation of the court.

26 (3) Permission to the civil taxing unit to increase its levy in excess  
27 of the limitations established under section 3 of this chapter, if the  
28 local government tax control board finds that the quotient  
29 determined under STEP SIX of the following formula is equal to  
30 or greater than one and two-hundredths (1.02):

31 STEP ONE: Determine the three (3) calendar years that most  
32 immediately precede the ensuing calendar year and in which  
33 a statewide general reassessment of real property or the initial  
34 annual adjustment of the assessed value of real property under  
35 IC 6-1.1-4-4.5 does not first become effective.

36 STEP TWO: Compute separately, for each of the calendar  
37 years determined in STEP ONE, the quotient (rounded to the  
38 nearest ten-thousandth (0.0001)) of the sum of the civil taxing  
39 unit's total assessed value of all taxable property and:

- 40 (i) for a particular calendar year before 2007, the total
- 41 assessed value of property tax deductions in the unit under
- 42 IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar

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1 year; or  
 2 (ii) for a particular calendar year after 2006, the total  
 3 assessed value of property tax deductions that applied in the  
 4 unit under IC 6-1.1-12-42 in 2006;  
 5 divided by the sum determined under this STEP for the  
 6 calendar year immediately preceding the particular calendar  
 7 year.  
 8 STEP THREE: Divide the sum of the three (3) quotients  
 9 computed in STEP TWO by three (3).  
 10 STEP FOUR: Compute separately, for each of the calendar  
 11 years determined in STEP ONE, the quotient (rounded to the  
 12 nearest ten-thousandth (0.0001)) of the sum of the total  
 13 assessed value of all taxable property in all counties and:  
 14 (i) for a particular calendar year before 2007, the total  
 15 assessed value of property tax deductions in all counties  
 16 under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular  
 17 calendar year; or  
 18 (ii) for a particular calendar year after 2006, the total  
 19 assessed value of property tax deductions that applied in all  
 20 counties under IC 6-1.1-12-42 in 2006;  
 21 divided by the sum determined under this STEP for the  
 22 calendar year immediately preceding the particular calendar  
 23 year.  
 24 STEP FIVE: Divide the sum of the three (3) quotients  
 25 computed in STEP FOUR by three (3).  
 26 STEP SIX: Divide the STEP THREE amount by the STEP  
 27 FIVE amount.  
 28 The civil taxing unit may increase its levy by a percentage not  
 29 greater than the percentage by which the STEP THREE amount  
 30 exceeds the percentage by which the civil taxing unit may  
 31 increase its levy under section 3 of this chapter based on the  
 32 assessed value growth quotient determined under section 2 of this  
 33 chapter.  
 34 (4) A levy increase may not be granted under this subdivision for  
 35 property taxes first due and payable after December 31, 2008.  
 36 Permission to the civil taxing unit to increase its levy in excess of  
 37 the limitations established under section 3 of this chapter, if the  
 38 local government tax control board finds that the civil taxing unit  
 39 needs the increase to pay the costs of furnishing fire protection for  
 40 the civil taxing unit through a volunteer fire department. For  
 41 purposes of determining a township's need for an increased levy,  
 42 the local government tax control board shall not consider the

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1 amount of money borrowed under IC 36-6-6-14 during the  
2 immediately preceding calendar year. However, any increase in  
3 the amount of the civil taxing unit's levy recommended by the  
4 local government tax control board under this subdivision for the  
5 ensuing calendar year may not exceed the lesser of:

6 (A) ten thousand dollars (\$10,000); or

7 (B) twenty percent (20%) of:

8 (i) the amount authorized for operating expenses of a  
9 volunteer fire department in the budget of the civil taxing  
10 unit for the immediately preceding calendar year; plus

11 (ii) the amount of any additional appropriations authorized  
12 during that calendar year for the civil taxing unit's use in  
13 paying operating expenses of a volunteer fire department  
14 under this chapter; minus

15 (iii) the amount of money borrowed under IC 36-6-6-14  
16 during that calendar year for the civil taxing unit's use in  
17 paying operating expenses of a volunteer fire department.

18 (5) A levy increase may not be granted under this subdivision for  
19 property taxes first due and payable after December 31, 2008.  
20 Permission to a civil taxing unit to increase its levy in excess of  
21 the limitations established under section 3 of this chapter in order  
22 to raise revenues for pension payments and contributions the civil  
23 taxing unit is required to make under IC 36-8. The maximum  
24 increase in a civil taxing unit's levy that may be recommended  
25 under this subdivision for an ensuing calendar year equals the  
26 amount, if any, by which the pension payments and contributions  
27 the civil taxing unit is required to make under IC 36-8 during the  
28 ensuing calendar year exceeds the product of one and one-tenth  
29 (1.1) multiplied by the pension payments and contributions made  
30 by the civil taxing unit under IC 36-8 during the calendar year that  
31 immediately precedes the ensuing calendar year. For purposes of  
32 this subdivision, "pension payments and contributions made by a  
33 civil taxing unit" does not include that part of the payments or  
34 contributions that are funded by distributions made to a civil  
35 taxing unit by the state.

36 (6) A levy increase may not be granted under this subdivision for  
37 property taxes first due and payable after December 31, 2008.  
38 Permission to increase its levy in excess of the limitations  
39 established under section 3 of this chapter if the local government  
40 tax control board finds that:

41 (A) the township's township assistance ad valorem property  
42 tax rate is less than one and sixty-seven hundredths cents

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1           (\$0.0167) per one hundred dollars (\$100) of assessed  
 2           valuation; and  
 3           (B) the township needs the increase to meet the costs of  
 4           providing township assistance under IC 12-20 and IC 12-30-4.  
 5           The maximum increase that the board may recommend for a  
 6           township is the levy that would result from an increase in the  
 7           township's township assistance ad valorem property tax rate of  
 8           one and sixty-seven hundredths cents (\$0.0167) per one hundred  
 9           dollars (\$100) of assessed valuation minus the township's ad  
 10          valorem property tax rate per one hundred dollars (\$100) of  
 11          assessed valuation before the increase.  
 12          (7) A levy increase may not be granted under this subdivision for  
 13          property taxes first due and payable after December 31, 2008.  
 14          Permission to a civil taxing unit to increase its levy in excess of  
 15          the limitations established under section 3 of this chapter if:  
 16                (A) the increase has been approved by the legislative body of  
 17                the municipality with the largest population where the civil  
 18                taxing unit provides public transportation services; and  
 19                (B) the local government tax control board finds that the civil  
 20                taxing unit needs the increase to provide adequate public  
 21                transportation services.  
 22          The local government tax control board shall consider tax rates  
 23          and levies in civil taxing units of comparable population, and the  
 24          effect (if any) of a loss of federal or other funds to the civil taxing  
 25          unit that might have been used for public transportation purposes.  
 26          However, the increase that the board may recommend under this  
 27          subdivision for a civil taxing unit may not exceed the revenue that  
 28          would be raised by the civil taxing unit based on a property tax  
 29          rate of one cent (\$0.01) per one hundred dollars (\$100) of  
 30          assessed valuation.  
 31          (8) A levy increase may not be granted under this subdivision for  
 32          property taxes first due and payable after December 31, 2008.  
 33          Permission to a civil taxing unit to increase the unit's levy in  
 34          excess of the limitations established under section 3 of this  
 35          chapter if the local government tax control board finds that:  
 36                (A) the civil taxing unit is:  
 37                    (i) a county having a population of more than one hundred  
 38                    forty-eight thousand (148,000) but less than one hundred  
 39                    seventy thousand (170,000);  
 40                    (ii) a city having a population of more than fifty-five  
 41                    thousand (55,000) but less than fifty-nine thousand (59,000);  
 42                    (iii) a city having a population of more than twenty-eight

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1 thousand seven hundred (28,700) but less than twenty-nine  
 2 thousand (29,000);  
 3 (iv) a city having a population of more than fifteen thousand  
 4 four hundred (15,400) but less than sixteen thousand six  
 5 hundred (16,600); or  
 6 (v) a city having a population of more than seven thousand  
 7 (7,000) but less than seven thousand three hundred (7,300);  
 8 and  
 9 (B) the increase is necessary to provide funding to undertake  
 10 removal (as defined in IC 13-11-2-187) and remedial action  
 11 (as defined in IC 13-11-2-185) relating to hazardous  
 12 substances (as defined in IC 13-11-2-98) in solid waste  
 13 disposal facilities or industrial sites in the civil taxing unit that  
 14 have become a menace to the public health and welfare.  
 15 The maximum increase that the local government tax control  
 16 board may recommend for such a civil taxing unit is the levy that  
 17 would result from a property tax rate of six and sixty-seven  
 18 hundredths cents (\$0.0667) for each one hundred dollars (\$100)  
 19 of assessed valuation. For purposes of computing the ad valorem  
 20 property tax levy limit imposed on a civil taxing unit under  
 21 section 3 of this chapter, the civil taxing unit's ad valorem  
 22 property tax levy for a particular year does not include that part of  
 23 the levy imposed under this subdivision. In addition, a property  
 24 tax increase permitted under this subdivision may be imposed for  
 25 only two (2) calendar years.  
 26 (9) A levy increase may not be granted under this subdivision for  
 27 property taxes first due and payable after December 31, 2008.  
 28 Permission for a county:  
 29 (A) having a population of more than eighty thousand (80,000)  
 30 but less than ninety thousand (90,000) to increase the county's  
 31 levy in excess of the limitations established under section 3 of  
 32 this chapter, if the local government tax control board finds  
 33 that the county needs the increase to meet the county's share of  
 34 the costs of operating a jail or juvenile detention center,  
 35 including expansion of the facility, if the jail or juvenile  
 36 detention center is opened after December 31, 1991;  
 37 (B) that operates a county jail or juvenile detention center that  
 38 is subject to an order that:  
 39 (i) was issued by a federal district court; and  
 40 (ii) has not been terminated;  
 41 (C) that operates a county jail that fails to meet:  
 42 (i) American Correctional Association Jail Construction

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- 1 Standards; and
- 2 (ii) Indiana jail operation standards adopted by the
- 3 department of correction; or
- 4 (D) that operates a juvenile detention center that fails to meet
- 5 standards equivalent to the standards described in clause (C)
- 6 for the operation of juvenile detention centers.

7 Before recommending an increase, the local government tax  
 8 control board shall consider all other revenues available to the  
 9 county that could be applied for that purpose. An appeal for  
 10 operating funds for a jail or a juvenile detention center shall be  
 11 considered individually, if a jail and juvenile detention center are  
 12 both opened in one (1) county. The maximum aggregate levy  
 13 increases that the local government tax control board may  
 14 recommend for a county equals the county's share of the costs of  
 15 operating the jail or a juvenile detention center for the first full  
 16 calendar year in which the jail or juvenile detention center is in  
 17 operation.

18 (10) A levy increase may not be granted under this subdivision for  
 19 property taxes first due and payable after December 31, 2008.  
 20 Permission for a township to increase its levy in excess of the  
 21 limitations established under section 3 of this chapter, if the local  
 22 government tax control board finds that the township needs the  
 23 increase so that the property tax rate to pay the costs of furnishing  
 24 fire protection for a township, or a portion of a township, enables  
 25 the township to pay a fair and reasonable amount under a contract  
 26 with the municipality that is furnishing the fire protection.  
 27 However, for the first time an appeal is granted the resulting rate  
 28 increase may not exceed fifty percent (50%) of the difference  
 29 between the rate imposed for fire protection within the  
 30 municipality that is providing the fire protection to the township  
 31 and the township's rate. A township is required to appeal a second  
 32 time for an increase under this subdivision if the township wants  
 33 to further increase its rate. However, a township's rate may be  
 34 increased to equal but may not exceed the rate that is used by the  
 35 municipality. More than one (1) township served by the same  
 36 municipality may use this appeal.

37 ~~(11) A levy increase may not be granted under this subdivision for~~  
 38 ~~property taxes first due and payable after December 31, 2008.~~  
 39 ~~Permission for a township to increase its levy in excess of the~~  
 40 ~~limitations established under section 3 of this chapter, if the local~~  
 41 ~~government tax control board finds that the township has been~~  
 42 ~~required, for the three (3) consecutive years preceding the year for~~

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1 which the appeal under this subdivision is to become effective, to  
 2 borrow funds under IC 36-6-6-14 to furnish fire protection for the  
 3 township or a part of the township. However, the maximum  
 4 increase in a township's levy that may be allowed under this  
 5 subdivision is the **least average** of the amounts borrowed under  
 6 IC 36-6-6-14 during the preceding three (3) calendar years. A  
 7 township may elect to phase in an approved increase in its levy  
 8 under this subdivision over a period not to exceed three (3) years.  
 9 **A township that is granted a levy increase under this**  
 10 **subdivision for property taxes first due and payable in a**  
 11 **particular year may not in the three (3) years following that**  
 12 **year borrow funds under IC 36-6-6-14 to furnish fire**  
 13 **protection.** A particular township may appeal to increase its levy  
 14 under this section not more frequently than every fourth calendar  
 15 year.

16 (12) Permission to a city having a population of more than  
 17 twenty-nine thousand (29,000) but less than thirty-one thousand  
 18 (31,000) to increase its levy in excess of the limitations  
 19 established under section 3 of this chapter if:

20 (A) an appeal was granted to the city under this section to  
 21 reallocate property tax replacement credits under IC 6-3.5-1.1  
 22 in 1998, 1999, and 2000; and

23 (B) the increase has been approved by the legislative body of  
 24 the city, and the legislative body of the city has by resolution  
 25 determined that the increase is necessary to pay normal  
 26 operating expenses.

27 The maximum amount of the increase is equal to the amount of  
 28 property tax replacement credits under IC 6-3.5-1.1 that the city  
 29 petitioned under this section to have reallocated in 2001 for a  
 30 purpose other than property tax relief.

31 (13) A levy increase may be granted under this subdivision only  
 32 for property taxes first due and payable after December 31, 2008.  
 33 Permission to a civil taxing unit to increase its levy in excess of  
 34 the limitations established under section 3 of this chapter if the  
 35 civil taxing unit cannot carry out its governmental functions for  
 36 an ensuing calendar year under the levy limitations imposed by  
 37 section 3 of this chapter due to a natural disaster, an accident, or  
 38 another unanticipated emergency.

39 **SECTION 2. [EFFECTIVE JULY 1, 2009] IC 6-1.1-18.5-13, as**  
 40 **amended by this act, applies to property taxes first due and**  
 41 **payable after December 31, 2009.**

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