



Reprinted
January 26, 2010

HOUSE BILL No. 1059

DIGEST OF HB 1059 (Updated January 25, 2010 7:29 pm - DI 92)

Citations Affected: IC 5-13; IC 6-1.1.

Synopsis: Property tax collections. Provides that, with certain exceptions, provisional bills are required rather than optional if the county auditor fails to deliver the abstract for that assessment date to the county treasurer before March 16 of the year following the assessment date. Provides that, subject to adjustments prescribed by the department of local government finance, each installment of the provisional statement is equal to 50% of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued. Entitles a taxing unit to interest generated by the county on property tax collections if the county treasurer fails to meet the deadline for compliance with a request for advance distribution of the collections. If real property tax assessment annual adjustments for the assessment date in a year in a county have not been applied before December 1 of that year, requires the county auditor to determine assessed values based on the assessed values for the immediately preceding year.

Effective: Upon passage.

VanDenburgh, Candelaria Reardon

January 5, 2010, read first time and referred to Committee on Ways and Means.
January 21, 2010, amended, reported — Do Pass.
January 25, 2010, read second time, amended, ordered engrossed.

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Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1059

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 5-13-6-3, AS AMENDED BY P.L.146-2008,
2 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) All taxes collected by the county
4 treasurer shall be deposited as one (1) fund in the several depositories
5 selected for the deposit of county funds and, except as provided in
6 subsection (b), remain in the depositories until distributed at the
7 following semiannual distribution made by the county auditor.

8 (b) Every county treasurer who, by virtue of the treasurer's office, is
9 the collector of any taxes for any political subdivision wholly or partly
10 within the county shall, not later than thirty (30) days after receipt of a
11 written request for funds filed with the treasurer by a proper officer of
12 any political subdivision within the county, advance to that political
13 subdivision a portion of the taxes collected before the semiannual
14 distribution. The amount advanced may not exceed the lesser of:

- 15 (1) ninety-five percent (95%) of the total amount collected at the
16 time of the advance; or
17 (2) ninety-five percent (95%) of the amount to be distributed at



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the semiannual distribution.
(c) Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

(d) At the semiannual distribution all the advances made to any political subdivision under subsection (b) shall be deducted from the total amount due any political subdivision as shown by the distribution.

(e) If a county auditor fails to make a distribution of tax collections by the deadline for distribution under subsection (b), a political subdivision that was to receive a distribution may recover interest on the undistributed tax collections under IC 6-1.1-27-1.

SECTION 2. IC 6-1.1-22.5-6, AS AMENDED BY P.L.87-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) ~~Except as provided in subsection (c), with respect to~~ **This section applies to** property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year. The county treasurer ~~may, except as provided by section 7 of this chapter,~~ **shall** use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date. **The amount to be billed for each installment of the provisional statement is the amount determined under section 9 of this chapter.**

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

- (1) in the form prescribed by the department of local government finance; and
- (2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) ~~does not apply if~~ **applies regardless of whether** the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b). **Section 7 of this chapter does not apply to this section.**

(d) This subsection applies after June 30, 2009. Immediately upon determining to use provisional statements under subsection (a), the county treasurer shall give notice of the determination to the county fiscal body (as defined in IC 36-1-2-6).

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(e) In a county in which an authorizing ordinance is adopted under IC 6-1.1-22-8.1(h), a person may direct the county treasurer to transmit a provisional statement by electronic mail under IC 6-1.1-22-8.1(h).

SECTION 3. IC 6-1.1-22.5-7, AS AMENDED BY P.L.182-2009(ss), SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The county auditor of a county or fifty (50) property owners in the county may, not more than five (5) days after the publication of the notice required under section ~~6(b)~~ or 6.5(f) of this chapter, request in writing that the department of local government finance waive the use of a provisional statement under this chapter as to that county for a particular year.

(b) With respect to the use of a provisional statement required under section 6 of this chapter, upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:

- (1) the date and time of the hearing;
- (2) the location of the hearing, which must be in the county; and
- (3) that the purpose of the hearing is to hear:
 - (A) the request of the county treasurer and county auditor to waive the requirements of section 6 of this chapter; and
 - (B) taxpayers' comments regarding that request.

(c) After the hearing referred to in subsection (b), the department of local government finance may waive the use of a provisional statement under section 6 of this chapter for a particular year as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the abstract required by IC 6-1.1-22-5 was not delivered in a timely manner:

- (1) the abstract;
 - (A) was delivered as of the date of the hearing; or
 - (B) will be delivered not later than a date specified by the county auditor and county treasurer; and
- (2) sufficient time remains or will remain after the date or anticipated date of delivery of the abstract to:
 - (A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and
 - (B) render the use of a provisional statement under section 6 of this chapter unnecessary.

(d) With respect to a determination to use a provisional statement under section 6.5 of this chapter, upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by

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1 IC 5-3-1. The notice must state:
 2 (1) the date and time of the hearing;
 3 (2) the location of the hearing, which must be in the county; and
 4 (3) that the purpose of the hearing is to hear:
 5 (A) the request of the county treasurer and county auditor to
 6 waive the requirements of section 6.5 of this chapter; and
 7 (B) taxpayers' comments regarding that request.
 8 (e) After the hearing referred to in subsection (d), the department of
 9 local government finance may waive the use of a provisional statement
 10 under section 6.5 of this chapter for a particular year as to the county
 11 making the request if the department finds that the petitioners have
 12 presented sufficient evidence to establish that although the property tax
 13 rate of one (1) or more cross-county entities with cross-county area in
 14 the county was not finally determined before the statement preparation
 15 date:
 16 (1) that property tax rate:
 17 (A) was determined as of the date of the hearing; or
 18 (B) will be determined not later than a date specified by the
 19 county auditor and county treasurer; and
 20 (2) sufficient time remains or will remain after the date or
 21 anticipated date of determination of the rate to:
 22 (A) permit the timely preparation and delivery of property tax
 23 statements in the manner provided by IC 6-1.1-22; and
 24 (B) render the use of a provisional statement under section 6.5
 25 of this chapter unnecessary.
 26 SECTION 4. IC 6-1.1-22.5-8, AS AMENDED BY
 27 P.L.182-2009(ss), SECTION 161, IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Subject to
 29 subsection (c), a provisional statement must:
 30 (1) be on a form prescribed by the department of local
 31 government finance;
 32 (2) except as provided in emergency rules adopted under section
 33 20 of this chapter and subsection (b):
 34 (A) for property taxes **first due and payable after 2009 and**
 35 **billed using a provisional statement under section 6 of this**
 36 **chapter, indicate that each installment of the taxpayer's tax**
 37 **liability in the is an amount of not more than one hundred**
 38 **percent (100%) equal to fifty percent (50%) of the tax**
 39 **liability that was payable in the same year as the assessment**
 40 **date for the property for which the provisional statement is**
 41 **issued, subject to any adjustments to the tax liability as**
 42 **prescribed by the department of local government finance; and**

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- 1 (B) for property taxes billed using a provisional statement
 2 under section 6.5 of this chapter, except as provided in
 3 subsection (d), indicate tax liability in an amount determined
 4 by the department of local government finance based on:
 5 (i) subject to subsection (c), for the cross-county entity, the
 6 property tax rate of the cross-county entity for taxes first due
 7 and payable in the immediately preceding calendar year; and
 8 (ii) for all other taxing units that make up the taxing district
 9 or taxing districts that comprise the cross-county area, the
 10 property tax rates of the taxing units for taxes first due and
 11 payable in the current calendar year;
 12 (3) indicate:
 13 (A) that the tax liability under the provisional statement is
 14 determined as described in subdivision (2); and
 15 (B) that property taxes billed on the provisional statement:
 16 (i) are due and payable in the same manner as property taxes
 17 billed on a tax statement under IC 6-1.1-22-8.1; and
 18 (ii) will be credited against a reconciling statement;
 19 (4) for property taxes billed using a provisional statement under
 20 section 6 of this chapter, include a statement in the following or
 21 a substantially similar form, as determined by the department of
 22 local government finance:
 23 "Under Indiana law, _____ County (insert county) has sent
 24 provisional statements because the county did not complete the
 25 abstract of the property, assessments, taxes, deductions, and
 26 exemptions for taxes payable in (insert year) in each taxing
 27 district before March 16, (insert year). The statement is due to be
 28 paid in installments on _____ (insert date) and _____
 29 (insert date). ~~The statement is based on _____ percent (____%)~~
 30 ~~(insert percentage)~~ **Each installment is equal to fifty percent**
 31 **(50%)** of your tax liability for taxes payable in _____ (insert
 32 year), subject to adjustment to the tax liability as prescribed by
 33 the department of local government finance and adjustment for
 34 any new construction on your property or any damage to your
 35 property. After the abstract of property is complete, you will
 36 receive a reconciling statement in the amount of your actual tax
 37 liability for taxes payable in (insert year), minus the amount you
 38 pay under this provisional statement.";
 39 (5) for property taxes billed using a provisional statement under
 40 section 6.5 of this chapter, include a statement in the following or
 41 a substantially similar form, as determined by the department of
 42 local government finance:

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1 "Under Indiana law, _____ County (insert county) has elected
2 to send provisional statements for the territory of
3 _____ (insert cross-county entity) located in
4 _____ County (insert county) because the property tax rate for
5 _____ (insert cross-county entity) was not available
6 in time to prepare final tax statements. The statement is due to be
7 paid in installments on _____ (insert date) and _____
8 (insert date). The statement is based on the property tax rate of
9 _____ (insert cross-county entity) for taxes first
10 due and payable in _____ (insert immediately preceding calendar
11 year). After the property tax rate of _____ (insert
12 cross-county entity) is determined, you will receive a reconciling
13 statement in the amount of your actual tax liability for taxes
14 payable in _____ (insert year), minus the amount you pay under
15 this provisional statement.";

16 (6) indicate liability for:

17 (A) delinquent:

18 (i) taxes; and

19 (ii) special assessments;

20 (B) penalties; and

21 (C) interest;

22 is allowed to appear on the tax statement under IC 6-1.1-22-8.1
23 for the first installment of property taxes in the year in which the
24 provisional tax statement is issued;

25 (7) include:

26 (A) a checklist that shows:

27 (i) homestead credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or
28 another law and all property tax deductions; and

29 (ii) whether each homestead credit and property tax
30 deduction ~~was~~ were applied in the current provisional
31 statement;

32 (B) an explanation of the procedure and deadline that a
33 taxpayer must follow and the forms that must be used if a
34 credit or deduction has been granted for the property and the
35 taxpayer is no longer eligible for the credit or deduction; and

36 (C) an explanation of the tax consequences and applicable
37 penalties if a taxpayer unlawfully claims a standard deduction
38 under IC 6-1.1-12-37 on:

39 (i) more than one (1) parcel of property; or

40 (ii) property that is not the taxpayer's principal place of
41 residence or is otherwise not eligible for a standard
42 deduction; and

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1 (8) include any other information the county treasurer requires.
 2 (b) This subsection applies to property taxes first due and payable
 3 for assessment dates after January 15, 2009. The county may apply a
 4 standard deduction, supplemental standard deduction, or homestead
 5 credit calculated by the county's property system on a provisional bill
 6 for a qualified property. If a provisional bill has been used for property
 7 tax billings for two (2) consecutive years and a property qualifies for
 8 a standard deduction, supplemental standard deduction, or homestead
 9 credit for the second year a provisional bill is used, the county shall
 10 apply the standard deduction, supplemental standard deduction, or
 11 homestead credit calculated by the county's property system on the
 12 provisional bill.

13 (c) For purposes of this section, property taxes that are:
 14 (1) first due and payable in the current calendar year on a
 15 provisional statement under section 6 or 6.5 of this chapter; and
 16 (2) based on property taxes first due and payable in the
 17 immediately preceding calendar year or on a percentage of those
 18 property taxes;

19 are determined after excluding from the property taxes first due and
 20 payable in the immediately preceding calendar year property taxes
 21 imposed by one (1) or more taxing units in which the tangible property
 22 is located that are attributable to a levy that no longer applies for
 23 property taxes first due and payable in the current calendar year.

24 (d) If there was no property tax rate of the cross-county entity for
 25 taxes first due and payable in the immediately preceding calendar year
 26 for use under subsection (a)(2)(B), the department of local government
 27 finance shall provide an estimated tax rate calculated to approximate
 28 the actual tax rate that will apply when the tax rate is finally
 29 determined.

30 SECTION 5. IC 6-1.1-22.5-9, AS AMENDED BY P.L.87-2009,
 31 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 9. (a) Except as provided in ~~subsections (b)~~
 33 ~~and (c) and section 12~~ **12(b)** of this chapter, property taxes billed on a
 34 provisional statement are due in two (2) equal installments on May 10
 35 and November 10 of the year following the assessment date covered by
 36 the provisional statement.

37 ~~(b) If in a county the notices of general reassessment under~~
 38 ~~IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an~~
 39 ~~assessment date in a calendar year are given to the taxpayers in the~~
 40 ~~county after March 26 of the immediately succeeding calendar year, the~~
 41 ~~property taxes that would otherwise be due under subsection (a) on~~
 42 ~~May 10 of the immediately succeeding calendar year are due on the~~

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later of:

- (1) May 10 of the immediately succeeding calendar year; or
- (2) forty-five (45) days after the mailing or transmittal of provisional statements:

(c) If subsection (b) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (b) are due on the later of:

- (1) November 10 of the immediately succeeding calendar year; or
- (2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.

(b) The county treasurer may mail or transmit the provisional statement one (1) time each year at least fifteen (15) days before the date on which the first installment is due under subsection (a) in the manner provided in IC 6-1.1-22-8.1, regardless of whether the notice required under section 6(b) of this chapter has been published.

(c) This subsection applies to a provisional statement issued under section 6 of this chapter. Except when the second installment of a provisional statement is replaced by a final reconciling statement providing for taxes to be due on November 10, the amount of tax due for each installment of a provisional statement issued for a year after 2009 is fifty percent (50%) of the tax that was due for the immediately preceding year under IC 6-1.1-22 subject to any adjustments to the tax liability as prescribed by the department of local government finance. If no bill was issued in the prior year, the provisional bill shall be based on the amount that would have been due if a provisional tax statement had been issued for the immediately preceding year. The department of local government finance may prescribe standards to implement this subsection, including a method of calculating the taxes due when an abstract or other information is not complete.

(d) This subsection applies only if a provisional statement for payment of property taxes and special assessments by electronic mail is transmitted to a person under IC 6-1.1-22-8.1(h). If a response to the transmission of electronic mail to a person indicates that the electronic mail was not received, the county treasurer shall mail to the person a hard copy of the provisional statement in the manner required by this chapter for persons who do not opt to receive statements by electronic mail. The due date for the property taxes and special assessments under a provisional statement mailed to a person under this subsection is the due date indicated in the statement transmitted to the person by

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electronic mail.

SECTION 6. IC 6-1.1-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or before June 20th and December 20th of each year, the county auditor and the county treasurer shall meet in the office of the county auditor. Before each semi-annual meeting, the county auditor shall complete an audit of the county treasurer's monthly reports required under IC 36-2-10-16. In addition, the county auditor shall:

(1) prepare a certificate of settlement on the form prescribed by the state board of accounts; and

(2) deliver the certificate of settlement to the county treasurer at least two (2) days before each semi-annual meeting.

(b) If any county treasurer or auditor refuses, neglects, or fails to distribute tax money due to a **tax taxing** unit on or before:

(1) the fifty-first day immediately following each property tax due date under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies; or

(2) the deadline for a distribution requested under IC 5-13-6-3;

the county treasurer and auditor shall pay to the taxing unit from the county general fund interest on the taxing unit's undistributed tax money if the county treasurer and auditor invest undistributed tax money in an interest bearing investment.

(c) The amount of interest to be paid **if subsection (b)(1) applies** equals the taxing unit's proportionate share of the actual amount of interest which is received from investments of the undistributed tax money from the fifty-second day immediately following the property tax due date under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies, to the date that the tax money is distributed.

(d) The amount of interest to be paid if subsection (b)(2) applies equals the taxing unit's proportionate share of the actual amount of interest that is received from investments of the undistributed tax money from the date the county treasurer receives the taxing unit's request for funds under IC 5-13-6-3(b) to the date the tax money is distributed.

SECTION 7. 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 1059, 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 1059 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 21, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1059 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 6 with "[EFFECTIVE UPON PASSAGE]".

Page 4, line 34, after "taxes" insert "**first due and payable after 2009 and**".

Page 8, line 23, after "year" insert "**after 2009**".

Page 8, line 23, after "tax" insert "**that**".

Page 8, line 24, delete "or" and insert "**under**".

Page 9, after line 32, begin a new paragraph and insert: "**SECTION 7. An emergency is declared for this act.**".

(Reference is to HB 1059 as printed January 22, 2010.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1059 be amended to read as follows:

Page 8, line 23, after "tax" insert "**that**".

Page 8, line 24, delete "or IC 6-1.1-22." and insert "**under IC 6-1.1-22 subject to any adjustments to the tax liability as prescribed by the department of local government finance.**".

(Reference is to HB 1059 as printed January 22, 2010.)

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