



Reprinted
February 2, 2010

SENATE BILL No. 208

DIGEST OF SB 208 (Updated February 1, 2010 4:10 pm - DI 73)

Citations Affected: IC 13-21.

Synopsis: Solid waste management district funding. Provides that for each year, a solid waste management district's proposed property tax levy and proposed budget must be approved by a majority vote of all members of the board after the board holds a public hearing, and specifies that the district's proposed property tax levy and proposed budget are subject to review and approval under the statutes concerning county council review of budgets and levies of entities with nonelected governing bodies. Provides that in the case where all but one of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district, the county that did not withdraw or was not removed from the joint district must designate itself as a new county district, join one or more other counties to form a new joint district, or join an existing joint district. Specifies that the following apply if such a county does not join or form a joint district: (1) The county must designate itself as a new county district and shall be treated as a new county district. (2) The district must, after a public hearing, adopt and submit to the commissioner of the department of environmental management for approval a new district solid waste management plan. (3) The district must, after a public hearing, adopt
(Continued next page)

Effective: Upon passage; July 1, 2010.

Gard, Hershman, Charbonneau

January 11, 2010, read first time and referred to Committee on Tax and Fiscal Policy.
January 28, 2010, amended, reported favorably — Do Pass.
February 1, 2010, read second time, amended, ordered engrossed.

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Digest Continued

a new budget for the district. (4) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes. (5) The board of the district shall appoint and convene a new solid waste management advisory committee. Specifies that a district may impose a fee only if the district board holds a public hearing in the calendar year immediately preceding the first year in which the fee will be imposed and then approves the fees by a majority vote of all members of the board. Requires consolidation of public hearings if imposition of both property taxes and fees is proposed. Reinstates the exemption for Marion County from regulation or control under the solid waste management district statutes governing the management of solid waste activities and the collection of fees on the disposal of solid waste in a final disposal facility. (The exemption expired December 2, 2008, under current law.) Provides that the exemption does not apply to a statute concerning fees imposed on the disposal or incineration of solid waste in a final disposal facility and the deposit of those fees in the state solid waste management fund.

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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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SENATE BILL No. 208

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

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

- 1 SECTION 1. IC 13-21-3-16, AS AMENDED BY P.L.189-2005,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 16. (a) The requirements of this section:
4 (1) are in addition to the requirements set forth in
5 IC 6-1.1-18.5-7(b); and
6 (2) do not apply to a district that:
7 (A) owns a landfill;
8 (B) will use property tax revenue to:
9 (i) construct a new landfill cell; or
10 (ii) close a landfill cell;
11 at the landfill; and
12 (C) has received approval from the county fiscal body of the
13 county in which the landfill is located to construct or close the
14 landfill cell.
15 (b) ~~To be eligible to include within the district's budget for the~~



1 following year tax revenue derived from the imposition of a property
2 tax; the first year that a property tax will be imposed and any
3 subsequent year in which the proposed tax levy will increase by five
4 percent (5%) or more; a board must present identical resolutions to
5 each of the county fiscal bodies within the district seeking approval for
6 the use of property tax revenue within the district. The resolution must
7 state the proposed property tax levy and the proposed use of the
8 revenue. The resolution must be stated so that

9 (1) a "yes" vote indicates approval of the levy and the proposed
10 use of property tax revenue within the district; and

11 (2) a "no" vote indicates disapproval of the levy and the proposed
12 use of property tax revenue within the district.

13 (c) For a resolution described in subsection (b) to be approved by
14 the county fiscal body:

15 (1) the county fiscal body must record the vote taken on the
16 resolution under subsection (b) before May 1 of the year in which
17 the vote was taken; and

18 (2) the recorded vote must indicate approval of the use of property
19 tax revenue within the district.

20 (b) For each year:

21 (1) a district's proposed property tax levy and proposed
22 budget must be approved by a majority vote of all members
23 of the board after the board complies with subsection (e); and

24 (2) the district's proposed property tax levy and proposed
25 budget are subject to review and approval under
26 IC 6-1.1-17-20 or IC 36-3-6-9, whichever applies.

27 (d) (c) If all of the county fiscal bodies within a district do not
28 record the approval described in subsection (c) before May 1 of the
29 year in which the vote under subsection (b) was taken, approve the
30 district's proposed property tax levy under IC 6-1.1-17-20 or
31 IC 36-3-6-9 (whichever applies) for a particular year, the board may
32 not:

33 (1) impose; or

34 (2) include within the budget of the board;

35 a property tax for the that year. following the year in which the vote
36 was taken.

37 (e) Notwithstanding subsection (d), after the first year a tax is
38 imposed under this section, the resolution required by subsection (b)
39 for a district that is located in more than two (2) counties need only be
40 approved by a majority of the county fiscal bodies for the counties in
41 which the district is located.

42 (f) (d) A district may not issue bonds to be repaid, directly or

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1 indirectly, with money or property tax revenue of the district until a
2 majority of the members of each of the county fiscal bodies within a
3 district passes a resolution approving the bond issue.

4 **(e) Subject to subsection (f), a board may approve the district's**
5 **proposed property tax levy and proposed budget under this section**
6 **only after public notice in accordance with IC 5-3-1 and a public**
7 **hearing before the board at which:**

8 **(1) all persons using facilities, owning property, or generating**
9 **solid waste within the district who are benefited by solid waste**
10 **management; and**

11 **(2) other interested persons;**

12 **have an opportunity to be heard concerning the proposed property**
13 **taxes.**

14 **(f) A board that proposes to impose:**

15 **(1) property taxes under this section; and**

16 **(2) solid waste management fees under IC 13-21-14-1;**

17 **for a calendar year shall consolidate the public hearing required by**
18 **subsection (e) with the public hearing required by IC 13-21-14-5.**

19 SECTION 2. IC 13-21-3-20 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. **(a)**
21 Notwithstanding this chapter, IC 13-21-5, and IC 13-21-13, **and except**
22 **as provided in subsection (b)**, unless the legislative body of a county
23 having a consolidated city elects by ordinance to participate in the
24 rules, ordinances, and governmental structures enacted or created
25 under this article, the management of solid waste activities and the
26 collection of fees on the disposal of solid waste in a final disposal
27 facility located in that county are exempt ~~until December 2, 2008~~; from
28 regulation or control under this article.

29 **(b) The exemption under subsection (a) does not apply to**
30 **IC 13-20-22-1.**

31 SECTION 3. IC 13-21-3-21 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. **(a)** Before the
33 board of a district may adopt an annual budget, the budget must be:

34 (1) approved by the department of local government finance; and

35 (2) sent to:

36 (A) the executive; and

37 (B) the fiscal body;

38 of each county and municipality located within the district as a
39 matter of record.

40 **(b) The district's annual budget must be approved by a majority**
41 **vote of all members of the board.**

42 SECTION 4. IC 13-21-4-6 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) If a county
 2 withdraws from or the county executives of a joint district remove a
 3 county from a joint district, the county must:
 4 (1) designate itself as a new county district;
 5 (2) join one (1) or more other counties to form a new joint district;
 6 or
 7 (3) join an existing joint district;
 8 under the procedures set forth in IC 13-21-3.
 9 (b) If a county:
 10 (1) designates itself as a new county district; or
 11 (2) joins one (1) or more other counties to form a new joint
 12 district;
 13 the county district or new joint district shall, **after a public hearing**,
 14 submit a district plan to the commissioner as provided under
 15 IC 13-21-5. **If the new county district or new joint district will**
 16 **impose property taxes in the year after designating itself as a new**
 17 **county district or forming the new joint district, each of the county**
 18 **fiscal bodies within the new county district or new joint district**
 19 **must approve the use of property taxes by the district under the**
 20 **procedures specified in IC 13-21-3-16.**
 21 (c) If a county joins an existing joint district, the joint district shall,
 22 **after a public hearing**, amend the joint district's district plan as
 23 provided under IC 13-21-5. **If the joint district will impose property**
 24 **taxes in the year after a county joins the joint district, each of the**
 25 **county fiscal bodies within the joint district must approve the use**
 26 **of property taxes under the procedures specified in IC 13-21-3-16.**
 27 (d) If a county withdraws or is removed from a joint district that
 28 consists of more than two (2) counties, the joint district shall, **after a**
 29 **public hearing**, amend the joint district's district plan as provided
 30 under IC 13-21-5. **If the joint district will impose property taxes in**
 31 **the year after a county withdraws or is removed from the joint**
 32 **district, each of the county fiscal bodies within the joint district**
 33 **must approve the use of property taxes under the procedures**
 34 **specified in IC 13-21-3-16.**
 35 (e) The following apply if a joint district is dissolved or if all but
 36 one (1) of the counties participating in a joint district have
 37 withdrawn from the joint district or have been removed from the
 38 joint district:
 39 (1) The county executive of each county that was participating
 40 in the joint district must:
 41 (A) designate itself as a new county district;
 42 (B) join one (1) or more other counties to form a new joint

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- district; or
- (C) join an existing joint district; as provided in this section.
- (2) In the case where all but one (1) of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district, the county that did not withdraw or was not removed from the joint district must still comply with the requirements of subdivision (1).
- (3) The following apply if the county that did not withdraw or was not removed from the joint district does not join one (1) or more other counties to form a new joint district or does not join an existing joint district:
 - (A) The county must designate itself as a new county district and is treated for purposes of this article as a new county district.
 - (B) The district must, after a public hearing, adopt and submit to the commissioner for approval a new district solid waste management plan that meets the requirements of IC 13-21-5 and the criteria and other elements set forth in the state plan. The district must follow the procedures of IC 13-21-5 in creating and submitting the district's new solid waste management plan.
 - (C) The district must, after a public hearing, adopt a new budget for the district.
 - (D) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes under the procedures specified in IC 13-21-3-16.
 - (E) The board of the district shall appoint and convene a new solid waste management advisory committee of citizens under IC 13-21-3-11.

SECTION 5. IC 13-21-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A board:

- (1) may; and
- (2) if necessary to pay principal or interest on any bonds issued under this article or IC 13-9.5-9 (repealed), shall; establish solid waste management fees in addition to fees imposed under IC 13-21-13 or IC 13-9.5-7 (before its repeal) that apply to all persons owning real property or generating solid waste within the district who are benefited by solid waste management, solid waste collection, a facility for solid waste disposal, or a facility for solid

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waste processing.

(b) ~~The Subject to subsections (c) and (d), a board may change and readjust that proposes to impose fees as necessary. in the district under this section in a calendar year after 2010 must, in the calendar year immediately preceding the first year in which the fee will first be imposed, approve the imposition of the fees by adoption of a resolution by a majority vote of all members of the board.~~

(c) **A board may not adopt a resolution under subsection (b) before a public hearing is held under section 5 of this chapter.**

SECTION 6. IC 13-21-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) **Subject to subsection (g),** fees shall be established only after public notice and a public hearing before the board at which:

- (1) all persons using facilities, owning property, or generating solid waste within the district who are benefited by solid waste management; and
- (2) other interested persons;

have an opportunity to be heard concerning the proposed fees.

(b) After introduction of a resolution fixing fees and before the resolution is adopted, public notice of the hearing, setting forth the schedule of fees, shall be given. The hearing may be adjourned as necessary.

(c) After the hearing the resolution establishing fees, either as originally introduced or as amended, shall be passed and put into effect.

(d) A copy of the schedule of fees established shall be kept:

- (1) on file in the office of the board or the controller, secretary, or other record keeping officer of the district; and
- (2) open to inspection by all interested persons.

(e) The fees established extend to cover any additional territory later served that falls within the same class without the necessity of a hearing or notice.

(f) **During a calendar year, a board may change or readjustment of readjust fees may be made first due and payable in that calendar year in the same manner as the fees were originally established.**

(g) **A board that proposes to:**

- (1) **establish fees under this section; and**
- (2) **impose property taxes under IC 13-21-3-16;**

for a calendar year shall consolidate the public hearing required by subsection (a) with the public hearing required by IC 13-21-3-16(e).

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1 SECTION 7. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 208, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 14, after "notice" insert "**in accordance with IC 5-3-1**". and when so amended that said bill do pass.

(Reference is to SB 208 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 208 be amended to read as follows:

Page 3, between lines 26 and 27, begin a new paragraph and insert: "SECTION 2. IC 13-21-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) Notwithstanding this chapter, IC 13-21-5, and IC 13-21-13, **and except as provided in subsection (b)**, unless the legislative body of a county having a consolidated city elects by ordinance to participate in the rules, ordinances, and governmental structures enacted or created under this article, the management of solid waste activities and the collection of fees on the disposal of solid waste in a final disposal facility located in that county are exempt ~~until December 2, 2008~~, from regulation or control under this article.

(b) The exemption under subsection (a) does not apply to IC 13-20-22-1.

Page 6, after line 41, begin a new paragraph and insert: "SECTION 7. **An emergency is declared for this act.**".
Renumber all SECTIONS consecutively.

(Reference is to SB 208 as printed January 29, 2010.)

GARD



SENATE MOTION

Madam President: I move that Senate Bill 208 be amended to read as follows:

Page 1, delete lines 1 through 15, begin a new paragraph and insert:
 "SECTION 1. IC 13-21-3-16, AS AMENDED BY P.L.189-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) The requirements of this section:

- (1) are in addition to the requirements set forth in IC 6-1.1-18.5-7(b); and
- (2) do not apply to a district that:
 - (A) owns a landfill;
 - (B) will use property tax revenue to:
 - (i) construct a new landfill cell; or
 - (ii) close a landfill cell;
 at the landfill; and
 - (C) has received approval from the county fiscal body of the county in which the landfill is located to construct or close the landfill cell.

(b) To be eligible to include within the district's budget for the following year tax revenue derived from the imposition of a property tax, the first year that a property tax will be imposed and any subsequent year in which the proposed tax levy will increase by five percent (5%) or more; a board must present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of property tax revenue within the district. The resolution must state the proposed property tax levy and the proposed use of the revenue. The resolution must be stated so that

- (1) a "yes" vote indicates approval of the levy and the proposed use of property tax revenue within the district; and
- (2) a "no" vote indicates disapproval of the levy and the proposed use of property tax revenue within the district.

(c) For a resolution described in subsection (b) to be approved by the county fiscal body:

- (1) the county fiscal body must record the vote taken on the resolution under subsection (b) before May 1 of the year in which the vote was taken; and
- (2) the recorded vote must indicate approval of the use of property tax revenue within the district.

(b) For each year:

- (1) a district's proposed property tax levy and proposed budget must be approved by a majority vote of all members of the board after the board complies with subsection (c); and**

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(2) the district's proposed property tax levy and proposed budget are subject to review and approval under IC 6-1.1-17-20 or IC 36-3-6-9, whichever applies.

~~(d)~~ **(c)** If all of the county fiscal bodies within a district do not record the approval described in subsection (c) before May 1 of the year in which the vote under subsection (b) was taken, **approve the district's proposed property tax levy under IC 6-1.1-17-20 or IC 36-3-6-9 (whichever applies) for a particular year**, the board may not:

- (1) impose; or
- (2) include within the budget of the board;

a property tax for ~~the~~ **that** year. ~~following the year in which the vote was taken.~~

~~(e)~~ **(e)** Notwithstanding subsection (d), after the first year a tax is imposed under this section, the resolution required by subsection (b) for a district that is located in more than two (2) counties need only be approved by a majority of the county fiscal bodies for the counties in which the district is located:

~~(f)~~ **(d)** A district may not issue bonds to be repaid, directly or indirectly, with money or property tax revenue of the district until a majority of the members of each of the county fiscal bodies within a district passes a resolution approving the bond issue.

(e) Subject to subsection (f), a board may approve the district's proposed property tax levy and proposed budget under this section only after public notice in accordance with IC 5-3-1 and a public hearing before the board at which:

- (1) all persons using facilities, owning property, or generating solid waste within the district who are benefited by solid waste management; and**
- (2) other interested persons;**

have an opportunity to be heard concerning the proposed property taxes.

(f) A board that proposes to impose:

- (1) property taxes under this section; and**
- (2) solid waste management fees under IC 13-21-14-1;**

for a calendar year shall consolidate the public hearing required by subsection (e) with the public hearing required by IC 13-21-14-5."

Delete page 2.

Page 3, delete lines 1 through 26.

Page 4, line 16, delete "IC 13-21-3-16(b) and IC 13-21-3-16(h)." and insert "**IC 13-21-3-16.**"

Page 4, line 23, delete "IC 13-21-3-16(b) and IC 13-21-3-16(h)."

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and insert "**IC 13-21-3-16.**".

Page 4, line 31, delete "IC 13-21-3-16(b) and IC 13-21-3-16(h)." and insert "**IC 13-21-3-16.**".

Page 6, line 1, after "must" insert ",".

Page 6, line 2, delete "immediately preceding".

Page 6, line 2, after "year" insert "**immediately preceding the first year in which the fee will first be imposed,**".

Page 6, delete lines 5 through 7.

Page 6, line 8, delete "(d)" and insert "(c)".

Page 6, line 36, after "to" insert ":".

Page 6, line 36, delete "impose:".

Page 6, line 37, after "(1)" insert "**establish**".

Page 6, line 38, after "(2)" insert "**impose**".

Page 6, line 41, delete "IC 13-21-3-16(h)." and insert "**IC 13-21-3-16(e).**".

Renumber all SECTIONS consecutively.

(Reference is to SB 208 as printed January 29, 2010.)

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