



April 15, 2011

**ENGROSSED
HOUSE BILL No. 1288**

DIGEST OF HB 1288 (Updated April 12, 2011 1:22 pm - DI 58)

Citations Affected: IC 6-1.1; IC 20-46; noncode.

Synopsis: Property taxes. Provides that a civil taxing unit's maximum permissible property tax levy may not be reduced if the unit does not use its entire maximum levy authority in the preceding year. Provides that a school corporation's maximum permissible transportation levy may not be reduced if the school corporation does not use its entire maximum levy authority in the preceding year. Permits Christamore House Inc. and any similarly situated nonprofit property owner to file a late property tax exemption application for a parcel of property that: (1) had a property tax exemption in 2006 and 2007 and has a property tax exemption in 2010 but did not have a property tax exemption in 2008 and 2009; and (2) is adjacent to a parcel of the owner's property that had a property tax exemption in 2008 and 2009. Permits a taxpayer having real property located in Decatur Township that failed to file a timely real property tax exemption for the 2008 and 2009 assessment dates to refile for the exemption and receive the exemption if the taxpayer had previously received an exemption and demonstrates that the real property otherwise qualified for the exemption.

Effective: January 1, 2008 (retroactive); upon passage; July 1, 2011.

**Smith M, Stemler, Karickhoff,
Cheatham, Dermody, Moseley**

(SENATE SPONSORS — CHARBONNEAU, WALKER, BREAUX,
RANDOLPH)

January 12, 2011, read first time and referred to Committee on Ways and Means.
February 17, 2011, amended, reported — Do Pass.
February 21, 2011, read second time, ordered engrossed. Engrossed.
March 28, 2011, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

March 29, 2011, read first time and referred to Committee on Tax and Fiscal Policy.
April 14, 2011, amended, reported favorably — Do Pass.

**C
o
p
y**

EH 1288—LS 6975/DI 58+



April 15, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C
o
p
y

ENGROSSED HOUSE BILL No. 1288

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 6-1.1-18.5-1, AS AMENDED BY P.L.113-2010,
 2 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2011]: Sec. 1. As used in this chapter:
 4 "Ad valorem property tax levy for an ensuing calendar year" means
 5 the total property taxes imposed by a civil taxing unit for current
 6 property taxes collectible in that ensuing calendar year.
 7 "Adopting county" means any county in which the county adjusted
 8 gross income tax is in effect.
 9 "Civil taxing unit" means any taxing unit except a school
 10 corporation.
 11 "Maximum permissible ad valorem property tax levy for the
 12 preceding calendar year" means, the greater of:
 13 (†) the remainder of:
 14 (A) for purposes of determining a maximum permissible
 15 ad valorem property tax levy under section 3 of this
 16 chapter for property taxes imposed for the March 1, 2010,
 17 and January 15, 2011, assessment dates, the maximum

EH 1288—LS 6975/DI 58+



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

permissible ad valorem property tax levy for the preceding calendar year as determined under this section as effective on January 1, 2011. For purposes of determining a maximum permissible ad valorem property tax levy under section 3 of this chapter for property taxes imposed for an assessment date after January 15, 2011, the term means the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter minus

(B) one-half (1/2) of the remainder of:

(i) the civil taxing unit's maximum permissible ad valorem property tax levy referred to in clause (A); minus

(ii) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year referred to in subdivision (2); or

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year; as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year; as determined by the department of local government finance.

However, for the determination of the maximum permissible property tax levy for property taxes first due and payable after December 31, 2010, upon request by a civil taxing unit, the department of local government finance may make an adjustment to the civil taxing unit's maximum permissible ad valorem property tax levy for the ensuing calendar year if the civil taxing unit's actual levy was lower than the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year because of the civil taxing unit's use of cash balances. **(regardless of whether the taxing unit imposed the entire amount of the maximum permissible ad valorem property tax levy in the immediately preceding year).**

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

this chapter.

SECTION 2. IC 20-46-4-6, AS AMENDED BY P.L.234-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. **(a) The levy imposed for an assessment date before January 16, 2011, may not exceed the maximum permissible levy permitted under this section as this section was effective on January 1, 2011.**

(b) The levy imposed for an assessment date after January 15, 2011, may not exceed the amount determined by multiplying:

- (1) the school corporation's **maximum permissible** levy for the fund for the previous year under ~~IC 21-2-11.5~~ (before its repeal) or this chapter, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget; ~~levy; and rate for that preceding calendar year under IC 6-1.1-17~~ and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year **(regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in the immediately preceding year)**; by
- (2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a parcel of real property and any personal property used in connection with the parcel that:**

- (1) is owned, on the date an application is filed under this SECTION, by a domestic nonprofit corporation;**
- (2) was granted a property tax exemption under IC 6-1.1-10-16 for the:**
 - (A) March 1, 2006;**
 - (B) March 1, 2007; and**
 - (C) March 1, 2010;****assessment dates but as a result of the failure to file a timely property tax exemption application under IC 6-1.1-11, has failed to receive a property tax exemption under IC 6-1.1-10-16 for the March 1, 2008, and March 1, 2009, assessment dates; and**
- (3) is adjacent to another parcel of real property that was:**
 - (A) owned, on the date an application is filed under this SECTION, by the same domestic nonprofit corporation; and**
 - (B) granted a property tax exemption under IC 6-1.1-10-16 for the March 1, 2008, and March 1, 2009, assessment**

C
o
p
y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

dates.

(b) Notwithstanding IC 6-1.1-11 or any other law, an entity described in subsection (a) may, before September 1, 2011, file or refile with the county assessor an application for a property tax exemption under IC 6-1.1-10-16 for the March 1, 2008, and March 1, 2009, assessment dates.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (b) is considered to be timely filed for the assessment date for which it is filed, and the county assessor shall forward the application to the county property tax assessment board of appeals for review or reconsideration. The board shall grant an exemption claimed under this SECTION for the assessment date covered by the application if, after reviewing all the information submitted by the applicant, the board determines that:

- (1) the entity's application for a property tax exemption satisfies the requirements of this SECTION; and
- (2) except for the omissions described in subsection (a), part or all of the entity's property would otherwise have qualified for an exemption under IC 6-1.1-10-16 for the assessment date covered by the application.

IC 6-1.1-11-7 and IC 6-1.1-15-3 apply to a determination under this SECTION.

(d) Notwithstanding IC 6-1.1-22-9 or any other law, if an exemption application is filed or refiled under this SECTION, any unpaid taxes imposed on property for a year covered by an exemption application are not due until thirty (30) days after the date the applicant's eligibility for the exemption under this SECTION is finally adjudicated and determined and a revised tax statement under IC 6-1.1-22-8.1 that reflects the final determination concerning the exemption application is delivered to the owner. After the effective date of this SECTION until at least after September 1, 2011, and during the pendency of the proceedings concerning an exemption application under this SECTION, action under IC 6-1.1-24 or another law may not be taken to collect the unpaid taxes for a year covered by the exemption application, including any action to sell the property at a tax sale. If an entity is granted an exemption or a partial exemption under this SECTION, any unpaid property tax liability, including interest, for the entity's property shall be canceled by the county auditor and the county treasurer to the extent of the exemption, and, notwithstanding IC 6-1.1-26-1, if the entity has

C
O
P
Y



1 previously paid the tax liability for property with respect to the
 2 assessment date covered by the application, the county auditor
 3 shall issue a refund of the property tax paid by the entity to the
 4 extent of the exemption. No interest or penalty may be imposed on
 5 any tax liability remaining after the application of the exemption
 6 for any period before the taxes are due as provided in this
 7 subsection. An entity is not required to apply for any refund due
 8 under this SECTION. The county auditor shall, without an
 9 appropriation being required, issue a warrant to the entity payable
 10 from the county general fund for the amount of the refund, if any,
 11 due the entity. No interest is payable on the refund.

12 (e) This SECTION expires January 1, 2013.

13 SECTION 4. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]

14 (a) This SECTION applies to a taxpayer notwithstanding
 15 IC 6-1.1-11 or any other law or administrative rule or provision.

16 (b) This SECTION applies to an assessment date (as defined in
 17 IC 6-1.1-1-2) occurring in 2008 or 2009.

18 (c) As used in this SECTION, "taxpayer" refers to an entity that
 19 qualifies for a real property tax exemption under a statute listed in
 20 IC 6-1.1-10-38.

21 (d) A taxpayer, before July 1, 2011, may file or refile in person
 22 or in any other manner consistent with IC 6-1.1-36-1.5 a Form 136
 23 property tax exemption application, along with any supporting
 24 documents, schedules, or attachments, claiming an exemption from
 25 real property taxes under a statute listed in IC 6-1.1-10-38 for:

- 26 (1) an assessment date described in subsection (b); and
- 27 (2) real property located in Decatur Township, Marion
 28 County.

29 (e) A property tax exemption application filed or refiled under
 30 subsection (d):

- 31 (1) is, subject to this SECTION, allowed; and
- 32 (2) is considered to have been timely filed.

33 (f) If the taxpayer demonstrates in the application or by other
 34 means that the real property that is subject to the exemption
 35 application would have qualified for an exemption under a statute
 36 listed in IC 6-1.1-10-38 if the application had been filed under
 37 IC 6-1.1-11 in a timely manner, the taxpayer:

- 38 (1) is entitled to the exemption from real property taxes as
 39 claimed on the property tax exemption application filed or
 40 refiled by the taxpayer under subsection (d); and
- 41 (2) shall pay no property taxes, penalties, or interest with
 42 respect to the exempt property.

C
O
P
Y



1 **(g) For real property to be exempt under this SECTION, the**
2 **taxpayer must have received for an assessment date preceding or**
3 **following any assessment date described in subsection (b) an**
4 **exemption or partial exemption from real property taxes for real**
5 **property identified by the same parcel or key numbers or the same**
6 **parcel and key numbers included on the property tax exemption**
7 **applications filed or refiled by the taxpayer under subsection (d).**

8 **(h) This SECTION expires July 1, 2011.**
9 **SECTION 5. An emergency is declared for this act.**

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1288, 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:

Page 3, after line 1, begin a new paragraph and insert:

"SECTION 2. IC 20-46-4-6, AS AMENDED BY P.L.234-2007, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. **(a) The levy imposed for an assessment date before January 16, 2011, may not exceed the maximum permissible levy permitted under this section as this section was effective on January 1, 2011.**

(b) The levy imposed for an assessment date after January 15, 2011, may not exceed the amount determined by multiplying:

(1) the school corporation's **maximum permissible** levy for the fund for the previous year under ~~IC 21-2-11.5 (before its repeal)~~ or this chapter, ~~as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17~~ and after eliminating the effects of temporary excessive levy appeals and any other temporary adjustments made to the levy for the calendar year **(regardless of whether the school corporation imposed the entire amount of the maximum permissible levy in the immediately preceding year)**; by

(2) the assessed value growth quotient determined under IC 6-1.1-18.5-2.

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a parcel of real property and any personal property used in connection with the parcel that:**

(1) is owned, on the date an application is filed under this SECTION, by a domestic nonprofit corporation;

(2) was granted a property tax exemption under IC 6-1.1-10-16 for the:

(A) March 1, 2006;

(B) March 1, 2007; and

(C) March 1, 2010;

assessment dates but as a result of the failure to file a timely property tax exemption application under IC 6-1.1-11, has failed to receive a property tax exemption under IC 6-1.1-10-16 for the March 1, 2008, and March 1, 2009, assessment dates; and

(3) is adjacent to another parcel of real property that was:

C
O
P
Y



(A) owned, on the date an application is filed under this SECTION, by the same domestic nonprofit corporation; and

(B) granted a property tax exemption under IC 6-1.1-10-16 for the March 1, 2008, and March 1, 2009, assessment dates.

(b) Notwithstanding IC 6-1.1-11 or any other law, an entity described in subsection (a) may, before September 1, 2011, file or refile with the county assessor an application for a property tax exemption under IC 6-1.1-10-16 for the March 1, 2008, and March 1, 2009, assessment dates.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (b) is considered to be timely filed for the assessment date for which it is filed, and the county assessor shall forward the application to the county property tax assessment board of appeals for review or reconsideration. The board shall grant an exemption claimed under this SECTION for the assessment date covered by the application if, after reviewing all the information submitted by the applicant, the board determines that:

- (1) the entity's application for a property tax exemption satisfies the requirements of this SECTION; and
- (2) except for the omissions described in subsection (a), part or all of the entity's property would otherwise have qualified for an exemption under IC 6-1.1-10-16 for the assessment date covered by the application.

IC 6-1.1-11-7 and IC 6-1.1-15-3 apply to a determination under this SECTION.

(d) Notwithstanding IC 6-1.1-22-9 or any other law, if an exemption application is filed or refiled under this SECTION, any unpaid taxes imposed on property for a year covered by an exemption application are not due until thirty (30) days after the date the applicant's eligibility for the exemption under this SECTION is finally adjudicated and determined and a revised tax statement under IC 6-1.1-22-8.1 that reflects the final determination concerning the exemption application is delivered to the owner. After the effective date of this SECTION until at least after September 1, 2011, and during the pendency of the proceedings concerning an exemption application under this SECTION, action under IC 6-1.1-24 or another law may not be taken to collect the unpaid taxes for a year covered by the exemption application, including any action to sell the property at

C
O
P
Y



a tax sale. If an entity is granted an exemption or a partial exemption under this SECTION, any unpaid property tax liability, including interest, for the entity's property shall be canceled by the county auditor and the county treasurer to the extent of the exemption, and, notwithstanding IC 6-1.1-26-1, if the entity has previously paid the tax liability for property with respect to the assessment date covered by the application, the county auditor shall issue a refund of the property tax paid by the entity to the extent of the exemption. No interest or penalty may be imposed on any tax liability remaining after the application of the exemption for any period before the taxes are due as provided in this subsection. An entity is not required to apply for any refund due under this SECTION. The county auditor shall, without an appropriation being required, issue a warrant to the entity payable from the county general fund for the amount of the refund, if any, due the entity. No interest is payable on the refund.

(e) This SECTION expires January 1, 2013.

SECTION 4. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1288 as introduced.)

ESPICH, Chair

Committee Vote: yeas 20, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1288, 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 5, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] (a) This SECTION applies to a taxpayer notwithstanding IC 6-1.1-11 or any other law or administrative rule or provision.

(b) This SECTION applies to an assessment date (as defined in IC 6-1.1-1-2) occurring in 2008 or 2009.

(c) As used in this SECTION, "taxpayer" refers to an entity that qualifies for a real property tax exemption under a statute listed in

EH 1288—LS 6975/DI 58+

C
O
P
Y



IC 6-1.1-10-38.

(d) A taxpayer, before July 1, 2011, may file or refile in person or in any other manner consistent with IC 6-1.1-36-1.5 a Form 136 property tax exemption application, along with any supporting documents, schedules, or attachments, claiming an exemption from real property taxes under a statute listed in IC 6-1.1-10-38 for:

- (1) an assessment date described in subsection (b); and
- (2) real property located in Decatur Township, Marion County.

(e) A property tax exemption application filed or refiled under subsection (d):

- (1) is, subject to this SECTION, allowed; and
- (2) is considered to have been timely filed.

(f) If the taxpayer demonstrates in the application or by other means that the real property that is subject to the exemption application would have qualified for an exemption under a statute listed in IC 6-1.1-10-38 if the application had been filed under IC 6-1.1-11 in a timely manner, the taxpayer:

- (1) is entitled to the exemption from real property taxes as claimed on the property tax exemption application filed or refiled by the taxpayer under subsection (d); and
- (2) shall pay no property taxes, penalties, or interest with respect to the exempt property.

(g) For real property to be exempt under this SECTION, the taxpayer must have received for an assessment date preceding or following any assessment date described in subsection (b) an exemption or partial exemption from real property taxes for real property identified by the same parcel or key numbers or the same parcel and key numbers included on the property tax exemption applications filed or refiled by the taxpayer under subsection (d).

(h) This SECTION expires July 1, 2011."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1288 as printed February 18, 2011)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

**C
O
P
Y**

