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FISCAL IMPACT STATEMENT

LS 7551 | **NOTE PREPARED:** Feb 17, 2011
BILL NUMBER: HB 1484 | **BILL AMENDED:** Feb 17, 2011

SUBJECT: Property taxes.

FIRST AUTHOR: Rep. Espich | **BILL STATUS:** CR Adopted - 1st House
FIRST SPONSOR:

FUNDS AFFECTED: **GENERAL** **DEDICATED** **FEDERAL** | **IMPACT:** State & Local

Summary of Legislation: (Amended) *Annual Reports:* This bill prohibits the Department of Local Government Finance (DLGF) from approving a budget until a taxing unit files a financial report with the State Board of Accounts (SBOA) for the immediately preceding year.

Property Tax Credit Appeals: The bill establishes a procedure for a taxpayer to appeal an error in a circuit breaker or other property tax credit.

Maximum Permissible Levies and Rates: This bill changes the methodology for: (1) calculating a civil taxing unit's maximum permissible ad valorem property tax levy for the ensuing calendar year; and (2) adjusting a maximum permissible property tax rate after a reassessment that does not result in an increase in the assessed value of a taxing unit. It also repeals certain provisions concerning civil government property tax controls.

The bill imposes a maximum levy limit on levies imposed for a school bus replacement fund. It also specifies that a tax imposed for a fire protection territory is subject to the levy limitations imposed on the participating taxing units.

Tax Statements: The bill allows a treasurer to include a statement of delinquent taxes and special assessments, interest, and penalties on a provisional statement or reconciling statement.

Tax Distribution For Funds Exempt From Circuit Breaker: This bill specifies that the full amount of property taxes imposed after being approved in a referendum shall be deposited in the fund for which the property taxes were imposed without reduction for the circuit breaker credits granted to taxpayers. The bill

provides that if the debt service fund has a deficiency as the result of the application of circuit breaker credits, the amount of the deficit must be appropriated and paid from another fund.

LOIT: This bill requires certain surplus local option income tax (LOIT) revenue to be used as property tax replacement credits.

Referendum Taxes: The bill requires a proposed school referendum levy to specify whether the levy is to be used for the general purposes of the school or to replace revenue lost because of the application of circuit breaker credits. It also requires the DLGF to approve the language to be placed on the ballot for a referendum concerning a capital project of a political subdivision or a referendum for an additional school operating levy, and limits the extent to which explanatory information may be added to the public question.

Other Provisions: The bill corrects a reference to the date of the 2015 general reassessment. It also corrects a reference to the deadline for adopting a school bus replacement fund plan or a capital projects fund plan.

Effective Date: Upon passage; January 1, 2010 (retroactive); January 1, 2011 (retroactive); July 1, 2011;. October 1, 2011; January 1, 2012.

Explanation of State Expenditures: *Property Tax Credit Appeals:* Under this provision, the Indiana Board of Tax Review (IBTR) would be required to hear appeals regarding property tax credits. The IBTR's caseload could increase under this provision.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) *Annual Reports:* Under current law, each local governmental entity must file an annual financial report with the SBOA within 60 days after the close of the entity's fiscal year. These entities must also annually file a compensation report with the SBOA.

Under this provision, the DLGF would be prohibited from approving any local budget appropriation for a governmental entity until that entity files an annual fiscal report for the preceding year. Additionally, appropriations would not be approved for counties, cities, towns, and townships until a compensation report is filed. Without an appropriation, the entity could not spend any money. This provision would encourage more timely reporting from some governmental entities.

LOIT: Under current law, counties may adopt a property tax relief LOIT at a rate up to 1%. Revenue generated from a property tax relief LOIT must be used to provide homestead credits, property tax replacement credits for residential property owners, property tax replacement credits for all taxpayers, or any combination of the three. Under this bill, if any excess property tax relief LOIT revenue remains after the payment of all credits in the year, the excess amount must be placed in a dedicated account and must be used to provide credits in subsequent years.

Controlled Projects: Under current law, a capital project is considered a controlled project if it will cost the taxing unit more than the lesser of (1) $2 M or (2) an amount equal to 1% of the unit's total gross AV (if that amount is at least $1 M). A controlled project for a school building for kindergarten through Grade 8 is subject to a referendum if the cost is more than $10 M. A controlled project for a school building for Grade 9 through Grade 12 is subject to a referendum if the cost is more than $20 M. Other controlled projects with a cost that exceeds the lesser of (1) $12 M or (2) 1% of AV (if that amount is at least $1 M) are also subject to a referendum. Controlled projects that are not subject to a referendum are subject to the petition and

remonstrance process.

For those controlled projects that may be subject to the petition and remonstrance process, this bill would prohibit a taxing units from artificially dividing the project into multiple projects to avoid the process.

Currently, taxing unit facilities may be used to promote a position on a petition/remonstrance or referendum as long as persons on both sides of the issue have equal access. This bill would prohibit any use of a taxing unit's facilities to promote a position.

Explanation of Local Revenues: *Property Tax Credit Appeals:* Under current law, a taxpayer may file a petition to correct errors claiming that the taxes are illegal, or that there was a mathematical error in the assessment or that he taxpayer was not given credit for an exemption or deduction through a tax official's error. In addition, this bill would permit error correction of a circuit breaker credit or any other type of credit that is incorrect because of a tax official's error. Any correction of a credit under this bill would require approval from at least two of the following officials: The township assessor, county assessor, and county auditor. Taxpayers would be permitted to appeal any determination concerning property tax credits made by an assessing official or PTABOA to the IBTR.

Maximum Permissible Levies - Calculation Methodology: For civil taxing units that are not located in a CAGIT adopting county, the unit's maximum levy for a year under current law is equal to the previous year's levy, plus one-half of the previous year's unused levy authority, all multiplied by the assessed value growth quotient (AVGQ). The AVGQ is equal to the six-year average increase in Indiana nonfarm personal income. There is also an adjustment of up to 15% for taxing units that have annexed new area into the unit. Taxing units whose AV is growing at rate that is at least 2 percentage points above the statewide AV growth percentage may appeal for an increase in the calculated maximum levy.

The formula for civil taxing units that are located in a CAGIT adopting county begins with formula above but contains adjustments related to the portion of CAGIT revenue that is designated for property tax replacement.

Current law requires that the revenue from a 0.25% tax rate be used in a CAGIT county as local property tax replacement credits (LPTRC) distributed to all civil taxing units and school corporations in the county. This bill does not change this requirement. The remaining CAGIT revenue after LPTRC distributions is distributed to the civil taxing units in the county as certified shares. Current law also requires that a portion of certified shares must be used to reduce the maximum levy. The portion of certified shares required to be used to reduce the maximum levy is based on the adopted CAGIT rate, the amount of certified shares used for levy replacement the county's base year, the shares used in the previous year, and the amount received by the unit from federal revenue sharing in 1985.

This bill removes the requirement that part of certified shares must be used to reduce the maximum levy and all of the related calculations. For current CAGIT counties, the maximum levy limits under the bill would be based on prior maximum levies that already reflect the use of the certified shares to reduce the maximum levy and as a result would continue supplementing the levy with part of their certified shares. In the future, however, new CAGIT counties, if any, would not have this restriction on the use of certified shares. New CAGIT counties would still be bound by the requirement to use revenue from a 0.25% tax rate as LPTRC. Counties that increase their CAGIT rate would not have restrictions on the use of the added certified shares.

There are 56 counties that have adopted CAGIT and 8 counties that do not currently impose CAGIT or COIT.

The 8 nonadopting counties may adopt CAGIT at any time under current law. Fifty counties currently impose CAGIT at the 1% maximum rate, 4 counties impose a 0.75% rate, and 2 counties impose the tax at 0.50%. These rates are for legacy CAGIT and do not include additional authorized rates such as for jail operations.

The DLGF interprets current law and this bill as to include LPTRC in the calculation of maximum levies. So any rise or fall in LPTRC amounts that result from changes in CAGIT revenue would be reflected in the maximum levy just as they are currently. The rise or fall of certified shares used as levy replacement under current law has only a small effect on the maximum levy. The removal of certified shares from the maximum levy calculation would have a minimal impact. Overall the calculation change would have little impact on CAGIT counties and no impact on non-CAGIT counties.

Maximum Permissible Levies and Rates - Rate Controlled Funds: Under current law, the maximum tax rate for a rate-controlled fund, such as a cumulative fund, is adjusted each year to negate the effects of assessed value (AV) increases due to general reassessments or annual adjustments. When AV increases for these reasons, the rate is reduced so that the rate will produce the same tax amount on the same property. Beginning with taxes payable in CY 2012, this bill would increase the rate if the AV is *reduced* due to general reassessments or annual adjustments. Currently, AV reductions cause a loss in tax revenue from the rate-controlled funds. Under this bill, the revenue would remain level.

Maximum Permissible Levies and Rates - School Bus Replacement: Under current law, the School Bus Replacement Fund is a levy-controlled fund. The levy limit depends on the estimated cost to replace the school's bus fleet over a 12-year period. Under this bill, the DLGF would set the maximum levy for taxes payable in CY 2012. The maximum levy for each year thereafter, beginning with taxes payable in CY 2013, would equal the previous year's levy times the AVGQ.

In CY 2010, the school bus replacement levy totaled $101.1 M. From CY 2005 to CY 2010, the average annual increase in the levy was 6.7%. Current estimates for the AVGQ are 2.8% for taxes payable in CY 2013 and 2.4% in CY 2014. The growth in school bus replacement levies could be curtailed under this provision.

Tax Statements: Under current law, the amount billed under a provisional tax statement equals 50% of the previous year's taxes, subject to adjustments for new construction, damage to the property, and changes in credits, deductions, or local option income taxes. A reconciling tax statement also must indicate that liability for delinquent taxes and special assessments may appear on a provisional tax statement for the first installment.

Under this provision, the adjustments to both provisional tax bills and reconciling tax bills may also include current year special assessments and may exclude special assessments due in the previous year, but not due in the current year. Both the provisional and reconciling bills could include delinquent taxes and special assessments, penalties, and interest.

Tax Distribution For Funds Exempt From Circuit Breaker: Under current law, property tax levies imposed (1) as a result of a referendum, and (2) to service pre-2009 debt in Lake and St. Joseph counties, is not currently considered when calculating a taxpayer's circuit breaker credit. When property tax collections are distributed to a taxing unit's funds, current law states that any reduction in collections must be applied to funds other than debt service and lease rentals.

Beginning in CY 2010 under this bill, the full amount of referendum levy and other exempt levy collections would be deposited into the proper fund, without regard to circuit breaker losses. Circuit breaker losses would be apportioned only among the non-exempt funds. So, circuit breaker losses would affect existing debt funds in counties other than Lake and St. Joseph Counties but would not affect referendum funds or pre-2009 debt funds in Lake and St. Joseph counties. In addition, this provision would direct taxing units to make appropriations from other funds to pay debt service obligations if the available amount in the debt service fund is insufficient because of circuit breaker losses.

Also under this provision, revenue received by a school corporation and deposited into its referendum levy tax fund would be allocated to the school's other funds if the voters approved the additional levy to replace revenue lost to the circuit breaker caps.

Referendum Taxes - Capital Project Ballot Question: The basic form of the question currently exists in state statute, The taxing unit must add the unit's name, estimated project cost, estimated tax rate increase, and project description to the question. Currently, the ballot question must be reviewed by the DLGF to evaluate whether the question is biased. Additionally, under this provision, the DLGF would evaluate the question to determine if it includes an accurate description of the proposed levy and purpose and to ensure that the question does not include any additional explanatory text. If approved by the DLGF, the county election board would place the approved language on the ballot.

Referendum Taxes - School Operating Levy Ballot Question: The basic form of the question currently exists in state statute, The school corporation must add the maximum rate increase and the duration of the rate to the question. Currently, the ballot question is not reviewed by the DLGF.

Under this provision, if the purpose of the levy is to carry out the school's public education duty then a statement would be added to the current form of the question indicating so. If, however, the levy is to be used to replace circuit breaker losses, then the form of the question would change. Instead of stating a maximum tax rate, the question would specify that the levy is to replace of a specific percentage of the circuit breaker loss.

In addition, the DLGF would evaluate the question to determine if it includes an accurate description of the proposed levy and purpose and to ensure that the question does not include any additional explanatory text. If approved by the DLGF, the county election board would place the approved language on the ballot. In each year after a circuit breaker replacement levy is authorized, the DLGF would certify the necessary tax rate.

State Agencies Affected: Department of Local Government Finance; Indiana Board of Tax Review; State Board of Accounts.

Local Agencies Affected: All local civil taxing units and school corporations; County property tax assessment boards of appeal; County treasurers.

Information Sources: Sarah Ancel, Deputy Commissioner, Department of Local Government Finance; Local Government Database.

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