

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 155 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

1 Page 4, between lines 19 and 20, begin a new paragraph and insert:
2 "SECTION 2. IC 6-8.1-8-3, AS AMENDED BY P.L.40-2008,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 3. (a) The county sheriff of a county shall attempt
5 to levy on and collect a judgment arising from a tax warrant in that
6 county for a period of one hundred twenty (120) days from the date the
7 judgment lien is entered, unless the sheriff is relieved of that duty at an
8 earlier time by the department. **The sheriff shall also have authority**
9 **to attempt to levy on and collect the outstanding tax liability if the**
10 **taxpayer does not pay the amount demanded under section 2(b) of**
11 **this chapter and the taxpayer has taken an action under section**
12 **2(n) of this chapter to foreclose the lien.** The sheriff's authority to
13 collect the warrant exists only while the sheriff holds the tax warrant,
14 and if the sheriff surrenders the warrant to the department for any
15 reason the sheriff's authority to collect that tax warrant ceases. During
16 the period that the sheriff has the duty to collect a tax warrant, the
17 sheriff shall collect from the person owing the tax, an amount equal to
18 the amount of the judgment lien plus the accrued interest to the date of
19 the payment. Subject to subsection (b), the sheriff shall make the
20 collection by garnisheeing the person's wages and by levying on and
21 selling any interest in property or rights in any chose in action that the
22 person has in the county. The Indiana laws which provide relief for
23 debtors by exempting certain property from levy by creditors do not

1 apply to levy and sale proceedings for judgments arising from tax
2 warrants.

3 (b) A sheriff shall sell property to satisfy a tax warrant in a manner
4 that is reasonably likely to bring the highest net proceeds from the sale
5 after deducting the expenses of the offer to sell and sale. A sheriff may
6 engage an auctioneer to advertise a sale and to conduct a public
7 auction, unless the person being levied files an objection with the clerk
8 of the circuit or superior court having the tax warrant within five (5)
9 days of the day that the sheriff informs the person of the person's right
10 to object. The advertising conducted by the auctioneer is in addition to
11 any other notice required by law, and shall include a detailed
12 description of the property to be sold. When an auctioneer is engaged
13 under this subsection and the auctioneer files a verified claim with the
14 clerk of the circuit or superior court with whom the tax warrant is filed,
15 the sheriff may pay the reasonable fee and reasonable expenses of the
16 auctioneer from the gross proceeds of the sale before other expenses
17 and the judgment arising from the tax warrant are paid. As used in this
18 section, "auctioneer" means an auctioneer licensed under IC 25-6.1.

19 (c) The sheriff shall deposit all amounts that the sheriff collects
20 under this section, including partial payments, into a special trust
21 account for judgments collected that arose from tax warrants. On or
22 before the fifth day of each month, the sheriff shall disburse the money
23 in the tax warrant judgment lien trust account in the following order:

24 (1) The sheriff shall pay the department the part of the collections
25 that represents taxes, interest, and penalties.

26 (2) The sheriff shall pay the county treasurer and the clerk of the
27 circuit or superior court the part of the collections that represents
28 their assessed costs.

29 (3) Except as provided in subdivisions (4) and (5), the sheriff
30 shall keep the part of the collections that represents the ten
31 percent (10%) collection fee added under section 2(b) of this
32 chapter.

33 (4) If the sheriff has entered a salary contract under
34 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
35 the part of the collections that represents the ten percent (10%)
36 collection fee added under section 2(b) of this chapter.

37 (5) If the sheriff has not entered into a salary contract under
38 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
39 the part of the collections that:

40 (A) represents the ten percent (10%) collection fee added
41 under section 2(b) of this chapter; and

42 (B) would, if kept by the sheriff, result in the total amount of
43 the sheriff's annual compensation exceeding the maximum
44 amount allowed under IC 36-2-13-17.

45 The department shall establish the procedure for the disbursement of
46 partial payments so that the intent of this section is carried out.

1 (d) After the period described in subsection (a) has passed, the
2 sheriff shall return the tax warrant to the department. However, if the
3 department determines that:

- 4 (1) at the end of this period the sheriff is in the process of
5 collecting the judgment arising from a tax warrant in periodic
6 payments of sufficient size that the judgment will be fully paid
7 within one (1) year after the date the judgment was filed; and
8 (2) the sheriff's electronic data base regarding tax warrants is
9 compatible with the department's data base;

10 the sheriff may keep the tax warrant and continue collections.

11 (e) Notwithstanding any other provision of this chapter, the
12 department may order a sheriff to return a tax warrant at any time, if the
13 department feels that action is necessary to protect the interests of the
14 state.

15 (f) This subsection applies only to the sheriff of a county having a
16 consolidated city or a second class city. In such a county, the ten
17 percent (10%) collection fee added under section 2(b) of this chapter
18 shall be divided as follows:

- 19 (1) Subject to subsection (g), the sheriff may retain forty thousand
20 dollars (\$40,000), plus one-fifth (1/5) of any fees exceeding that
21 forty thousand dollar (\$40,000) amount.
22 (2) Two-fifths (2/5) of any fees exceeding that forty thousand
23 dollar (\$40,000) amount shall be deposited in the sheriff's
24 department's pension trust fund.
25 (3) Two-fifths (2/5) of any fees exceeding that forty thousand
26 dollar (\$40,000) amount shall be deposited in the county general
27 fund.

28 (g) If an amount of the collection fee added under section 2(b) of
29 this chapter would, if retained by the sheriff under subsection (f)(1),
30 cause the total amount of the sheriff's annual compensation to exceed
31 the maximum amount allowed under IC 36-2-13-17, the sheriff shall
32 instead deposit the amount in the county general fund.

33 (h) Money deposited into a county general fund under subsections
34 (c)(5) and (g) must be used as follows:

- 35 (1) To reduce any unfunded liability of a sheriff's pension trust

- 1 plan established for the county's sheriff's department.
- 2 (2) Any amounts remaining after complying with subdivision (1)
- 3 must be applied to the costs incurred to operate the county's
- 4 sheriff's department."
- 5 Renumber all SECTIONS consecutively.
(Reference is to ESB 155 as printed April 11, 2011.)

Representative Foley

| Adopted

Rejected |

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 155, begs leave to report that said bill has been amended as directed.

Representative Foley