



February 8, 2011

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## HOUSE BILL No. 1287

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DIGEST OF HB 1287 (Updated February 3, 2011 10:46 am - DI 75)

**Citations Affected:** IC 6-3.5.

**Synopsis:** Local option tax distributions. Provides for a distribution of the local income tax rate imposed for public safety to townships and fire protection districts.

**Effective:** January 1, 2012.

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**Smith M**

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January 12, 2011, read first time and referred to Committee on Local Government.  
February 7, 2011, amended, reported — Do Pass. Recommended to Committee on Ways and Means pursuant to Rule 127.

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HB 1287—LS 7278/DI 51+



February 8, 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.

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## HOUSE BILL No. 1287

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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 6-3.5-1.1-25, AS AMENDED BY P.L.146-2008,  
2 SECTION 332, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2012]: Sec. 25. (a) As used in this section,  
4 "public safety" refers to the following:  
5 (1) A police and law enforcement system to preserve public peace  
6 and order.  
7 (2) A firefighting and fire prevention system.  
8 (3) Emergency ambulance services (as defined in  
9 IC 16-18-2-107).  
10 (4) Emergency medical services (as defined in IC 16-18-2-110).  
11 (5) Emergency action (as defined in IC 13-11-2-65).  
12 (6) A probation department of a court.  
13 (7) Confinement, supervision, services under a community  
14 corrections program (as defined in IC 35-38-2.6-2), or other  
15 correctional services for a person who has been:  
16 (A) diverted before a final hearing or trial under an agreement  
17 that is between the county prosecuting attorney and the person

HB 1287—LS 7278/DI 51+



- 1 or the person's custodian, guardian, or parent and that provides
- 2 for confinement, supervision, community corrections services,
- 3 or other correctional services instead of a final action
- 4 described in clause (B) or (C);
- 5 (B) convicted of a crime; or
- 6 (C) adjudicated as a delinquent child or a child in need of
- 7 services.
- 8 (8) A juvenile detention facility under IC 31-31-8.
- 9 (9) A juvenile detention center under IC 31-31-9.
- 10 (10) A county jail.
- 11 (11) A communications system (as defined in IC 36-8-15-3) or an
- 12 enhanced emergency telephone system (as defined in
- 13 IC 36-8-16-2).
- 14 (12) Medical and health expenses for jail inmates and other
- 15 confined persons.
- 16 (13) Pension payments for any of the following:
- 17 (A) A member of the fire department (as defined in
- 18 IC 36-8-1-8) or any other employee of a fire department.
- 19 (B) A member of the police department (as defined in
- 20 IC 36-8-1-9), a police chief hired under a waiver under
- 21 IC 36-8-4-6.5, or any other employee hired by a police
- 22 department.
- 23 (C) A county sheriff or any other member of the office of the
- 24 county sheriff.
- 25 (D) Other personnel employed to provide a service described
- 26 in this section.
- 27 (b) If a county council has imposed a tax rate of at least twenty-five
- 28 hundredths of one percent (0.25%) under section 24 of this chapter, a
- 29 tax rate of at least twenty-five hundredths of one percent (0.25%) under
- 30 section 26 of this chapter, or a total combined tax rate of at least
- 31 twenty-five hundredths of one percent (0.25%) under sections 24 and
- 32 26 of this chapter, the county council may also adopt an ordinance to
- 33 impose an additional tax rate under this section to provide funding for
- 34 public safety.
- 35 (c) A tax rate under this section may not exceed twenty-five
- 36 hundredths of one percent (0.25%).
- 37 (d) If a county council adopts an ordinance to impose a tax rate
- 38 under this section, the county auditor shall send a certified copy of the
- 39 ordinance to the department and the department of local government
- 40 finance by certified mail.
- 41 (e) A tax rate under this section is in addition to any other tax rates
- 42 imposed under this chapter and does not affect the purposes for which

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other tax revenue under this chapter may be used.  
(f) Except as provided in subsection (k), the county auditor shall distribute the portion of the certified distribution that is attributable to a tax rate under this section to the county and to each **township that makes expenditures for a purpose described in subsection (a)(2), (a)(3), or (a)(4), each fire protection district, and each** municipality in the county. The amount that shall be distributed to ~~the county or a~~ municipality is equal to the result of:

- (1) the portion of the certified distribution that is attributable to a tax rate under this section; multiplied by
- (2) a fraction equal to:
  - (A) the attributed allocation amount (as defined in ~~IC 6-3.5-1.1-15~~) **section 15 of this chapter**) of the ~~county or~~ municipality for the calendar year; divided by
  - (B) the sum of the attributed allocation amounts of the county and each municipality in the county for the calendar year.

**The amount that shall be distributed to the county and each township and fire protection district in the county is equal to the amount determined under subdivision (1) minus the sum of the amounts distributed to all municipalities in the county as determined under subdivisions (1) and (2) multiplied by a fraction. Subject to this subsection, the numerator of the fraction is the attributed allocation amount (as defined in section 15 of this chapter) of the county, township, or fire protection district for the calendar year. Subject to this subsection, the denominator of the fraction is the sum of the attributed allocation amounts of the county and each township and fire protection district in the county for the calendar year. However, the amount attributable to a township in the numerator and denominator is limited to the amount collected and used for a purpose described in subsection (a)(2), (a)(3), or (a)(4), as determined by the county fiscal body. The county fiscal body shall certify the amount attributable to a township to the budget agency, the county auditor, and the township when the department of local government finance certifies the township's budget, rates, and levies for the year under IC 6-1.1-17-16. The county auditor shall make the distributions required by this subsection not more than thirty (30) days after receiving the portion of the certified distribution that is attributable to a tax rate under this section. Tax revenue distributed to a county, township, fire protection district, or municipality under this subsection must be deposited into a separate account or fund and may be appropriated by the county, **township, fire protection district, or****

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municipality only for public safety purposes.

(g) The department of local government finance may not require a county, **township, fire protection district**, or municipality receiving tax revenue under this section to reduce the county's, **township's, fire protection district's**, or municipality's property tax levy for a particular year on account of the county's, **township's, fire protection district's**, or municipality's receipt of the tax revenue.

(h) The tax rate under this section and the tax revenue attributable to the tax rate under this section shall not be considered for purposes of computing:

- (1) the maximum income tax rate that may be imposed in a county under section 2 of this chapter or any other provision of this chapter;
- (2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b);
- (3) the total county tax levy under IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of IC 6-1.1-21); or
- (4) the credit under IC 6-1.1-20.6.

(i) The tax rate under this section may be imposed or rescinded at the same time and in the same manner that the county may impose or increase a tax rate under section 24 of this chapter.

(j) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(k) Two (2) or more political subdivisions that are entitled to receive a distribution under this section may adopt resolutions providing that some part or all of those distributions shall instead be paid to one (1) political subdivision in the county to carry out specific public safety purposes specified in the resolutions.

SECTION 2. IC 6-3.5-6-31, AS AMENDED BY P.L.146-2008, SECTION 342, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 31. (a) As used in this section, "public safety" refers to the following:

- (1) A police and law enforcement system to preserve public peace and order.
- (2) A firefighting and fire prevention system.
- (3) Emergency ambulance services (as defined in IC 16-18-2-107).
- (4) Emergency medical services (as defined in IC 16-18-2-110).
- (5) Emergency action (as defined in IC 13-11-2-65).
- (6) A probation department of a court.

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- 1 (7) Confinement, supervision, services under a community
- 2 corrections program (as defined in IC 35-38-2.6-2), or other
- 3 correctional services for a person who has been:
- 4 (A) diverted before a final hearing or trial under an agreement
- 5 that is between the county prosecuting attorney and the person
- 6 or the person's custodian, guardian, or parent and that provides
- 7 for confinement, supervision, community corrections services,
- 8 or other correctional services instead of a final action
- 9 described in clause (B) or (C);
- 10 (B) convicted of a crime; or
- 11 (C) adjudicated as a delinquent child or a child in need of
- 12 services.
- 13 (8) A juvenile detention facility under IC 31-31-8.
- 14 (9) A juvenile detention center under IC 31-31-9.
- 15 (10) A county jail.
- 16 (11) A communications system (as defined in IC 36-8-15-3) or an
- 17 enhanced emergency telephone system (as defined in
- 18 IC 36-8-16-2).
- 19 (12) Medical and health expenses for jail inmates and other
- 20 confined persons.
- 21 (13) Pension payments for any of the following:
- 22 (A) A member of the fire department (as defined in
- 23 IC 36-8-1-8) or any other employee of a fire department.
- 24 (B) A member of the police department (as defined in
- 25 IC 36-8-1-9), a police chief hired under a waiver under
- 26 IC 36-8-4-6.5, or any other employee hired by a police
- 27 department.
- 28 (C) A county sheriff or any other member of the office of the
- 29 county sheriff.
- 30 (D) Other personnel employed to provide a service described
- 31 in this section.
- 32 (b) The county income tax council may adopt an ordinance to
- 33 impose an additional tax rate under this section to provide funding for
- 34 public safety if:
- 35 (1) the county income tax council has imposed a tax rate under
- 36 section 30 of this chapter, in the case of a county containing a
- 37 consolidated city; or
- 38 (2) the county income tax council has imposed a tax rate of at
- 39 least twenty-five hundredths of one percent (0.25%) under section
- 40 30 of this chapter, a tax rate of at least twenty-five hundredths of
- 41 one percent (0.25%) under section 32 of this chapter, or a total
- 42 combined tax rate of at least twenty-five hundredths of one

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1 percent (0.25%) under sections 30 and 32 of this chapter, in the  
2 case of a county other than a county containing a consolidated  
3 city.

4 (c) A tax rate under this section may not exceed the following:  
5 (1) Five-tenths of one percent (0.5%), in the case of a county  
6 containing a consolidated city.

7 (2) Twenty-five hundredths of one percent (0.25%), in the case of  
8 a county other than a county containing a consolidated city.

9 (d) If a county income tax council adopts an ordinance to impose a  
10 tax rate under this section, the county auditor shall send a certified  
11 copy of the ordinance to the department and the department of local  
12 government finance by certified mail.

13 (e) A tax rate under this section is in addition to any other tax rates  
14 imposed under this chapter and does not affect the purposes for which  
15 other tax revenue under this chapter may be used.

16 (f) Except as provided in subsection (1), the county auditor shall  
17 distribute the portion of the certified distribution that is attributable to  
18 a tax rate under this section to the county and to each **township that**  
19 **makes expenditures for a purpose described in subsection (a)(2),**  
20 **(a)(3), or (a)(4), each fire protection district, and each** municipality  
21 in the county. The amount that shall be distributed to ~~the county, or a~~  
22 municipality is equal to the result of:

23 (1) the portion of the certified distribution that is attributable to a  
24 tax rate under this section; multiplied by

25 (2) a fraction equal to:  
26 (A) the total property taxes being collected in the county by  
27 the ~~county or~~ municipality for the calendar year; divided by  
28 (B) the sum of the total property taxes being collected in the  
29 county by the county and each municipality in the county for  
30 the calendar year.

31 **The amount that shall be distributed to the county and each**  
32 **township and fire protection district in the county is equal to the**  
33 **amount determined under subdivision (1) minus the sum of the**  
34 **amounts distributed to all municipalities in the county as**  
35 **determined under subdivisions (1) and (2) multiplied by a fraction.**  
36 **Subject to this subsection, the numerator of the fraction is the total**  
37 **property taxes being collected in the county by the county,**  
38 **township, or fire protection district for the calendar year. Subject**  
39 **to this subsection, the denominator of the fraction is the sum of the**  
40 **total property taxes being collected in the county by the county and**  
41 **each township and fire protection district in the county for the**  
42 **calendar year. However, the amount of property taxes to be used**

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1 **in the numerator and denominator with respect to a township is**  
 2 **limited to the amount collected and used for a purpose described**  
 3 **in subsection (a)(2), (a)(3), or (a)(4), as determined by the county**  
 4 **fiscal body. The county fiscal body shall certify the amount to be**  
 5 **used with respect to a township to the budget agency, the county**  
 6 **auditor, and the township when the department of local**  
 7 **government finance certifies the township's budget, rates, and**  
 8 **levies for the year under IC 6-1.1-17-16.** The county auditor shall  
 9 make the distributions required by this subsection not more than thirty  
 10 (30) days after receiving the portion of the certified distribution that is  
 11 attributable to a tax rate under this section. Tax revenue distributed to  
 12 a county, **township, fire protection district**, or municipality under this  
 13 subsection must be deposited into a separate account or fund and may  
 14 be appropriated by the county, **township, fire protection district**, or  
 15 municipality only for public safety purposes.

16 (g) The department of local government finance may not require a  
 17 county, **township, fire protection district**, or municipality receiving  
 18 tax revenue under this section to reduce the county's, **township's, fire**  
 19 **protection district's**, or municipality's property tax levy for a  
 20 particular year on account of the county's, **township's, fire protection**  
 21 **district's**, or municipality's receipt of the tax revenue.

22 (h) The tax rate under this section and the tax revenue attributable  
 23 to the tax rate under this section shall not be considered for purposes  
 24 of computing:

- 25 (1) the maximum income tax rate that may be imposed in a county  
 26 under section 8 or 9 of this chapter or any other provision of this  
 27 chapter;
- 28 (2) the maximum permissible property tax levy under STEP  
 29 EIGHT of IC 6-1.1-18.5-3(b);
- 30 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),  
 31 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of  
 32 IC 6-1.1-21); or
- 33 (4) the credit under IC 6-1.1-20.6.

34 (i) The tax rate under this section may be imposed or rescinded at  
 35 the same time and in the same manner that the county may impose or  
 36 increase a tax rate under section 30 of this chapter.

37 (j) The department of local government finance and the department  
 38 of state revenue may take any actions necessary to carry out the  
 39 purposes of this section.

40 (k) Notwithstanding any other provision, in Lake County the county  
 41 council (and not the county income tax council) is the entity authorized  
 42 to take actions concerning the additional tax rate under this section.

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1           (1) Two (2) or more political subdivisions that are entitled to receive  
2 a distribution under this section may adopt resolutions providing that  
3 some part or all of those distributions shall instead be paid to one (1)  
4 political subdivision in the county to carry out specific public safety  
5 purposes specified in the resolutions.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1287, 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, line 7, after "distributed to" strike "the county or".

Page 3, line 8, delete "township, fire protection district, or".

Page 3, line 14, delete "county," and insert "**county**".

Page 3, line 15, delete "township, fire protection district,".

Page 3, line 15, strike "or".

Page 3, line 18, delete "township, fire protection district, and".

Page 3, line 20, before "However," insert "**The amount that shall be distributed to the county and each township and fire protection district in the county is equal to the amount determined under subdivision (1) minus the sum of the amounts distributed to all municipalities in the county as determined under subdivisions (1) and (2) multiplied by a fraction. Subject to this subsection, the numerator of the fraction is the attributed allocation amount (as defined in section 15 of this chapter) of the county, township, or fire protection district for the calendar year. Subject to this subsection, the denominator of the fraction is the sum of the attributed allocation amounts of the county and each township and fire protection district in the county for the calendar year.**".

Page 3, line 20, delete "under subdivision" and insert "**in the numerator and denominator**".

Page 3, line 21, delete "(2)(A) and (2)(B)".

Page 3, line 23, delete "department of local government finance." and insert "**county fiscal body**".

Page 3, line 24, delete "department of local government finance" and insert "**county fiscal body**".

Page 3, line 26, delete "at the same time" and insert "**when**".

Page 6, line 13, after "distributed to" strike "the county, or".

Page 6, line 14, delete "township, fire protection district, or".

Page 6, line 20, delete "county," and insert "**county**".

Page 6, line 20, delete "township, fire protection district,".

Page 6, line 20, strike "or".

Page 6, line 23, delete "township, fire protection".

Page 6, line 24, delete "district, and".

Page 6, line 25, before "However," insert "**The amount that shall be distributed to the county and each township and fire protection district in the county is equal to the amount determined under subdivision (1) minus the sum of the amounts distributed to all**

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**municipalities in the county as determined under subdivisions (1) and (2) multiplied by a fraction. Subject to this subsection, the numerator of the fraction is the total property taxes being collected in the county by the county, township, or fire protection district for the calendar year. Subject to this subsection, the denominator of the fraction is the sum of the total property taxes being collected in the county by the county and each township and fire protection district in the county for the calendar year."**

Page 6, line 25, delete "under" and insert **"in the numerator and denominator"**.

Page 6, line 26, delete "subdivision (2)(A) and (2)(B)".

Page 6, line 28, delete "department" and insert **"county fiscal body."**

Page 6, line 29, delete "of local government finance."

Page 6, line 29, after "The" delete "department of local government" and insert **"county fiscal body"**.

Page 6, line 30, delete "finance".

Page 6, line 32, delete "at the same time" and insert **"when"**.

and when so amended that said bill do pass.

(Reference is to HB 1287 as introduced.)

NEESE, Chair

Committee Vote: yeas 5, nays 3.

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