SENATE BILL No. 53

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-1-14-14; IC 5-16-9-3; IC 6-1.1; IC 6-3.1-19-1; IC 6-3.5-9; IC 6-8.1-1-1; IC 36-7.

Synopsis: County employment opportunity fee. Authorizes a county council to impose a county employment opportunity fee upon nonresident individuals who work in the county. Provides that the fee may not exceed 0.25% of the individual's adjusted gross income derived from the covered individual's principal place of business or employment. Provides that the fee revenue must be used for economic development purposes. Permits the fee revenue to be pledged to repay bonds or lease rentals. Permits the county employment opportunity fee to be captured or used for various economic development programs. Permits the state to intercept the fees for noncompliance with certain data requirements.

Effective: July 1, 2011.

Buck

January 5, 2011, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

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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SENATE BILL No. 53

A BILL FOR AN ACT to amend the Indiana Code concerning local government and to make an appropriation.

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

SECTION 1. IC 5-1-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. (a) Notwithstanding any other law, a municipality may sell the municipality's interest in any notes payable to the municipality at a negotiated sale.

(b) A county or municipality may establish a revolving fund from grants, the revenue received by the county or municipality under IC 6-3.5-7, **revenue received by the county under IC 6-3.5-9,** the proceeds of the sale of notes, or the proceeds of bonds issued under this section and IC 36-9-32. The county or municipality may loan the money in the revolving fund to any borrower if the county or municipal fiscal body finds that the loan will be used by the borrower for one (1) or more of the following economic development purposes:

(1) Promoting significant opportunities for the gainful employment of the county's or municipality's residents.

(2) Attracting a major new business enterprise to the county or municipality.

(3) Retaining or expanding a significant business enterprise in the

county or municipality.

(c) Activities that may be undertaken by the borrower in carrying out an economic development purpose include expenditures for any of the following:

(1) Acquisition of land.

(2) Acquisition of property interests.

(3) Site improvements.

(4) Infrastructure improvements.

(5) Buildings.

(6) Structures.

(7) Rehabilitation, renovation, or enlargement of buildings or structures.

(8) Machinery.

(9) Equipment.

(10) Furnishings.

(d) Local governmental entities may borrow under subsection (b) if the local governmental entity's jurisdiction includes the geographic area within the boundaries of the county or municipality that established the revolving fund. Notwithstanding any other law, the following provisions apply to the borrowing:

(1) The county or municipality that established the revolving fund and the local governmental entity borrower may each authorize the loan from the revolving fund and the issuance of notes evidencing the loan by resolution. In each case, the resolution shall be adopted by the body with control over fiscal matters.

(2) A resolution adopted under subdivision (1) must approve:

(A) the term of the loan;

(B) the interest rate;

(C) the form of the note or notes;

(D) the medium of payment;

(E) the place and manner of payment;

(F) the manner of execution of the note or notes;

(G) the terms of redemption;

(H) the funds or sources of funds from which the note or notes are payable, which may be any funds and sources of funds available to the borrower; and

(I) any other provisions not inconsistent with this section.

(3) The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This section contains full and complete authority for the making of the loan, the authorization, issuance, sale, and delivery of the notes,

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and the repayment of the loan by the borrower, and no law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by any officer, department, agency, or instrument of the state or of any political subdivision is required to make the loan, issue the notes, or repay the loan except as prescribed in this section.

(4) The notes issued by a local governmental entity borrower are exempt from taxation for all purposes and are exempt from any security registration requirements provided for in Indiana statutes.

(5) Notes issued by a local governmental entity borrower under this section are obligations for all purposes of this chapter.

(e) A municipality may issue bonds under IC 36-9-32-7(b) through IC 36-9-32-7(j) for the economic development purposes listed in subsection (c) and may repay the indebtedness solely from revenues derived from the repayment of any notes, including notes evidencing loans made under subsection (b).

(f) To the extent a revolving fund under subsection (b) is funded from:

(1) revenues received by the county under IC 6-3.5-7; or

(2) repayments of principal and interest on loans from the revolving fund that were funded with revenues described in subdivision (1);

money in the revolving fund may at any time be transferred in whole or in part to the unit's economic development income tax fund, as determined by ordinance of the unit's fiscal body.

(g) The general assembly finds that counties and municipalities in Indiana have a need to foster economic development and industrial and commercial growth. The general assembly finds that it is necessary and proper to provide an alternative method for municipalities to foster the following:

(1) Economic development.

(2) Industrial and commercial growth.

(3) Employment opportunities.

(4) Diversification of industry and commerce.

It is declared that the fostering of economic development under this section for the benefit of the general public, including industrial and commercial enterprises, is a public purpose.

SECTION 2. IC 5-16-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) If a public agency has no parking facility under its jurisdiction or control available to private persons who desire to conduct business with the public agency, the public agency shall direct the local authority having jurisdiction over

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the portion of the streets which are adjacent to the facilities of the public agency to reserve parking spaces for the use of persons with physical disabilities.

(b) If a retail shopping mall is constructed in whole or in part with revenue derived from a county economic development income tax imposed under IC 6-3.5-7 **or the county employment opportunity fee under IC 6-3.5-9,** the local authority having jurisdiction over the portion of the streets adjacent to the retail shopping mall shall reserve parking spaces for the use of persons with physical disabilities.

SECTION 3. IC 6-1.1-20.6-10, AS ADDED BY P.L.146-2008, SECTION 226, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) As used in this section, "debt service obligations of a political subdivision" refers to:

(1) the principal and interest payable during a calendar year on bonds; and

(2) lease rental payments payable during a calendar year on leases;

of a political subdivision payable from ad valorem property taxes.

(b) Political subdivisions are required by law to fully fund the payment of their debt obligations in an amount sufficient to pay any debt service or lease rentals on outstanding obligations, regardless of any reduction in property tax collections due to the application of tax credits granted under this chapter. Any reduction in collections must be applied to the other funds of the political subdivision after debt service or lease rentals have been fully funded.

(c) Upon the failure of a political subdivision to pay any of the political subdivision's debt service obligations during a calendar year when due, the treasurer of state, upon being notified of the failure by a claimant, shall pay the unpaid debt service obligations that are due from money in the possession of the state that would otherwise be available for distribution to the political subdivision under any other law, deducting the payment from the amount distributed. A deduction under this subsection must be made:

(1) first from distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, ~~or~~ county economic development income tax distributions under IC 6-3.5-7, **or county employment opportunity fees under IC 6-3.5-9,** that would otherwise be distributed to the county under the schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16, IC 6-3.5-6-17.3, IC 6-3.5-7-17, ~~and~~ IC 6-3.5-7-17.3, **IC 6-3.5-9-15, and IC 6-3.5-9-17;** and

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(2) second from any other undistributed funds of the political subdivision in the possession of the state.

(d) This section shall be interpreted liberally so that the state shall to the extent legally valid ensure that the debt service obligations of each political subdivision are paid when due. However, this section does not create a debt of the state.

SECTION 4. IC 6-1.1-30-17, AS ADDED BY P.L.146-2008, SECTION 268, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. (a) Except as provided in subsection (c) and subject to subsection (d), the department of state revenue and the auditor of state shall, when requested by the department of local government finance, withhold a percentage of the distributions of county adjusted gross income tax distributions under IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6, ~~or~~ county economic development income tax distributions under IC 6-3.5-7, **or county employment opportunity fees under IC 6-3.5-9,** that would otherwise be distributed to the county under the schedules in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-17, IC 6-3.5-6-17.3, IC 6-3.5-7-16, ~~and~~ IC 6-3.5-7-17.3, **IC 6-3.5-9-15, and IC 6-3.5-9-17,** if:

(1) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(2) the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25;

(3) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure form data under IC 6-1.1-5.5-3;

(5) the county auditor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(6) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(7) the county does not maintain a certified computer system that

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meets the requirements of IC 6-1.1-31.5-3.5;

(8) the county auditor has not transmitted the data described in IC 36-2-9-20 to the department of local government finance in the form and on the schedule specified by IC 36-2-9-20;

(9) the county has not established a parcel index numbering system under 50 IAC 23-8-1 in a timely manner; or

(10) a county official has not provided other information to the department of local government finance in a timely manner as required by the department of local government finance.

The percentage to be withheld is the percentage determined by the department of local government finance.

(b) Except as provided in subsection (e), money not distributed for the reasons stated in subsection (a) shall be distributed to the county when the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

has been corrected.

(c) The restrictions on distributions under subsection (a) do not apply if the department of local government finance determines that the failure to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(d) The department of local government finance shall give the county auditor at least thirty (30) days notice in writing before the department of state revenue or the auditor of state withholds a distribution under subsection (a).

(e) Money not distributed for the reason stated in subsection (a)(3) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (b).

(f) This subsection applies to a county that will not receive a distribution under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7. At the request of the department of local government finance, an amount permitted to be withheld under subsection (a) may be withheld from any state revenues that would otherwise be distributed to the county or one (1) or more taxing units in the county.

SECTION 5. IC 6-3.1-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. As used in this chapter, "state and local tax liability" means a taxpayer's total tax liability incurred under:

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(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
(2) IC 6-3.5-1.1 (county adjusted gross income tax);
(3) IC 6-3.5-6 (county option income tax);
(4) IC 6-3.5-7 (county economic development income tax);
(5) IC 6-3.5-9 (county employment opportunity fee);
~~(5)~~ **(6)** IC 6-5.5 (the financial institutions tax); and
~~(6)~~ **(7)** IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

SECTION 6. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 9. County Employment Opportunity Fee

Sec. 1. (a) Except as otherwise provided in this section, as used in this chapter, "adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

(b) In the case of a covered individual, "adjusted gross income" includes only adjusted gross income derived from the covered individual's principal place of business or employment.

Sec. 2. As used in this chapter, "county council" includes the city-county council of a consolidated city.

Sec. 3. As used in this chapter, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "covered individual" refers to an individual:

(1) who is not a resident of the county in which the individual's principal place of business or employment is located; and
(2) whose principal place of business or employment is located in a county that has imposed the county employment opportunity fee under this chapter.

Sec. 5. (a) A county council may impose the county employment opportunity fee on the adjusted gross income of covered individuals.

(b) The county employment opportunity fee may be imposed at a rate of not more than twenty-five hundredths percent (0.25%) on the adjusted gross income of covered individuals.

(c) To impose, increase, decrease, or rescind the county employment opportunity fee, the county council must, after March 31 but before August 1 of a year, adopt an ordinance. The ordinance to impose the fee must state substantially the following:

"The _____ County Council imposes the county

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employment opportunity fee on the covered individuals of _____ County. The county employment opportunity fee is imposed at a rate of _____ percent (____%) on the adjusted gross income of the covered individuals of the county. This fee takes effect October 1 of this year.".

(d) Any ordinance adopted under this chapter takes effect October 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

Sec. 6. (a) A county council may decrease or increase the rate of the county employment opportunity fee imposed upon the adjusted gross income of the covered individuals of the county as long as the resulting rate does not exceed twenty-five hundredths percent (0.25%). To decrease or increase the rate, the county council must, after March 31 but before August 1 of a year, adopt an ordinance. The ordinance must state substantially the following:

"The _____ County Council increases (decreases) the rate of the county employment opportunity fee imposed upon the adjusted gross income of the covered individuals of the county from _____ percent (___%) to _____ percent (___%). This rate increase (decrease) takes effect October 1 of this year.".

(b) Any ordinance adopted under this section takes effect October 1 of the year the ordinance is adopted.

(c) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

Sec. 7. (a) The county employment opportunity fee imposed under this chapter remains in effect until rescinded.

(b) Subject to section 14 of this chapter, the county council may rescind the county employment opportunity fee by adopting an ordinance to rescind the fee after March 31 but before August 1 of a year.

(c) Any ordinance adopted under this section takes effect October 1 of the year the ordinance is adopted.

(d) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

Sec. 8. If the county employment opportunity fee is not in effect

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during a covered individual's entire taxable year, the amount of county employment opportunity fee that the covered individual owes for that taxable year equals the product of:

(1) the amount of county employment opportunity fee the covered individual would owe if the fee had been imposed during the covered individual's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days during the covered individual's taxable year during which the county employment opportunity fee was in effect. The denominator of the fraction equals three hundred sixty-five (365).

Sec. 9. (a) If for a taxable year a covered individual is (or a covered individual and a covered individual's spouse who file a joint return are) allowed a credit for the elderly or individuals with a total disability under Section 22 of the Internal Revenue Code, the covered individual is (or the covered individual and the covered individual's spouse are) entitled to a credit against the covered individual's (or the covered individual's and the covered individual's spouse's) county employment opportunity fee liability for that same taxable year. The amount of the credit equals the lesser of the following:

(1) The product of:

(A) the covered individual's (or the covered individual's and the covered individual's spouse's) credit for the elderly or individuals with a total disability for that same taxable year; multiplied by

(B) a fraction. The numerator of the fraction is the rate of the county employment opportunity fee imposed against the covered individual (or against the covered individual and the covered individual's spouse). The denominator of the fraction is fifteen-hundredths (0.15).

(2) The amount of county employment opportunity fee imposed on the covered individual (or the covered individual and the covered individual's spouse).

(b) If a covered individual and the covered individual's spouse file a joint return and are subject to different county employment opportunity fee rates for the same taxable year, they shall compute the credit under this section by using the formula provided by subsection (a), except that they shall use the average of the two (2) county employment opportunity fee rates imposed against them as the numerator referred to in subsection (a)(1)(B).

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Sec. 10. (a) A special account within the state general fund shall be established for each county adopting the county employment opportunity fee. Any revenue derived from the imposition of the county employment opportunity fee by a county shall be credited to that county's account in the state general fund. Money in the special account is appropriated to make the distributions required by this chapter.

(b) Any income earned on money credited to an account under subsection (a) becomes a part of that account.

(c) Any revenue credited to an account established under subsection (a) at the end of a fiscal year does not revert to any other account in the state general fund and may not be credited to any other account in the state general fund.

Sec. 11. Before October 2 of each year, the department shall submit a report to each county auditor indicating the balance in the county's special account as of the cutoff date set by the budget agency.

Sec. 12. (a) Revenue derived from the imposition of the county employment opportunity fee shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the budget agency shall certify to the county auditor of each adopting county the amount of county employment opportunity fee revenue that the budget agency determines has been:

(1) received from covered individuals of that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted for refunds of county employment opportunity fees made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution for the following calendar year.

(c) The amount certified under subsection (b) shall be adjusted under subsections (d), (e), and (f). The budget agency shall provide each county's fiscal body with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

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(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;
(2) adjustments for over distributions in prior years;
(3) adjustments for clerical or mathematical errors in prior years;
(4) adjustments for tax rate changes; and
(5) the amount of excess account balances to be distributed under section 17 of this chapter.

(d) The budget agency shall certify an amount less than the amount determined under subsection (b) if the budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(e) The budget agency shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(f) This subsection applies to a county that:
(1) initially imposes the county employment opportunity fee; or
(2) increases the municipal option income rate;
under this chapter in the same calendar year in which the budget agency makes a certification under this section. The budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The budget agency shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2).

Sec. 13. (a) The county auditor of each county in which the county employment opportunity fee is imposed shall establish an employment opportunity fee fund. The revenue received by a county under this chapter must be deposited in the county's employment opportunity fee fund.

(b) Revenues from the county employment opportunity fee may be used as follows:
(1) For economic development projects, for paying, notwithstanding any other law, under a written agreement all

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or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 19 of this chapter, or for leases or bonds entered into or issued prior to the date the employment opportunity fee was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) For:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the county is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects;

(E) operating expenses of a governmental entity that plans or implements economic development projects; or

(F) funding of a revolving fund established under IC 5-1-14-14.

(c) As used in this section, an economic development project is any project that:

(1) the county determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the county; or

(C) retain or expand a significant business enterprise within the county; and

(2) involves an expenditure for:

(A) the acquisition of land;

(B) interests in land;

(C) site improvements;

(D) infrastructure improvements;

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(E) buildings;
(F) structures;
(G) rehabilitation, renovation, and enlargement of buildings and structures;
(H) machinery;
(I) equipment;
(J) furnishings;
(K) facilities;
(L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);
(M) operating expenses authorized under subsection (b)(2)(E); or
(N) any combination of clauses (A) through (M).

(d) If there are bonds outstanding that have been issued under section 14 of this chapter or leases in effect under section 19 of this chapter, a county may not expend money from its employment opportunity fee fund for a purpose authorized under subsection (b) in a manner that would adversely affect owners of the outstanding bonds or payment of any lease rentals due.

Sec. 14. (a) The fiscal body of a county may issue bonds payable from the county employment opportunity fee. The bonds must be for economic development projects (as described in section 13 of this chapter).

(b) The fiscal body of a county may issue bonds payable from the county employment opportunity fee for any capital project for which the fiscal body is authorized to issue general obligation bonds. The bonds issued under this section may be payable from the county employment opportunity fee if the county option income tax or the county adjusted gross income tax is also in effect in the county at the time the bonds are issued.

(c) If bonds are outstanding that have been issued under this section or leases are in effect under section 19 of this chapter, the county council may not reduce the rate of the county employment opportunity fee below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service on the bonds to their final maturity, plus the highest annual lease payments.

(d) For purposes of subsection (c), the determination of a fee rate sufficient to produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service plus the highest annual lease payments must be based on an average of the

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immediately preceding three (3) years fee collections, if the fee has been imposed for the last preceding three (3) years. If the fee has not been imposed for the last preceding three (3) years, the county council may not reduce the rate below a rate that would produce one and twenty-five hundredths (1.25) times the total of the highest annual debt service, plus the highest annual lease payments, based upon a study by a qualified public accountant or financial adviser.

(e) IC 6-1.1-20 does not apply to the issuance of bonds under this section.

(f) Bonds issued under this section may be sold at a public sale in accordance with IC 5-1-11 or may be sold at a negotiated sale.

(g) After a sale of bonds under this section, the county auditor shall prepare a debt service schedule for the bonds.

(h) The general assembly covenants that it will not repeal or amend this chapter in a manner that would adversely affect owners of outstanding bonds issued, or payment of any lease rentals due, under this section.

Sec. 15. (a) On the first business day in May of each year, one-half (1/2) of each county's certified distribution for a calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer. The other one-half (1/2) shall be distributed on the first business day in November of that calendar year.

(b) All distributions from an account established under section 10 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

Sec. 16. The principal place of business or employment of an individual is to be determined on January 1 of the calendar year in which the individual's taxable year commences. If an individual changes location of residence or principal place of employment or business to another county in Indiana during a calendar year, the individual's liability for county employment opportunity fee is not affected.

Sec. 17. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance exists in a county account that exceeds the amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year, the department shall make a supplemental distribution to a county from the county's special account.

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(b) A supplemental distribution described in subsection (a) must be:

(1) made in January of the ensuing calendar year; and

(2) allocated in the same manner as certified distributions for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.

(c) A determination under this section must be made before October 2.

Sec. 18. (a) Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;

(2) declarations of estimated tax;

(3) filing of returns;

(4) remittances;

(5) incorporation of the provisions of the Internal Revenue Code;

(6) penalties and interest;

(7) exclusion of military pay credits for withholding; and

(8) exemptions and deductions;

apply to the imposition, collection, and administration of the employment opportunity fee imposed by this chapter.

(b) IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do not apply to the employment opportunity fee imposed by this chapter.

(c) Notwithstanding subsections (a) and (b), each employer shall report to the department the amount of withholdings attributable to each county. This report shall be submitted to the department:

(1) each time the employer remits to the department the fee that is withheld; and

(2) annually along with the employer's annual withholding report.

Sec. 19. (a) A county may enter into a lease with a leasing body (as defined in IC 5-1-1-1) of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed fifty (50) years, and the lease may provide for payments from revenues under this chapter, any other revenue available to the county, or any combination of these sources.

(b) A lease may provide that payments by the county to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of

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the facilities leased and may not create a debt of the county for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the county executive only after a public hearing at which all interested parties are provided the opportunity to be heard. After the public hearing, the executive may approve the execution of the lease on behalf of the county if the executive finds that the service to be provided throughout the term of the lease will serve the public purpose of the county and is in the best interests of its residents. Any lease approved by the executive must also be approved by an ordinance of the fiscal body of the county.

(d) Upon execution of a lease providing for payments by the county in whole or in part from employment opportunity fees imposed under this chapter and upon approval of the lease by the county's fiscal body, the executive of the county shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1.

(e) Except as provided in this section, no approvals of any governmental body or agency are required before the county enters into a lease under this section.

(f) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease.

(g) If a county exercises an option to buy a leased facility from a lessor, the county may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the executive of the county through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through negotiation, the county shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought not later than fifteen (15) days after the hearing.

SECTION 7. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss), SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)

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(repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); **the county employment opportunity fee (IC 6-3.5-9);** the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the regional transportation improvement income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

SECTION 8. IC 36-7-4-1318 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1318. (a) A unit may not adopt an impact fee ordinance under section 1311 of this chapter unless the unit has prepared or substantially updated a zone improvement plan for each impact zone during the immediately preceding one (1) year period. A single zone improvement plan may be used for two (2) or more infrastructure types if the impact zones for the infrastructure types are congruent.

(b) Each zone improvement plan must contain the following information:

(1) A description of the nature and location of existing infrastructure in the impact zone.

(2) A determination of the current level of service.

(3) Establishment of a community level of service. A unit may provide that the unit's current level of service is the unit's

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community level of service in the zone improvement plan.

(4) An estimate of the nature and location of development that is expected to occur in the impact zone during the following ten (10) year period.

(5) An estimate of the nature, location, and cost of infrastructure that is necessary to provide the community level of service for the development described in subdivision (4). The plan must indicate the proposed timing and sequencing of infrastructure installation.

(6) A general description of the sources and amounts of money used to pay for infrastructure during the previous five (5) years.

(c) If a zone improvement plan provides for raising the current level of service to a higher community level of service, the plan must:

(1) provide for completion of the infrastructure that is necessary to raise the current level of service to the community level of service within the following ten (10) year period;

(2) indicate the nature, location, and cost of infrastructure that is necessary to raise the current level of service to the community level of service; and

(3) identify the revenue sources and estimate the amount of the revenue sources that the unit intends to use to raise the current level of service to the community level of service for existing development. Revenue sources include, without limitation, any increase in revenues available from one (1) or more of the following:

(A) Adopting or increasing the following:

(i) The county adjusted gross income tax.

(ii) The county option income tax.

(iii) The county economic development income tax.

(iv) The annual license excise surtax.

(v) The wheel tax.

(vi) The county employment opportunity fee.

(B) Imposing the property tax rate per one hundred dollars ($100) of assessed valuation that the unit may impose to create a cumulative capital improvement fund under IC 36-9-14.5 or IC 36-9-15.5.

(C) Transferring and reserving for infrastructure purposes other general revenues that are currently not being used to pay for capital costs of infrastructure.

(D) Dedicating and reserving for infrastructure purposes any newly available revenues, whether from federal or state revenue sharing programs or from the adoption of newly authorized taxes.

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(d) A unit must consult with a qualified engineer licensed to perform engineering services in Indiana when the unit is preparing the portions of the zone improvement plan described in subsections (b)(1), (b)(2), (b)(5), and (c)(2).

(e) A zone improvement plan and amendments and modifications to the zone improvement plan become effective after adoption as part of the comprehensive plan under the 500 SERIES of this chapter or adoption as part of the capital improvements program under section 503(5) of this chapter. If the unit establishing the impact fee schedule or formula and establishing the zone improvement plan is different from the unit having planning and zoning jurisdiction, the unit having planning and zoning jurisdiction shall incorporate the zone improvement plan as part of the unit's comprehensive plan and capital improvement plan.

(f) If a unit's zone improvement plan identifies revenue sources for raising the current level of service to the community level of service, impact fees may not be assessed or collected by the unit unless:

(1) before the effective date of the impact fee ordinance the unit has available or has adopted the revenue sources that the zone improvement plan specifies will be in effect before the impact fee ordinance becomes effective; and

(2) after the effective date of the impact fee ordinance the unit continues to provide adequate funds to defray the cost of raising the current level of service to the community level of service, using revenue sources specified in the zone improvement plan or revenue sources other than impact fees.

SECTION 9. IC 36-7-13-3.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.8. As used in this chapter, "state and local income taxes" means taxes **and fees** imposed under any of the following:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(2) IC 6-3.5-1.1 (county adjusted gross income tax).

(3) IC 6-3.5-6 (county option income tax).

(4) IC 6-3.5-7 (county economic development income tax).

(5) IC 6-3.5-9 (county employment opportunity fee).

SECTION 10. IC 36-7-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) As used in this chapter, "county taxpayer" means an individual who:

(1) resides in the county; ~~or~~

(2) maintains the individual's principal place of business or employment in the county and who does not reside in another county in which the county option income tax, the county adjusted

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income tax, or the county economic development income tax is in effect; **or**

(3) in the case of a county that imposes the county employment opportunity fee under IC 6-3.5-9, is a covered individual (as defined in IC 6-3.5-9-4).

(b) For purposes of this section, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time spent in Indiana during the taxable year in question.

SECTION 11. IC 36-7-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. As used in this chapter, "covered local income taxes" means the following income taxes **and fees** imposed on county taxpayers:

(1) County option income tax.

(2) County economic development income tax.

(3) County employment opportunity fee.

SECTION 12. IC 36-7-27-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. (a) The treasurer of state shall establish an incremental income tax financing fund for the county. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Before July 2 of each calendar year, the department, after reviewing the recommendation of the budget agency, shall estimate and certify to the county auditor the amount of incremental income tax for the tax areas in the county that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year. The amount certified shall be deposited into the fund and shall be distributed on the dates specified in subsection (e) for the following calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department may certify to the county an amount that is greater than the estimated twelve (12) month incremental income tax collection if the department, after reviewing the recommendation of the budget agency, determines that there will be a greater amount of incremental income tax available for distribution from the fund.

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(d) The department may certify an amount less than the estimated twelve (12) month incremental income tax collection if the department, after reviewing the recommendation of the budget agency, determines that a part of those collections need to be distributed during the current calendar year so that the county will receive its full certified amount for the current calendar year.

(e) The auditor of state shall disburse the certified amount to the commission in equal semiannual installments on May 31 and November 30 of each year.

(f) Money in the fund may be pledged by the commission to the following purposes:

(1) To pay debt service on the bonds issued under section 14 of this chapter.

(2) To pay lease rentals under section 14 of this chapter.

(3) To establish and maintain a debt service reserve established by the commission or by a lessor that provides local public improvements to the commission.

(g) When money in the fund is sufficient when combined with other sources of payment to pay all outstanding principal and interest or lease rentals to the date on which the obligations can be redeemed on obligations of the commission for a local public improvement in the county, no additional incremental income tax for that project shall be deposited in the fund and covered income taxes shall be distributed as provided in IC 6-3.5-6, ~~or~~ IC 6-3.5-7, **or IC 6-3.5-9,** as appropriate.

SECTION 13. IC 36-7-30-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 21. (a) Notwithstanding any other law, the legislative body may pledge revenues received or to be received by the unit from:

(1) the unit's distributive share of the county option income tax under IC 6-3.5-6;

(2) the unit's distributive share of the county economic development income tax under IC 6-3.5-7;

(3) in the case of a county, the county's certified distribution of county employment opportunity fees under IC 6-3.5-9;

~~(3)~~ **(4)** any other source legally available to the unit for the purposes of this chapter; or

~~(4)~~ **(5)** any combination of revenues under subdivisions (1) through ~~(3);~~ **(4);**

in any amount to pay amounts payable under section 18 or 19 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county option income tax, county

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economic development income tax, or any other revenues at the time it is necessary to raise funds to pay any amounts payable under section 18 or 19 of this chapter.

(c) The reuse authority may pledge revenues received or to be received from any source legally available to the reuse authority for the purposes of this chapter in any amount to pay amounts payable under section 18 or 19 of this chapter.

(d) The pledge or covenant under this section may be for the term of the bonds issued under section 18 of this chapter, the term of a lease entered into under section 19 of this chapter, or for a shorter period as determined by the legislative body. Money pledged by the legislative body under this section shall be considered revenues or other money available to the reuse authority under sections 18 through 19 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant as long as any bonds issued under section 18 of this chapter are outstanding or as long as any lease entered into under section 19 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

SECTION 14. IC 36-7-30.5-26, AS ADDED BY P.L.203-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 26. (a) Notwithstanding any other law, the legislative body of a unit may pledge revenues received or to be received by the unit from:

(1) the unit's distributive share of the county adjusted gross income tax under IC 6-3.5-1.1;

(2) the unit's distributive share of the county option income tax under IC 6-3.5-6;

(3) the unit's distributive share of the county economic development income tax under IC 6-3.5-7;

(4) in the case of a county, the county's certified distribution of county employment opportunity fees under IC 6-3.5-9;

~~(4)~~ **(5)** any other source legally available to the unit for the purposes of this chapter; or

~~(5)~~ **(6)** any combination of revenues under subdivisions (1) through ~~(4);~~ **(5);**

in any amount to pay amounts payable under section 23 or 24 of this chapter.

(b) The legislative body may covenant to adopt an ordinance to increase its tax rate under the county adjusted gross income tax, county option income tax, county economic development income tax, or any other revenues at the time it is necessary to raise funds to pay any

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amounts payable under section 23 or 24 of this chapter.

(c) The development authority may pledge revenues received or to be received from any source legally available to the development authority for the purposes of this chapter in any amount to pay amounts payable under section 23 or 24 of this chapter.

(d) The pledge or covenant under this section may be for:

(1) the term of the bonds issued under section 23 of this chapter;

(2) the term of a lease entered into under section 24 of this chapter; or

(3) for a shorter period as determined by the legislative body.

Money pledged by the legislative body under this section shall be considered revenues or other money available to the development authority under sections 23 through 24 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant as long as any bonds issued under section 23 of this chapter are outstanding or as long as any lease entered into under section 24 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

SECTION 15. IC 36-7-32-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. As used in this chapter, "income tax base period amount" means the aggregate amount of the following taxes **and fees** paid by employees employed in the territory comprising a certified technology park with respect to wages and salary earned for work in the certified technology park for the state fiscal year that precedes the date on which the certified technology park was designated under section 11 of this chapter:

(1) The adjusted gross income tax.

(2) The county adjusted gross income tax.

(3) The county option income tax.

(4) The county economic development income tax.

(5) The county employment opportunity fee.

SECTION 16. IC 36-7-32-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the

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certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes **and fees** paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(E) The county employment opportunity fee.

(c) Not more than a total of five million dollars ($5,000,000) may be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

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