SENATE BILL No. 356

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5.

Synopsis: LOIT for public safety. Provides that in all counties the maximum local option income tax (LOIT) rate for public safety is 0.5%. (Under current law, the maximum rate is 0.5% for Marion County and 0.25% for all other counties.) Provides that in all counties other than Marion County, the LOIT for public safety may be imposed only if the county has also imposed any combination of the levy freeze LOIT and the property tax relief LOIT to match that part of the public safety rate that does not exceed 0.25%.

Effective: July 1, 2011.

Broden

January 11, 2011, read first time and referred to Committee on Tax and Fiscal Policy.

C o p y

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. 356

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3.5-1.1-25, AS AMENDED BY P.L.146-2008, SECTION 332, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 25. (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.

(7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person

or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services.

(8) A juvenile detention facility under IC 31-31-8.

(9) A juvenile detention center under IC 31-31-9.

(10) A county jail.

(11) A communications system (as defined in IC 36-8-15-3) or an enhanced emergency telephone system (as defined in IC 36-8-16-2).

(12) Medical and health expenses for jail inmates and other confined persons.

(13) Pension payments for any of the following:

(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.

(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.

(C) A county sheriff or any other member of the office of the county sheriff.

(D) Other personnel employed to provide a service described in this section.

~~(b) If a county council has imposed a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 24 of this chapter, a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 26 of this chapter, or a total combined tax rate of at least twenty-five hundredths of one percent (0.25%) under sections 24 and 26 of this chapter, the county council may also adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety.~~

(b) This subsection does not apply to a county containing a consolidated city. A county council may under the following conditions adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety:

(1) The additional tax rate under this section may not exceed the rate specified in subsection (c).

(2) The county council must, as specified in subdivision (4), impose:

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(A) a tax rate under section 24 of this chapter;
(B) a tax rate under section 26 of this chapter; or
(C) a total combined tax rate under sections 24 and 26 of this chapter;

to match the part of the additional tax rate imposed under this section that does not exceed twenty-five hundredths of one percent (0.25%).

(3) The county council is not required to impose a tax rate under section 24 or 26 of this chapter to match the part of the additional tax rate imposed under this section that exceeds twenty-five hundredths of one percent (0.25%).

(4) The county council may not adopt an ordinance to impose an additional tax rate under this section unless the county council also imposes:

(A) a tax rate under section 24 of this chapter;
(B) a tax rate under section 26 of this chapter; or
(C) a total combined tax rate under sections 24 and 26 of this chapter;

that is at least equal to the lesser of twenty-five hundredths of one percent (0.25%) or the additional tax rate imposed under this section.

(c) A tax rate under this section may not exceed ~~twenty-five hundredths~~ **five-tenths** of one percent ~~(0.25%).~~ **(0.5%).**

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

(e) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which 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 municipality in the county. The amount that shall be distributed to the county or 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) of the county or municipality for the calendar year; divided by

(B) the sum of the attributed allocation amounts of the county

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and each municipality in the county for the calendar year. 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 or municipality under this subsection must be deposited into a separate account or fund and may be appropriated by the county or municipality only for public safety purposes.

(g) The department of local government finance may not require a county or municipality receiving tax revenue under this section to reduce the county's or municipality's property tax levy for a particular year on account of the county'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 JULY 1, 2011]: 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.

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(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.
(7) Confinement, supervision, services under a community corrections program (as defined in IC 35-38-2.6-2), or other correctional services for a person who has been:
(A) diverted before a final hearing or trial under an agreement that is between the county prosecuting attorney and the person or the person's custodian, guardian, or parent and that provides for confinement, supervision, community corrections services, or other correctional services instead of a final action described in clause (B) or (C);
(B) convicted of a crime; or
(C) adjudicated as a delinquent child or a child in need of services.
(8) A juvenile detention facility under IC 31-31-8.
(9) A juvenile detention center under IC 31-31-9.
(10) A county jail.
(11) A communications system (as defined in IC 36-8-15-3) or an enhanced emergency telephone system (as defined in IC 36-8-16-2).
(12) Medical and health expenses for jail inmates and other confined persons.
(13) Pension payments for any of the following:
(A) A member of the fire department (as defined in IC 36-8-1-8) or any other employee of a fire department.
(B) A member of the police department (as defined in IC 36-8-1-9), a police chief hired under a waiver under IC 36-8-4-6.5, or any other employee hired by a police department.
(C) A county sheriff or any other member of the office of the county sheriff.
(D) Other personnel employed to provide a service described in this section.

(b) The county income tax council may adopt an ordinance to impose an additional tax rate under this section to provide funding for public safety if:
(1) the county income tax council has imposed a tax rate under section 30 of this chapter, in the case of a county containing a

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consolidated city; or

(2) the county income tax council has ~~imposed a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 30 of this chapter, a tax rate of at least twenty-five hundredths of one percent (0.25%) under section 32 of this chapter, or a total combined tax rate of at least twenty-five hundredths of one percent (0.25%) under sections 30 and 32 of this chapter, in the case of a county other than a county containing a consolidated city.~~ **satisfied the following conditions:**

(A) The additional tax rate under this section may not exceed the rate specified in subsection (c).

(B) The county income tax council has, as specified in clause (D), imposed:

(i) a tax rate under section 30 of this chapter;

(ii) a tax rate under section 32 of this chapter; or

(iii) a total combined tax rate under sections 30 and 32 of this chapter;

to match the part of the additional tax rate imposed under this section that does not exceed twenty-five hundredths of one percent (0.25%).

(C) The county income tax council is not required to impose a tax rate under section 30 or 32 of this chapter of this chapter to match the part of the additional tax rate imposed under this section that exceeds twenty-five hundredths of one percent (0.25%).

(D) The county income tax council may not adopt an ordinance to impose an additional tax rate under this section unless the county income tax council also imposes:

(i) a tax rate under section 30 of this chapter;

(ii) a tax rate under section 32 of this chapter; or

(iii) a total combined tax rate under sections 30 and 32 of this chapter;

that is at least equal to the lesser of twenty-five hundredths of one percent (0.25%) or the additional tax rate imposed under this section.

(c) A tax rate under this section may not exceed ~~the following:~~

~~(1)~~ five-tenths of one percent (0.5%). ~~in the case of a county containing a consolidated city.~~

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

(d) If a county income tax council adopts an ordinance to impose a tax rate under this section, the county auditor shall send a certified

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copy of the ordinance to the department and the department of local government finance by certified mail.

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

(f) Except as provided in subsection (l), 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 municipality in the county. The amount that shall be distributed to the county or 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 total property taxes being collected in the county by the county or municipality for the calendar year; divided by

(B) the sum of the total property taxes being collected in the county by the county and each municipality in the county for the calendar year.

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 or municipality under this subsection must be deposited into a separate account or fund and may be appropriated by the county or municipality only for public safety purposes.

(g) The department of local government finance may not require a county or municipality receiving tax revenue under this section to reduce the county's or municipality's property tax levy for a particular year on account of the county'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 8 or 9 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.

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

(l) 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.

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