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# SENATE BILL No. 440

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.5-1.1-25; IC 6-3.5-6-31.

**Synopsis:** Public safety LOIT distributions. Provides that a fire department, volunteer fire department, or emergency medical services provider that provides fire protection or emergency medical services within the county and is operated by or serves a political subdivision that is not entitled to receive a distribution of the public safety LOIT tax revenue may apply to the county council (in a CAGIT county) or the county income tax council (in a COIT county) for a distribution of the tax revenue. Provides that the county council or county income tax council may adopt a resolution requiring that one or more of the applicants shall receive a specified amount of the public safety LOIT tax revenue. Requires that any public safety LOIT tax revenue distributed in this manner shall be distributed before the remainder of the tax revenue is distributed to the county and to the municipalities in the county.

**Effective:** July 1, 2011.

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**Hershman**

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January 12, 2011, read first time and referred to Committee on Tax and Fiscal Policy.

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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. 440**



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 JULY 1, 2011]: 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



- 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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1 other tax revenue under this chapter may be used.

2 (f) Except as provided in subsection (k) **or (I)**, the county auditor

3 shall distribute the portion of the certified distribution that is

4 attributable to a tax rate under this section to the county and to each

5 municipality in the county. The amount that shall be distributed to the

6 county or municipality is equal to the result of:

7 (1) the portion of the certified distribution that is attributable to a

8 tax rate under this section; multiplied by

9 (2) a fraction equal to:

10 (A) the attributed allocation amount (as defined in

11 IC 6-3.5-1.1-15) of the county or municipality for the calendar

12 year; divided by

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

14 and each municipality in the county for the calendar year.

15 The county auditor shall make the distributions required by this

16 subsection not more than thirty (30) days after receiving the portion of

17 the certified distribution that is attributable to a tax rate under this

18 section. Tax revenue distributed to a county or municipality under this

19 subsection must be deposited into a separate account or fund and may

20 be appropriated by the county or municipality only for public safety

21 purposes.

22 (g) The department of local government finance may not require a

23 county or municipality receiving tax revenue under this section to

24 reduce the county's or municipality's property tax levy for a particular

25 year on account of the county's or municipality's receipt of the tax

26 revenue.

27 (h) The tax rate under this section and the tax revenue attributable

28 to the tax rate under this section shall not be considered for purposes

29 of computing:

30 (1) the maximum income tax rate that may be imposed in a county

31 under section 2 of this chapter or any other provision of this

32 chapter;

33 (2) the maximum permissible property tax levy under STEP

34 EIGHT of IC 6-1.1-18.5-3(b);

35 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),

36 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of

37 IC 6-1.1-21); or

38 (4) the credit under IC 6-1.1-20.6.

39 (i) The tax rate under this section may be imposed or rescinded at

40 the same time and in the same manner that the county may impose or

41 increase a tax rate under section 24 of this chapter.

42 (j) The department of local government finance and the department

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1 of state revenue may take any actions necessary to carry out the  
2 purposes of this section.

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

8 **(l) A fire department, volunteer fire department, or emergency  
9 medical services provider that:**

10 **(1) provides fire protection or emergency medical services  
11 within the county; and**

12 **(2) is operated by or serves a political subdivision that is not  
13 otherwise entitled to receive a distribution of tax revenue  
14 under this section;**

15 **may apply to the county council for a distribution of tax revenue  
16 under this section. The county council shall review an application  
17 submitted under this subsection and may adopt a resolution  
18 requiring that one (1) or more of the applicants shall receive a  
19 specified amount of the tax revenue to be distributed under this  
20 section. Any amount of tax revenue distributed under this  
21 subsection to a fire department, volunteer fire department, or  
22 emergency medical services provider shall be distributed before  
23 the remainder of the tax revenue is distributed under subsection  
24 (f).**

25 SECTION 2. IC 6-3.5-6-31, AS AMENDED BY P.L.146-2008,  
26 SECTION 342, IS AMENDED TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) As used in this section,  
28 "public safety" refers to the following:

29 (1) A police and law enforcement system to preserve public peace  
30 and order.

31 (2) A firefighting and fire prevention system.

32 (3) Emergency ambulance services (as defined in  
33 IC 16-18-2-107).

34 (4) Emergency medical services (as defined in IC 16-18-2-110).

35 (5) Emergency action (as defined in IC 13-11-2-65).

36 (6) A probation department of a court.

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

40 (A) diverted before a final hearing or trial under an agreement  
41 that is between the county prosecuting attorney and the person  
42 or the person's custodian, guardian, or parent and that provides

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- 1 for confinement, supervision, community corrections services,  
 2 or other correctional services instead of a final action  
 3 described in clause (B) or (C);  
 4 (B) convicted of a crime; or  
 5 (C) adjudicated as a delinquent child or a child in need of  
 6 services.
- 7 (8) A juvenile detention facility under IC 31-31-8.  
 8 (9) A juvenile detention center under IC 31-31-9.  
 9 (10) A county jail.  
 10 (11) A communications system (as defined in IC 36-8-15-3) or an  
 11 enhanced emergency telephone system (as defined in  
 12 IC 36-8-16-2).  
 13 (12) Medical and health expenses for jail inmates and other  
 14 confined persons.  
 15 (13) Pension payments for any of the following:  
 16 (A) A member of the fire department (as defined in  
 17 IC 36-8-1-8) or any other employee of a fire department.  
 18 (B) A member of the police department (as defined in  
 19 IC 36-8-1-9), a police chief hired under a waiver under  
 20 IC 36-8-4-6.5, or any other employee hired by a police  
 21 department.  
 22 (C) A county sheriff or any other member of the office of the  
 23 county sheriff.  
 24 (D) Other personnel employed to provide a service described  
 25 in this section.
- 26 (b) The county income tax council may adopt an ordinance to  
 27 impose an additional tax rate under this section to provide funding for  
 28 public safety if:  
 29 (1) the county income tax council has imposed a tax rate under  
 30 section 30 of this chapter, in the case of a county containing a  
 31 consolidated city; or  
 32 (2) the county income tax council has imposed a tax rate of at  
 33 least twenty-five hundredths of one percent (0.25%) under section  
 34 30 of this chapter, a tax rate of at least twenty-five hundredths of  
 35 one percent (0.25%) under section 32 of this chapter, or a total  
 36 combined tax rate of at least twenty-five hundredths of one  
 37 percent (0.25%) under sections 30 and 32 of this chapter, in the  
 38 case of a county other than a county containing a consolidated  
 39 city.
- 40 (c) A tax rate under this section may not exceed the following:  
 41 (1) Five-tenths of one percent (0.5%), in the case of a county  
 42 containing a consolidated city.

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1           (2) Twenty-five hundredths of one percent (0.25%), in the case of  
2           a county other than a county containing a consolidated city.  
3           (d) If a county income tax council adopts an ordinance to impose a  
4 tax rate under this section, the county auditor shall send a certified  
5 copy of the ordinance to the department and the department of local  
6 government finance by certified mail.  
7           (e) A tax rate under this section is in addition to any other tax rates  
8 imposed under this chapter and does not affect the purposes for which  
9 other tax revenue under this chapter may be used.  
10          (f) Except as provided in ~~subsection~~ **subsections (l) and (m)**, the  
11 county auditor shall distribute the portion of the certified distribution  
12 that is attributable to a tax rate under this section to the county and to  
13 each municipality in the county. The amount that shall be distributed  
14 to the county or municipality is equal to the result of:  
15           (1) the portion of the certified distribution that is attributable to a  
16 tax rate under this section; multiplied by  
17           (2) a fraction equal to:  
18                (A) the total property taxes being collected in the county by  
19 the county or municipality for the calendar year; divided by  
20                (B) the sum of the total property taxes being collected in the  
21 county by the county and each municipality in the county for  
22 the calendar year.  
23 The county auditor shall make the distributions required by this  
24 subsection not more than thirty (30) days after receiving the portion of  
25 the certified distribution that is attributable to a tax rate under this  
26 section. Tax revenue distributed to a county or municipality under this  
27 subsection must be deposited into a separate account or fund and may  
28 be appropriated by the county or municipality only for public safety  
29 purposes.  
30          (g) The department of local government finance may not require a  
31 county or municipality receiving tax revenue under this section to  
32 reduce the county's or municipality's property tax levy for a particular  
33 year on account of the county's or municipality's receipt of the tax  
34 revenue.  
35          (h) The tax rate under this section and the tax revenue attributable  
36 to the tax rate under this section shall not be considered for purposes  
37 of computing:  
38           (1) the maximum income tax rate that may be imposed in a county  
39 under section 8 or 9 of this chapter or any other provision of this  
40 chapter;  
41           (2) the maximum permissible property tax levy under STEP  
42 EIGHT of IC 6-1.1-18.5-3(b);

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- 1 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),  
 2 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of  
 3 IC 6-1.1-21); or  
 4 (4) the credit under IC 6-1.1-20.6.
- 5 (i) The tax rate under this section may be imposed or rescinded at  
 6 the same time and in the same manner that the county may impose or  
 7 increase a tax rate under section 30 of this chapter.
- 8 (j) The department of local government finance and the department  
 9 of state revenue may take any actions necessary to carry out the  
 10 purposes of this section.
- 11 (k) Notwithstanding any other provision, in Lake County the county  
 12 council (and not the county income tax council) is the entity authorized  
 13 to take actions concerning the additional tax rate under this section.
- 14 (l) Two (2) or more political subdivisions that are entitled to receive  
 15 a distribution under this section may adopt resolutions providing that  
 16 some part or all of those distributions shall instead be paid to one (1)  
 17 political subdivision in the county to carry out specific public safety  
 18 purposes specified in the resolutions.
- 19 **(m) A fire department, volunteer fire department, or emergency  
 20 medical services provider that:**
- 21 **(1) provides fire protection or emergency medical services  
 22 within the county; and**
- 23 **(2) is operated by or serves a political subdivision that is not  
 24 otherwise entitled to receive a distribution of tax revenue  
 25 under this section;**
- 26 **may apply to the county income tax council for a distribution of tax  
 27 revenue under this section. The county income tax council shall  
 28 review an application submitted under this subsection and may  
 29 adopt a resolution requiring that one (1) or more of the applicants  
 30 shall receive a specified amount of the tax revenue to be distributed  
 31 under this section. Any amount of tax revenue distributed under  
 32 this subsection to a fire department, volunteer fire department, or  
 33 emergency medical services provider shall be distributed before  
 34 the remainder of the tax revenue is distributed under subsection  
 35 (f).**
- 36 SECTION 3. [EFFECTIVE JULY 1, 2011] (a) IC 6-3.5-1.1-25 and  
 37 IC 6-3.5-6-31, both as amended by this act, apply to distributions  
 38 of tax revenue made under those sections after December 31, 2011.  
 39 (b) This SECTION expires July 1, 2013.

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