

SENATE BILL No. 541

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5-9; IC 6-8.1-1-1.

Synopsis: Regional economic development target area. Authorizes a regional economic development target area (target area) to be established as an economic development pilot program in certain counties (eligible counties). Provides that the redevelopment commission of an eligible county may adopt a resolution to establish a target area if the redevelopment commission finds that an economic development project proposed for the target area will increase or retain employment opportunities, attract a new business, or retain or expand a business. Specifies that the determination of a redevelopment commission to create a target area must be approved by ordinance of the legislative body of the county. Provides that if a target area is established in a county, that county may enter into a project agreement with one or more other eligible counties concerning assistance to be provided for the proposed economic development project. Requires the project agreement to be entered into as an interlocal cooperation agreement. Provides that if a target area is established, the fiscal body of the county in which the target area is located may adopt an ordinance imposing a target area income tax on the adjusted gross income of individuals employed within the target area (regardless of the county in which the individual resides). Specifies that the target area income tax is imposed only on the adjusted gross income derived from an individual's place of business or employment within the target area. Provides that the target area income tax may not exceed a rate of 1%. Requires the target area income tax to be distributed to the eligible county imposing the tax in the same manner as other county income taxes are distributed. Provides that the tax revenue derived from the

(Continued next page)

C
o
p
y

Effective: Upon passage.

Head

January 18, 2011, read first time and referred to Committee on Commerce & Economic Development.



Digest Continued

target area income tax shall be allocated as provided in the project agreement among all of the eligible counties that have entered into the project agreement, based on the assistance provided by those eligible counties for the economic development project.

**C
o
p
y**



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.

C
O
P
Y

SENATE BILL No. 541



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 6-3.5-9 IS ADDED TO THE INDIANA CODE AS
- 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 3 PASSAGE]:
- 4 **Chapter 9. Regional Economic Development Target Area and**
- 5 **Income Tax**
- 6 **Sec. 1. (a) A regional economic development target area and a**
- 7 **regional economic development target area income tax are**
- 8 **authorized as an economic development pilot program as provided**
- 9 **in this chapter.**
- 10 **(b) This chapter applies only to the following counties:**
- 11 **(1) Cass County.**
- 12 **(2) Fulton County.**
- 13 **(3) Howard County.**
- 14 **(4) Huntington County.**
- 15 **(5) Miami County.**



1 **(6) Wabash County.**
2 **Sec. 2. (a) Except as provided in subsection (b), as used in this**
3 **chapter, "adjusted gross income" has the meaning set forth in**
4 **IC 6-3-1-3.5.**
5 **(b) For purposes of this chapter, the term includes only the**
6 **adjusted gross income derived from an individual's:**
7 **(1) place of business; or**
8 **(2) employment;**
9 **within a target area.**
10 **Sec. 3. As used in this chapter, "department" refers to the**
11 **department of state revenue.**
12 **Sec. 4. As used in this chapter, "economic development project"**
13 **means any project:**
14 **(1) that an eligible county determines will:**
15 **(A) increase or retain employment opportunities;**
16 **(B) attract a new business; or**
17 **(C) retain or expand a business; and**
18 **(2) that involves an expenditure for:**
19 **(A) the acquisition of land or interests in land;**
20 **(B) site improvements;**
21 **(C) infrastructure improvements;**
22 **(D) buildings and structures; or**
23 **(E) rehabilitation, renovation, and enlargement of**
24 **buildings and structures.**
25 **Sec. 5. As used in this chapter, "eligible county" means a county**
26 **listed in section 1(b) of this chapter.**
27 **Sec. 6. As used in this chapter, "project agreement" means an**
28 **agreement entered into by a project county and one (1) or more**
29 **other eligible counties under section 18 of this chapter.**
30 **Sec. 7. As used in this chapter, "project county" means an**
31 **eligible county in which a target area has been established under**
32 **this chapter.**
33 **Sec. 8. As used in this chapter, "redevelopment commission"**
34 **means the redevelopment commission established under IC 36-7-14**
35 **for an eligible county.**
36 **Sec. 9. As used in this chapter, "target area" means a regional**
37 **economic development target area approved and established under**
38 **this chapter.**
39 **Sec. 10. As used in this chapter, "target area income tax" means**
40 **a regional economic development target area income tax imposed**
41 **under section 19 of this chapter.**
42 **Sec. 11. As used in this chapter, "target area taxpayer" means**

C
O
P
Y



1 an individual employed within a target area in which a target area
2 income tax is imposed, regardless of the county in which the
3 individual resides.

4 Sec. 12. If a redevelopment commission determines that the
5 establishment of a regional economic development target area
6 under this chapter may be necessary to carry out an economic
7 development project, the redevelopment commission shall compile
8 data and information that is sufficient to make the findings
9 required under section 13(b) of this chapter. The data and
10 information must also include the following:

- 11 (1) Maps and plats showing the boundaries of the target area.
- 12 (2) A description of the economic development project
- 13 proposed for the target area.
- 14 (3) An estimate of the amount, type, and timing of assistance
- 15 that may be necessary to carry out the economic development
- 16 project.

17 Sec. 13. (a) After compiling the data and information required
18 by section 12 of this chapter, a redevelopment commission may
19 adopt a preliminary resolution declaring the area described in the
20 maps and plats under section 12(1) of this chapter to be a target
21 area.

22 (b) A redevelopment commission may adopt a preliminary
23 resolution only after finding that the economic development
24 project proposed for the target area:

- 25 (1) will:
 - 26 (A) increase or retain employment opportunities;
 - 27 (B) attract a new business; or
 - 28 (C) retain or expand a business; and
- 29 (2) involves an expenditure for:
 - 30 (A) the acquisition of land or interests in land;
 - 31 (B) site improvements;
 - 32 (C) infrastructure improvements;
 - 33 (D) buildings and structures; or
 - 34 (E) rehabilitation, renovation, and enlargement of
 - 35 buildings and structures.

36 Sec. 14. (a) Upon adoption of a preliminary resolution
37 designating a target area under section 13 of this chapter, a
38 redevelopment commission must publish (in accordance with
39 IC 5-3-1) notice of the adoption of the preliminary resolution and
40 of the hearing to be held on the final approval of the preliminary
41 resolution.

42 (b) A notice under subsection (a) must:

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (1) provide a general description of the boundaries of the target area and state that information concerning the target area can be inspected at the redevelopment commission's office; and
- (2) specify the date when the redevelopment commission will hold a hearing on the final approval of the preliminary resolution and to receive and hear remonstrances and other testimony concerning the proposed establishment of the target area.

Sec. 15. (a) At the hearing on the final approval of the preliminary resolution, which may be adjourned from time to time, the redevelopment commission must:

- (1) hear testimony from all persons interested in the proposed establishment of the target area; and
- (2) consider any written remonstrances that have been filed with the redevelopment commission concerning the proposed establishment of the target area.

(b) After considering the evidence presented at the hearing, the redevelopment commission shall take final action:

- (1) confirming;
- (2) modifying and confirming; or
- (3) rescinding;

the resolution. The action taken by the redevelopment commission is final, except that an appeal may be taken under section 16 of this chapter.

Sec. 16. (a) A person who filed a written remonstrance with a redevelopment commission and is aggrieved by the final action of the redevelopment commission under section 15 of this chapter may, not more than ten (10) days after that final action by the redevelopment commission, file an appeal in the office of the clerk of the circuit court with a copy of the final resolution of the redevelopment commission and the person's remonstrance against that final resolution.

(b) If an appeal is filed under this section, the redevelopment commission may petition that the appeal be dismissed unless the remonstrator posts a bond with a surety approved by the court payable to the redevelopment commission for the payment of all damages and costs that may accrue by reason of the filing of the lawsuit if the redevelopment commission prevails. A hearing on a petition to dismiss an appeal shall be conducted in the same manner as a hearing on a temporary injunction under IC 34-26. If at the hearing the court determines that the remonstrator cannot

C
O
P
Y



1 establish facts that would entitle the remonstrator to a temporary
 2 injunction, the court shall set the amount of the bond to be filed by
 3 the remonstrator in an amount found by the judge to cover all
 4 damages and costs that may accrue to the redevelopment
 5 commission because of the appeal if the redevelopment commission
 6 prevails. If no bond is filed by the remonstrator with sureties
 7 approved by the court within ten (10) days after the court's order
 8 is entered, the suit shall be dismissed, and no court has further
 9 jurisdiction of the appeal or any other lawsuit involving any issue
 10 that was or could have been raised on the appeal.

11 (c) The burden of proof in the appeal is on the remonstrator,
 12 and a change of venue from the county may not be granted.

13 (d) An appeal under this section shall be promptly heard by the
 14 court without a jury. All remonstrances upon which an appeal has
 15 been taken shall be consolidated and heard and determined not
 16 more than thirty (30) days after the time of the filing of the appeal.
 17 Notwithstanding any other law, the court shall decide the appeal
 18 based on the record and evidence before the redevelopment
 19 commission, not by trial de novo, and may sustain the
 20 remonstrance only if it finds that the actions of the redevelopment
 21 commission in adopting the resolution were arbitrary and
 22 capricious.

23 (e) The court may confirm the final action of the redevelopment
 24 commission or sustain the remonstrances. The judgment of the
 25 court is final and conclusive, unless an appeal is taken as in other
 26 civil actions.

27 **Sec. 17.** The determination of a redevelopment commission to
 28 create a target area must be approved by ordinance of the
 29 legislative body of the county.

30 **Sec. 18. (a)** If a target area is established under this chapter, the
 31 project county in which the target area is located may enter into a
 32 project agreement with one (1) or more other eligible counties
 33 concerning the economic development project. A project
 34 agreement must be entered into as an interlocal cooperation
 35 agreement under IC 36-1-7.

36 (b) The eligible counties entering into the project agreement
 37 shall specify at least the following in the project agreement:

38 (1) The amount, type, and timing of assistance that will be:

39 (A) provided by each eligible county entering into the
 40 project agreement; and

41 (B) used to carry out the economic development project.

42 (2) Either:

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- (A) a determination of each eligible county's percentage share of the total amount of assistance provided by all eligible counties to carry out the economic development project; or
- (B) a description of the manner in which each eligible county's percentage share of the total amount of assistance provided by all eligible counties to carry out the economic development project will be determined.

Sec. 19. (a) If a target area is established under this chapter, the fiscal body of the project county may adopt an ordinance imposing, increasing, decreasing, or rescinding a regional economic development target area income tax under this chapter on the adjusted gross income of target area taxpayers.

(b) The fiscal body of the project county must hold at least one (1) public hearing on a proposed ordinance under this section before the public hearing at which the ordinance is adopted. The fiscal body of the project county must give public notice of the public hearing under IC 5-3-1.

(c) Upon adoption of an ordinance under this section, the county auditor shall immediately certify a copy of the ordinance to the department.

Sec. 20. The target area income tax may be imposed in increments of one-tenth percent (0.1%), but not to exceed a rate of one percent (1%), on the adjusted gross income of target area taxpayers.

Sec. 21. (a) Notwithstanding any other provision of this chapter, a power granted by this chapter to adopt an ordinance to impose, increase, decrease, or rescind the target area income tax may be exercised at any time in a year before November 1 of that year.

(b) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that imposes or increases a target area income tax takes effect as follows:

- (1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect October 1 of the current year.
- (2) An ordinance adopted after September 30 and before October 16 of the current year takes effect November 1 of the current year.
- (3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(c) Notwithstanding any other provision of this chapter, an

C
O
P
Y



1 ordinance authorized by this chapter that decreases or rescinds a
2 target area income tax takes effect as follows:

3 (1) An ordinance adopted after December 31 of the
4 immediately preceding year and before October 1 of the
5 current year takes effect on the later of October 1 of the
6 current year or the first day of the month in the current year
7 as the month in which the last increase in the tax or tax rate
8 occurred.

9 (2) An ordinance adopted after September 30 and before
10 October 16 of the current year takes effect on the later of
11 November 1 of the current year or the first day of the month
12 in the current year as the month in which the last increase in
13 the tax or tax rate occurred.

14 (3) An ordinance adopted after October 15 and before
15 November 1 of the current year takes effect December 1 of the
16 current year.

17 Sec. 22. (a) Revenue derived from the target area income tax
18 shall, in the manner prescribed by this chapter, be distributed to
19 the project county to be distributed as provided in the project
20 agreement to:

- 21 (1) the project county; and
- 22 (2) other eligible counties;

23 that have entered into the project agreement.

24 (b) Except as otherwise provided in the project agreement, the
25 percentage of the total target area income tax that shall be
26 distributed to each eligible county is equal to that county's
27 percentage share of the total amount of assistance:

- 28 (1) as specified in the project agreement under subsection
29 18(b)(2)(A) of this chapter; or
- 30 (2) as determined in the manner specified in the project
31 agreement under subsection 18(b)(2)(B) of this chapter.

32 Sec. 23. (a) A special account within the state general fund shall
33 be established for a project county that adopts a target area
34 income tax. Any revenue derived from the imposition of the target
35 area income tax by a project county shall be deposited in the
36 project county's account in the state general fund.

37 (b) Any income earned on money held in an account under
38 subsection (a) becomes a part of that account.

39 (c) Any revenue remaining in an account established under
40 subsection (a) at the end of a fiscal year does not revert to the state
41 general fund.

42 Sec. 24. (a) The amount to be distributed to a project county

C
o
p
y



1 during an ensuing calendar year equals the amount of target area
 2 income tax revenue that the budget agency determines has been:
 3 (1) received from that county for a taxable year ending before
 4 the calendar year in which the determination is made; and
 5 (2) reported on an annual return or amended return
 6 processed by the department in the state fiscal year ending
 7 before July 1 of the calendar year in which the determination
 8 is made;
 9 as adjusted for refunds of target area income tax made in the state
 10 fiscal year.

11 (b) Before August 2 of each calendar year, the budget agency
 12 shall certify to the county auditor of a project county the amount
 13 determined under subsection (a) plus the amount of interest in the
 14 project county's account that has accrued and has not been
 15 included in a certification made in a preceding year. The amount
 16 certified is the county's "certified distribution" for the immediately
 17 succeeding calendar year. The amount certified shall be adjusted
 18 under subsections (c), (d), and (e). The budget agency shall provide
 19 the fiscal body of the project county with an informative summary
 20 of the calculations used to determine the certified distribution. The
 21 summary of calculations must include:

- 22 (1) the amount reported on individual income tax returns
- 23 processed by the department during the previous fiscal year;
- 24 (2) adjustments for over distributions in prior years;
- 25 (3) adjustments for clerical or mathematical errors in prior
- 26 years;
- 27 (4) adjustments for tax rate changes; and
- 28 (5) the amount of excess account balances to be distributed
- 29 under section 25 of this chapter.

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

38 (d) The budget agency shall adjust the certified distribution of
 39 a county to correct for any clerical or mathematical errors made
 40 in any previous certification under this section. The budget agency
 41 may reduce the amount of the certified distribution over several
 42 calendar years so that any adjustment under this subsection is

COPY



1 offset over several years rather than in one (1) lump sum.

2 (e) This subsection applies to a county that imposes, increases,
 3 decreases, or rescinds a target area income tax or tax rate under
 4 this chapter before November 1 in the same calendar year in which
 5 the budget agency makes a certification under this section. The
 6 budget agency shall adjust the certified distribution of a county to
 7 provide for a distribution in the immediately following calendar
 8 year and in each calendar year thereafter. The budget agency shall
 9 provide for a full transition to certification of distributions as
 10 provided in subsection (a)(1) through (a)(2) in the manner
 11 provided in subsection (c). If the county imposes, increases,
 12 decreases, or rescinds a target area income tax or tax rate under
 13 this chapter after the date for which a certification under
 14 subsection (b) is based, the budget agency shall adjust the certified
 15 distribution of the county after August 1 of the calendar year. The
 16 adjustment shall reflect any other adjustment required under
 17 subsections (c) and (d). The adjusted certification shall be treated
 18 as the project county's "certified distribution" for the immediately
 19 succeeding calendar year. The budget agency shall certify the
 20 adjusted certified distribution to the county auditor of the project
 21 county and provide the county council of the project county with
 22 an informative summary of the calculations that revises the
 23 informative summary provided in subsection (b) and reflects the
 24 changes made in the adjustment.

25 (f) One-twelfth (1/12) of a project county's certified distribution
 26 for a calendar year shall be distributed from the project county's
 27 account established under section 23 of this chapter to the county
 28 treasurer of the project county on the first day of each month of
 29 that calendar year.

30 (g) Upon receipt, each monthly payment of a project county's
 31 certified distribution shall be allocated and distributed as provided
 32 in the project agreement to:

- 33 (1) the project county; and
- 34 (2) other eligible counties;

35 that have entered into the project agreement.

36 (h) Tax revenue distributed to an eligible county under this
 37 chapter:

- 38 (1) shall be treated by the eligible county as additional
 39 revenue for the purpose of fixing the eligible county's budget
 40 for the budget year during which the tax revenue is to be
 41 distributed to the eligible county; and
- 42 (2) may be used for any lawful purpose of the eligible county.

**C
O
P
Y**



1 (i) All distributions from the project county's account
2 established under section 23 of this chapter shall be made by
3 warrants issued by the auditor of state to the treasurer of state
4 ordering the appropriate payments.

5 Sec. 25. (a) Before October 2 of each year, the budget agency
6 shall submit a report to the county auditor of a project county
7 indicating the balance in the project county's account under section
8 23 of this chapter as of the cutoff date set by the budget agency.

9 (b) If the budget agency determines that a sufficient balance
10 exists in a project county's account under section 23 of this chapter
11 in excess of the amount necessary, when added to other money that
12 will be deposited in the account after the date of the determination,
13 to make certified distributions to the county in the ensuing year,
14 the budget agency shall make a supplemental distribution to a
15 project county from the project county's account. The budget
16 agency shall make a determination under this section before
17 October 2 of each year.

18 (c) A supplemental distribution described in subsection (b) must
19 be:

- 20 (1) made in January of the ensuing calendar year; and
- 21 (2) allocated and distributed as provided in section 24(g) of
22 this chapter.

23 Sec. 26. (a) Except as otherwise provided in subsection (b) and
24 the other provisions of this chapter, all provisions of the adjusted
25 gross income tax law (IC 6-3) concerning:

- 26 (1) definitions;
- 27 (2) declarations of estimated tax;
- 28 (3) filing of returns;
- 29 (4) deductions or exemptions from adjusted gross income;
- 30 (5) remittances;
- 31 (6) incorporation of the provisions of the Internal Revenue
32 Code;
- 33 (7) penalties and interest; and
- 34 (8) exclusion of military pay credits for withholding;

35 apply to the imposition, collection, and administration of the tax
36 imposed by this chapter.

37 (b) The provisions of IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5,
38 and IC 6-3-5-1 do not apply to the tax imposed by this chapter.

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

C
o
p
y



- 1 **(1) each time the employer remits to the department the tax**
- 2 **that is withheld; and**
- 3 **(2) annually along with the employer's annual withholding**
- 4 **report.**

5 **Sec. 27. The target area income tax imposed in a target area is**
 6 **in addition to all other federal, state, and county income taxes paid**
 7 **by individuals employed within the target area.**

8 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss),
 9 SECTION 247, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes"
 11 includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5);
 12 the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax
 13 (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II
 14 gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)
 15 (repealed); the utility receipts and utility services use taxes (IC 6-2.3);
 16 the state gross retail and use taxes (IC 6-2.5); the adjusted gross income
 17 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the
 18 county adjusted gross income tax (IC 6-3.5-1.1); the county option
 19 income tax (IC 6-3.5-6); the county economic development income tax
 20 (IC 6-3.5-7); **the regional economic development target area income**
 21 **tax (IC 6-3.5-9)**; the auto rental excise tax (IC 6-6-9); the financial
 22 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative
 23 fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor
 24 carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a
 25 reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax
 26 (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise
 27 tax imposed on recreational vehicles and truck campers (IC 6-6-5.1);
 28 the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax
 29 (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax
 30 (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax
 31 (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum
 32 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the
 33 various food and beverage taxes (IC 6-9); the county admissions tax
 34 (IC 6-9-13 and IC 6-9-28); the regional transportation improvement
 35 income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the
 36 emergency and hazardous chemical inventory form fee (IC 6-6-10); the
 37 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the
 38 fees and penalties assessed for overweight vehicles (IC 9-20-4 and
 39 IC 9-30); the underground storage tank fee (IC 13-23); the solid waste
 40 management fee (IC 13-20-22); and any other tax or fee that the
 41 department is required to collect or administer.

42 **SECTION 3. An emergency is declared for this act.**

**C
o
p
y**

