
HOUSE BILL No. 1096

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-18.5-10.5; IC 36-8-19.

Synopsis: Fire protection territories. Provides that for property taxes first due and payable after 2011, the total amount that may be levied in a civil taxing unit in the ensuing calendar year to support a fire protection territory may not exceed: (1) the amount levied in the civil taxing unit to support the fire protection territory in the current calendar year; multiplied by (2) the assessed value growth quotient. Provides that for property taxes first due and payable after 2011, in the first year in which a civil taxing unit levies a property tax to support a fire protection territory, the total amount that may be levied in that year in the civil taxing unit to support the fire protection territory may not exceed the lesser of: (1) the amount specified by the legislative body of the civil taxing unit in the hearing held before adoption of the ordinance or resolution to establish the fire protection territory; or (2) the amount levied for fire protection services in the year immediately preceding the year in which the unit first imposes property taxes to support the fire protection territory, multiplied by the assessed value growth quotient. Specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is also an employee of another unit that: (1) is a participating unit in the fire protection territory; or (2) is proposing to become a participating unit in the fire protection territory. Provides that a fire protection territory may not be established after December 31, 2011, unless the fire protection territory is approved by the voters of each of the participating units in a public question. Provides that before an ordinance or resolution to establish a fire protection territory is adopted
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Effective: July 1, 2011; January 1, 2012.

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January 5, 2011, read first time and referred to Committee on Veterans Affairs and Public Safety.



Digest Continued

by the legislative body of a unit, the legislative body must hold a separate public hearing at which the legislative body makes available to the public specified information concerning the fiscal impact of the proposed fire protection territory.

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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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HOUSE BILL No. 1096



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

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

1 SECTION 1. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.113-2010,
2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2012]: Sec. 10.5. (a) The ad valorem property tax levy
4 limits imposed by section 3 of this chapter do not apply to ad valorem
5 property taxes imposed by a civil taxing unit for fire protection services
6 within a fire protection territory under IC 36-8-19, if the civil taxing
7 unit is a participating unit in a fire protection territory established
8 before August 1, 2001. For purposes of computing the ad valorem
9 property tax levy limits imposed on a civil taxing unit by section 3 of
10 this chapter on a civil taxing unit that is a participating unit in a fire
11 protection territory, established before August 1, 2001, the civil taxing
12 unit's ad valorem property tax levy for a particular calendar year does
13 not include that part of the levy imposed under IC 36-8-19. ~~Any~~
14 ~~property taxes imposed by a civil taxing unit that are exempted by this~~
15 ~~subsection from the ad valorem property tax levy limits imposed by~~



1 section 3 of this chapter and first due and payable after December 31,
 2 2008, may not increase annually by a percentage greater than the result
 3 of:

- 4 (1) the assessed value growth quotient determined under section
 5 2 of this chapter; minus
 6 (2) one (1).

7 (b) The department of local government finance may, under this
 8 subsection, increase the maximum permissible ad valorem property tax
 9 levy that would otherwise apply to a civil taxing unit under section 3
 10 of this chapter to meet the civil taxing unit's obligations to a fire
 11 protection territory established under IC 36-8-19. To obtain an increase
 12 in the civil taxing unit's maximum permissible ad valorem property tax
 13 levy, a civil taxing unit shall submit a petition to the department of
 14 local government finance in the year immediately preceding the first
 15 year in which the civil taxing unit levies a tax to support the fire
 16 protection territory. The petition must be filed before the date specified
 17 in section 12(a)(1) of this chapter of that year. The department of local
 18 government finance shall make a final determination of the civil taxing
 19 unit's budget, ad valorem property tax levy, and property tax rate for the
 20 fire protection territory for the ensuing calendar year. In making its
 21 determination under this subsection, the department of local
 22 government finance shall consider the amount that the civil taxing unit
 23 is obligated to provide to meet the expenses of operation and
 24 maintenance of the fire protection services within the territory,
 25 including the participating unit's reasonable share of an operating
 26 balance for the fire protection territory. The department of local
 27 government finance shall determine the entire amount of the allowable
 28 adjustment in the final determination. The department shall order the
 29 adjustment implemented in the amounts and over the number of years,
 30 not exceeding three (3), requested by the petitioning civil taxing unit.
 31 However, the department of local government finance may not approve
 32 under this subsection a property tax levy greater than zero (0) if the
 33 civil taxing unit did not exist as of the March 1 assessment date for
 34 which the tax levy will be imposed. For purposes of applying this
 35 subsection to the civil taxing unit's maximum permissible ad valorem
 36 property tax levy in subsequent calendar years, the department of local
 37 government finance may determine not to consider part or all of the
 38 part of the property tax levy imposed to establish the operating balance
 39 of the fire protection territory.

40 (b) Except as provided in subsection (c), for property taxes first
 41 due and payable after 2011, the total amount that may be levied in
 42 a civil taxing unit in the ensuing calendar year to support a fire

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protection territory may not exceed:

- (1) the amount levied in the civil taxing unit to support the fire protection territory in the current calendar year; multiplied by
- (2) the assessed value growth quotient determined under section 2 of this chapter.

(c) For property taxes first due and payable after 2011, in the first year in which a civil taxing unit levies a property tax to support a fire protection territory, the total amount that may be levied in that year in the civil taxing unit to support the fire protection territory may not exceed the lesser of the following:

- (1) An amount equal to:
 - (A) the amount levied for fire protection services in the civil taxing unit in the year immediately preceding the year in which the unit first imposes property taxes to support the fire protection territory; multiplied by
 - (B) the assessed value growth quotient determined under section 2 of this chapter.
- (2) The property tax levy specified by the legislative body of the civil taxing unit under IC 36-8-19-6(f)(1) as the property tax levy to be imposed in the first year of the territory.

SECTION 2. IC 36-8-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) Subject to subsections (b) and ~~(c)~~, **through (d) and section 6.4 of this chapter**, the legislative bodies of at least two (2) contiguous units may establish a fire protection territory for any of the following purposes:

- (1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.
- (2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
- (3) Other purposes or functions related to fire protection and fire prevention.

(b) A fire protection territory may not be established after December 31, 2011, unless the fire protection territory is approved by the voters of each of the participating units in a public question under section 6.4 of this chapter.

~~(b)~~ (c) Not more than one (1) unit within the proposed territory may be designated as the provider unit for the territory.

~~(c)~~ (d) The boundaries of a territory need not coincide with those of other political subdivisions.

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1 SECTION 3. IC 36-8-19-6, AS AMENDED BY P.L.47-2007,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 6. (a) To establish a fire protection territory, the
4 legislative bodies of each unit desiring to become a part of the
5 proposed territory must **do the following:**

6 (1) Adopt an ordinance (if the unit is a county or municipality) or
7 a resolution (if the unit is a township) that meets the following
8 requirements:

9 ~~(1)~~ (A) The ordinance or resolution is identical to the
10 ordinances and resolutions adopted by the other units desiring
11 to become a part of the proposed territory.

12 ~~(2)~~ (B) The ordinance or resolution is adopted after January 1
13 but before April 1.

14 ~~(3)~~ (C) The ordinance or resolution authorizes the unit to
15 become a party to an agreement for the establishment of a fire
16 protection territory.

17 ~~(4)~~ (D) The ordinance or resolution is adopted after the
18 legislative body **does the following:**

19 (i) Holds a public hearing **at least thirty (30) days before**
20 **adopting the ordinance or resolution at which the**
21 **legislative body makes available to the public the**
22 **information required by subsection (f) concerning the**
23 **fiscal impact of the proposed fire protection territory.**

24 (ii) Holds at least one (1) additional public hearing to
25 receive public comment on the proposed ordinance or
26 resolution. The legislative body must give notice of the
27 hearing under IC 5-3-1.

28 (2) **In the case of an ordinance or resolution adopted under**
29 **this section after December 31, 2011, hold a public question as**
30 **required by subsection (e) and section 6.4 of this chapter.**

31 (b) The notice required under this section shall include all of the
32 following:

33 (1) A list of the provider unit and all participating units in the
34 proposed territory.

35 (2) The date, time, and location of the hearing.

36 (3) The location where the public can inspect the proposed
37 ordinance or resolution.

38 (4) A statement as to whether the proposed ordinance or
39 resolution requires uniform tax rates or different tax rates within
40 the territory.

41 (5) The name and telephone number of a representative of the unit
42 who may be contacted for further information.

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- 1 (c) The ordinance or resolution adopted under this section shall
- 2 include at least the following:
- 3 (1) The boundaries of the proposed territory.
- 4 (2) The identity of the provider unit and all other participating
- 5 units desiring to be included within the territory.
- 6 (3) An agreement to impose **the following:**
- 7 (A) **For property taxes first due and payable before**
- 8 **January 1, 2012:**
- 9 (i) a uniform tax rate upon all of the taxable property within
- 10 the territory for fire protection services; or
- 11 ~~(B)~~ (ii) different tax rates for fire protection services for the
- 12 units desiring to be included within the territory, so long as
- 13 a tax rate applies uniformly to all of a unit's taxable property
- 14 within the territory.
- 15 (B) **For property taxes first due and payable after**
- 16 **December 31, 2011, a property tax levy for fire protection**
- 17 **services within each participating unit. The maximum**
- 18 **property tax levy for fire protection services for a**
- 19 **particular unit may not exceed the the amount determined**
- 20 **for the unit under IC 6-1.1-18.5-10.5.**
- 21 (4) The contents of the agreement to establish the territory.
- 22 (d) **Except as provided in subsection (e)**, an ordinance or a
- 23 resolution adopted under this section takes effect July 1 of the year the
- 24 ordinance or resolution is adopted.
- 25 (e) **In the case of an ordinance or resolution adopted under this**
- 26 **section after December 31, 2011:**
- 27 (1) **the legislative body of the unit shall certify a copy of the**
- 28 **ordinance or resolution to the county election board of each**
- 29 **county containing any part of a unit adopting the ordinance**
- 30 **or resolution;**
- 31 (2) **the ordinance or resolution takes effect only if the**
- 32 **establishment of the fire protection territory is approved in a**
- 33 **public question under section 6.4 of this chapter; and**
- 34 (3) **if the ordinance or resolution is approved in a public**
- 35 **question under section 6.4 of this chapter, the ordinance or**
- 36 **resolution takes effect July 1 of the year following the year in**
- 37 **which the public question is approved.**
- 38 (f) **A legislative body that desires to adopt an ordinance or a**
- 39 **resolution under this section must make the following information**
- 40 **available to the public at the meeting required by subsection**
- 41 **(a)(1)(D)(i):**
- 42 (1) **The property tax levy, property tax rate, and budget to be**

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imposed or adopted during the first year of the territory for each of the units that would participate in the proposed fire protection territory.

(2) The estimated effect of the proposed reorganization in following years on taxpayers in each of the units that would participate in the proposed fire protection territory, including the expected property tax rates, property tax levies, expenditure levels, and service levels, and annual debt service payments.

(3) A description of the planned services and staffing levels to be provided in the proposed fire protection territory.

(4) A description of any capital improvements to be provided in the proposed fire protection territory.

SECTION 4. IC 36-8-19-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6.3. A member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to become a party to an agreement to join or establish a fire protection territory if that member is also an employee of:

(1) another unit that is a participating unit in the fire protection territory; or

(2) another unit that is proposing to become a participating unit in the fire protection territory.

SECTION 5. IC 36-8-19-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6.4. (a) Subject to subsection (b), if the legislative bodies of each unit desiring to become a part of a proposed fire protection territory:

(1) adopt an ordinance or resolution satisfying the requirements of section 6 of this chapter; and

(2) certify the ordinance or resolution to the county election board as required in section 6(e) of this chapter;

the county election board shall at the next primary election or general election place a public question on the establishment of the fire protection territory on the ballot in each of the units proposing to establish the fire protection territory.

(b) A public question under this section must be certified in accordance with IC 3-10-9-3 and shall be placed on the ballot in accordance with IC 3-10-9.

(c) Any costs incurred to place the public question on the ballot shall be paid by the units proposing to establish the fire protection territory.

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1 (d) A fire protection territory may not be established unless the
 2 public question on the establishment of the fire protection territory
 3 is approved by a majority of the voters voting on the public
 4 question in each of the units proposing to establish the fire
 5 protection territory. The following apply to a public question
 6 concerning the proposed fire protection territory:

7 (1) In the case of a proposed fire protection territory
 8 involving:

9 (A) one (1) or more municipalities; and

10 (B) one (1) or more townships containing any territory that
 11 is not located in a municipality;

12 in determining whether the voters of a township have
 13 approved the public question concerning the proposed fire
 14 protection territory, only the votes of those township voters
 15 who are not residents of a municipality shall be considered.

16 (2) In the case of a proposed fire protection territory
 17 involving:

18 (A) one (1) or more municipalities; and

19 (B) one (1) or more counties containing any territory that
 20 is not located in a municipality;

21 in determining whether the voters of a county have approved
 22 the public question concerning the proposed fire protection
 23 territory, only the votes of those county voters who are not
 24 residents of a municipality shall be considered.

25 (e) If the public question on the establishment of the fire
 26 protection territory is disapproved by a majority of the voters
 27 voting on the public question in any of the units proposing to
 28 establish the fire protection territory, the fire protection territory
 29 may not be established.

30 (f) The circuit court clerk shall certify the results of a public
 31 question under this section to:

32 (1) the executive of each unit proposing to establish the fire
 33 protection territory;

34 (2) the department of local government finance; and

35 (3) the state board of accounts.

36 SECTION 6. IC 36-8-19-6.7 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2011]: Sec. 6.7. After December 31, 2011, the following apply to
 39 a unit that desires to become a participating unit in an existing fire
 40 protection territory:

41 (1) The unit and the other participating units must adopt the
 42 ordinances or resolutions otherwise required under this

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chapter.

(2) The voters of the unit desiring to become a participating unit in the existing fire protection territory must approve the unit becoming a participating unit in a public question under section 6.4 of this chapter. However, the public question shall be held only in the unit desiring to become a participating unit in the existing fire protection territory. The provisions of section 6.4(d)(1) and 6.4(d)(2) of this chapter concerning the determination of whether the public question is approved apply to a public question required by this section.

SECTION 7. IC 36-8-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 7. **(a)** A tax levied under this chapter must be levied ~~at~~ **as follows:**

(1) For property taxes first due and payable before January 1, 2012:

(A) a uniform rate upon all taxable property within the territory; or

~~(2)~~ **(B)** different rates for the units included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

(2) For property taxes first due and payable after December 31, 2011, a property tax levy for fire protection services for a particular unit may not exceed the amount determined for the unit under IC 6-1.1-18.5-10.5.

SECTION 8. IC 36-8-19-8, AS AMENDED BY P.L.182-2009(ss), SECTION 443, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. **(a)** Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter **and (in the case of ordinances or resolutions adopted under section 6 of this chapter after December 31, 2011) after the approval of the establishment of the fire protection territory in a public question under section 6.4 of this chapter**, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

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- 1 (b) The fund consists of the following:
- 2 (1) All receipts from the tax imposed under this section.
- 3 (2) Any money transferred to the fund by the provider unit as
- 4 authorized under subsection (d).
- 5 (3) Any receipts from a false alarm fee or service charge imposed
- 6 by the participating units under IC 36-8-13-4.
- 7 (4) Any money transferred to the fund by a participating unit
- 8 under section 8.6 of this chapter.
- 9 (c) The provider unit, with the assistance of each of the other
- 10 participating units, shall annually budget the necessary money to meet
- 11 the expenses of operation and maintenance of the fire protection
- 12 services within the territory, plus a reasonable operating balance, not
- 13 to exceed twenty percent (20%) of the budgeted expenses. **Except as**
- 14 **provided in Subject to** IC 6-1.1-18.5-10.5, after estimating expenses
- 15 and receipts of money, the provider unit shall establish the tax levy
- 16 required to fund the estimated budget. The amount budgeted under this
- 17 subsection shall be considered a part of each of the participating unit's
- 18 budget.
- 19 (d) If the amount levied in a particular year is insufficient to cover
- 20 the costs incurred in providing fire protection services within the
- 21 territory, the provider unit may transfer from available sources to the
- 22 fire protection territory fund the money needed to cover those costs. In
- 23 this case:
- 24 (1) the levy in the following year shall be increased by the amount
- 25 required to be transferred; and
- 26 (2) the provider unit is entitled to transfer the amount described
- 27 in subdivision (1) from the fund as reimbursement to the provider
- 28 unit.
- 29 (e) If the amount levied in a particular year exceeds the amount
- 30 necessary to cover the costs incurred in providing fire protection
- 31 services within the territory, the levy in the following year shall be
- 32 reduced by the amount of surplus money that is not transferred to the
- 33 equipment replacement fund established under section 8.5 of this
- 34 chapter. The amount that may be transferred to the equipment
- 35 replacement fund may not exceed five percent (5%) of the levy for that
- 36 fund for that year. Each participating unit must agree to the amount to
- 37 be transferred by adopting an ordinance (if the unit is a county or
- 38 municipality) or a resolution (if the unit is a township) that specifies an
- 39 identical amount to be transferred.
- 40 (f) The tax under this section is subject to the tax levy limitations
- 41 imposed under IC 6-1.1-18.5-10.5.

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