

HOUSE BILL No. 1170

DIGEST OF INTRODUCED BILL

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

Synopsis: Public safety local option income tax. Provides that a county or municipality that receives revenue from a local option income tax for public safety (public safety LOIT) may use the public safety LOIT only to increase the total amount available for expenditure for public safety purposes. Provides that the public safety LOIT may not be used to reduce or replace revenue devoted to public safety purposes from any other source of revenue.

Effective: Upon passage.

Morris, Leonard, Tyler

January 10, 2011, read first time and referred to Committee on Ways and Means.

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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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HOUSE BILL No. 1170



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 UPON PASSAGE]: 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), the county auditor shall
3 distribute the portion of the certified distribution that is attributable to
4 a tax rate under this section to the county and to each municipality in
5 the county. The amount that shall be distributed to the county or
6 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) **Tax revenue distributed under subsection (f) may be used**
23 **only to increase the total amount available for expenditure for**
24 **public safety purposes. A county or municipality that receives tax**
25 **revenue under subsection (f) may not reduce or replace the amount**
26 **devoted to public safety purposes from any other source of**
27 **revenue.** The department of local government finance may not require
28 a county or municipality receiving tax revenue under this section to
29 reduce the county's or municipality's property tax levy for a particular
30 year on account of the county's or municipality's receipt of the tax
31 revenue.

32 (h) The tax rate under this section and the tax revenue attributable
33 to the tax rate under this section shall not be considered for purposes
34 of computing:

- 35 (1) the maximum income tax rate that may be imposed in a county
- 36 under section 2 of this chapter or any other provision of this
- 37 chapter;
- 38 (2) the maximum permissible property tax levy under STEP
- 39 EIGHT of IC 6-1.1-18.5-3(b);
- 40 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
- 41 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of
- 42 IC 6-1.1-21); or

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- 1 (4) the credit under IC 6-1.1-20.6.
- 2 (i) The tax rate under this section may be imposed or rescinded at
- 3 the same time and in the same manner that the county may impose or
- 4 increase a tax rate under section 24 of this chapter.
- 5 (j) The department of local government finance and the department
- 6 of state revenue may take any actions necessary to carry out the
- 7 purposes of this section.
- 8 (k) Two (2) or more political subdivisions that are entitled to receive
- 9 a distribution under this section may adopt resolutions providing that
- 10 some part or all of those distributions shall instead be paid to one (1)
- 11 political subdivision in the county to carry out specific public safety
- 12 purposes specified in the resolutions.
- 13 SECTION 2. IC 6-3.5-6-31, AS AMENDED BY P.L.146-2008,
- 14 SECTION 342, IS AMENDED TO READ AS FOLLOWS
- 15 [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) As used in this section,
- 16 "public safety" refers to the following:
- 17 (1) A police and law enforcement system to preserve public peace
- 18 and order.
- 19 (2) A firefighting and fire prevention system.
- 20 (3) Emergency ambulance services (as defined in
- 21 IC 16-18-2-107).
- 22 (4) Emergency medical services (as defined in IC 16-18-2-110).
- 23 (5) Emergency action (as defined in IC 13-11-2-65).
- 24 (6) A probation department of a court.
- 25 (7) Confinement, supervision, services under a community
- 26 corrections program (as defined in IC 35-38-2.6-2), or other
- 27 correctional services for a person who has been:
- 28 (A) diverted before a final hearing or trial under an agreement
- 29 that is between the county prosecuting attorney and the person
- 30 or the person's custodian, guardian, or parent and that provides
- 31 for confinement, supervision, community corrections services,
- 32 or other correctional services instead of a final action
- 33 described in clause (B) or (C);
- 34 (B) convicted of a crime; or
- 35 (C) adjudicated as a delinquent child or a child in need of
- 36 services.
- 37 (8) A juvenile detention facility under IC 31-31-8.
- 38 (9) A juvenile detention center under IC 31-31-9.
- 39 (10) A county jail.
- 40 (11) A communications system (as defined in IC 36-8-15-3) or an
- 41 enhanced emergency telephone system (as defined in
- 42 IC 36-8-16-2).

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- 1 (12) Medical and health expenses for jail inmates and other
- 2 confined persons.
- 3 (13) Pension payments for any of the following:
- 4 (A) A member of the fire department (as defined in
- 5 IC 36-8-1-8) or any other employee of a fire department.
- 6 (B) A member of the police department (as defined in
- 7 IC 36-8-1-9), a police chief hired under a waiver under
- 8 IC 36-8-4-6.5, or any other employee hired by a police
- 9 department.
- 10 (C) A county sheriff or any other member of the office of the
- 11 county sheriff.
- 12 (D) Other personnel employed to provide a service described
- 13 in this section.
- 14 (b) The county income tax council may adopt an ordinance to
- 15 impose an additional tax rate under this section to provide funding for
- 16 public safety if:
- 17 (1) the county income tax council has imposed a tax rate under
- 18 section 30 of this chapter, in the case of a county containing a
- 19 consolidated city; or
- 20 (2) the county income tax council has imposed a tax rate of at
- 21 least twenty-five hundredths of one percent (0.25%) under section
- 22 30 of this chapter, a tax rate of at least twenty-five hundredths of
- 23 one percent (0.25%) under section 32 of this chapter, or a total
- 24 combined tax rate of at least twenty-five hundredths of one
- 25 percent (0.25%) under sections 30 and 32 of this chapter, in the
- 26 case of a county other than a county containing a consolidated
- 27 city.
- 28 (c) A tax rate under this section may not exceed the following:
- 29 (1) Five-tenths of one percent (0.5%), in the case of a county
- 30 containing a consolidated city.
- 31 (2) Twenty-five hundredths of one percent (0.25%), in the case of
- 32 a county other than a county containing a consolidated city.
- 33 (d) If a county income tax council adopts an ordinance to impose a
- 34 tax rate under this section, the county auditor shall send a certified
- 35 copy of the ordinance to the department and the department of local
- 36 government finance by certified mail.
- 37 (e) A tax rate under this section is in addition to any other tax rates
- 38 imposed under this chapter and does not affect the purposes for which
- 39 other tax revenue under this chapter may be used.
- 40 (f) Except as provided in subsection (l), the county auditor shall
- 41 distribute the portion of the certified distribution that is attributable to
- 42 a tax rate under this section to the county and to each municipality in

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1 the county. The amount that shall be distributed to the county or
2 municipality is equal to the result of:

- 3 (1) the portion of the certified distribution that is attributable to a
- 4 tax rate under this section; multiplied by
- 5 (2) a fraction equal to:
 - 6 (A) the total property taxes being collected in the county by
 - 7 the county or municipality for the calendar year; divided by
 - 8 (B) the sum of the total property taxes being collected in the
 - 9 county by the county and each municipality in the county for
 - 10 the calendar year.

11 The county auditor shall make the distributions required by this
12 subsection not more than thirty (30) days after receiving the portion of
13 the certified distribution that is attributable to a tax rate under this
14 section. Tax revenue distributed to a county or municipality under this
15 subsection must be deposited into a separate account or fund and may
16 be appropriated by the county or municipality only for public safety
17 purposes.

18 (g) **Tax revenue distributed under subsection (f) may be used**
19 **only to increase the total amount available for expenditure for**
20 **public safety purposes. A county or municipality that receives tax**
21 **revenue under subsection (f) may not reduce or replace the amount**
22 **devoted to public safety purposes from any other source of**
23 **revenue.** The department of local government finance may not require
24 a county or municipality receiving tax revenue under this section to
25 reduce the county's or municipality's property tax levy for a particular
26 year on account of the county's or municipality's receipt of the tax
27 revenue.

28 (h) The tax rate under this section and the tax revenue attributable
29 to the tax rate under this section shall not be considered for purposes
30 of computing:

- 31 (1) the maximum income tax rate that may be imposed in a county
- 32 under section 8 or 9 of this chapter or any other provision of this
- 33 chapter;
- 34 (2) the maximum permissible property tax levy under STEP
- 35 EIGHT of IC 6-1.1-18.5-3(b);
- 36 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
- 37 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of
- 38 IC 6-1.1-21); or
- 39 (4) the credit under IC 6-1.1-20.6.

40 (i) The tax rate under this section may be imposed or rescinded at
41 the same time and in the same manner that the county may impose or
42 increase a tax rate under section 30 of this chapter.

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1 (j) The department of local government finance and the department
 2 of state revenue may take any actions necessary to carry out the
 3 purposes of this section.
 4 (k) Notwithstanding any other provision, in Lake County the county
 5 council (and not the county income tax council) is the entity authorized
 6 to take actions concerning the additional tax rate under this section.
 7 (l) Two (2) or more political subdivisions that are entitled to receive
 8 a distribution under this section may adopt resolutions providing that
 9 some part or all of those distributions shall instead be paid to one (1)
 10 political subdivision in the county to carry out specific public safety
 11 purposes specified in the resolutions.
 12 SECTION 3. **An emergency is declared for this act.**

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