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# HOUSE BILL No. 1290

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-18.5-13.

**Synopsis:** Property tax levy appeal for emergencies. Provides that an unanticipated emergency for property tax levy appeal purposes includes an economic downturn that has caused an unanticipated increase in the amount of township assistance being paid by a township and permits such a township to make a property tax levy appeal to the department of local government finance.

**Effective:** July 1, 2011.

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### Smith M

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January 12, 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. 1290



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 6-1.1-18.5-13, AS AMENDED BY  
2 P.L.182-2009(ss), SECTION 131, IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. With respect to an  
4 appeal filed under section 12 of this chapter, the department may find  
5 that a civil taxing unit should receive any one (1) or more of the  
6 following types of relief:

7 (1) Permission to the civil taxing unit to increase its levy in excess  
8 of the limitations established under section 3 of this chapter, if in  
9 the judgment of the department the increase is reasonably  
10 necessary due to increased costs of the civil taxing unit resulting  
11 from annexation, consolidation, or other extensions of  
12 governmental services by the civil taxing unit to additional  
13 geographic areas or persons. With respect to annexation,  
14 consolidation, or other extensions of governmental services in a  
15 calendar year, if those increased costs are incurred by the civil  
16 taxing unit in that calendar year and more than one (1)  
17 immediately succeeding calendar year, the unit may appeal under



1 section 12 of this chapter for permission to increase its levy under  
2 this subdivision based on those increased costs in any of the  
3 following:

- 4 (A) The first calendar year in which those costs are incurred.
- 5 (B) One (1) or more of the immediately succeeding four (4)
- 6 calendar years.

7 (2) A levy increase may not be granted under this subdivision for  
8 property taxes first due and payable after December 31, 2008.  
9 Permission to the civil taxing unit to increase its levy in excess of  
10 the limitations established under section 3 of this chapter, if the  
11 local government tax control board finds that the civil taxing unit  
12 needs the increase to meet the civil taxing unit's share of the costs  
13 of operating a court established by statute enacted after December  
14 31, 1973. Before recommending such an increase, the local  
15 government tax control board shall consider all other revenues  
16 available to the civil taxing unit that could be applied for that  
17 purpose. The maximum aggregate levy increases that the local  
18 government tax control board may recommend for a particular  
19 court equals the civil taxing unit's estimate of the unit's share of  
20 the costs of operating a court for the first full calendar year in  
21 which it is in existence. For purposes of this subdivision, costs of  
22 operating a court include:

- 23 (A) the cost of personal services (including fringe benefits);
- 24 (B) the cost of supplies; and
- 25 (C) any other cost directly related to the operation of the court.

26 (3) Permission to the civil taxing unit to increase its levy in excess  
27 of the limitations established under section 3 of this chapter, if the  
28 department finds that the quotient determined under STEP SIX of  
29 the following formula is equal to or greater than one and  
30 two-hundredths (1.02):

31 STEP ONE: Determine the three (3) calendar years that most  
32 immediately precede the ensuing calendar year and in which  
33 a statewide general reassessment of real property or the initial  
34 annual adjustment of the assessed value of real property under  
35 IC 6-1.1-4-4.5 does not first become effective.

36 STEP TWO: Compute separately, for each of the calendar  
37 years determined in STEP ONE, the quotient (rounded to the  
38 nearest ten-thousandth (0.0001)) of the sum of the civil taxing  
39 unit's total assessed value of all taxable property and:

- 40 (i) for a particular calendar year before 2007, the total
- 41 assessed value of property tax deductions in the unit under
- 42 IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar

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1 year; or  
 2 (ii) for a particular calendar year after 2006, the total  
 3 assessed value of property tax deductions that applied in the  
 4 unit under IC 6-1.1-12-42 in 2006 plus for a particular  
 5 calendar year after 2009, the total assessed value of property  
 6 tax deductions that applied in the unit under  
 7 IC 6-1.1-12-37.5 in 2008;  
 8 divided by the sum determined under this STEP for the  
 9 calendar year immediately preceding the particular calendar  
 10 year.  
 11 STEP THREE: Divide the sum of the three (3) quotients  
 12 computed in STEP TWO by three (3).  
 13 STEP FOUR: Compute separately, for each of the calendar  
 14 years determined in STEP ONE, the quotient (rounded to the  
 15 nearest ten-thousandth (0.0001)) of the sum of the total  
 16 assessed value of all taxable property in all counties and:  
 17 (i) for a particular calendar year before 2007, the total  
 18 assessed value of property tax deductions in all counties  
 19 under IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular  
 20 calendar year; or  
 21 (ii) for a particular calendar year after 2006, the total  
 22 assessed value of property tax deductions that applied in all  
 23 counties under IC 6-1.1-12-42 in 2006 plus for a particular  
 24 calendar year after 2009, the total assessed value of property  
 25 tax deductions that applied in the unit under  
 26 IC 6-1.1-12-37.5 in 2008;  
 27 divided by the sum determined under this STEP for the  
 28 calendar year immediately preceding the particular calendar  
 29 year.  
 30 STEP FIVE: Divide the sum of the three (3) quotients  
 31 computed in STEP FOUR by three (3).  
 32 STEP SIX: Divide the STEP THREE amount by the STEP  
 33 FIVE amount.  
 34 The civil taxing unit may increase its levy by a percentage not  
 35 greater than the percentage by which the STEP THREE amount  
 36 exceeds the percentage by which the civil taxing unit may  
 37 increase its levy under section 3 of this chapter based on the  
 38 assessed value growth quotient determined under section 2 of this  
 39 chapter.  
 40 (4) A levy increase may not be granted under this subdivision for  
 41 property taxes first due and payable after December 31, 2008.  
 42 Permission to the civil taxing unit to increase its levy in excess of

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1 the limitations established under section 3 of this chapter, if the  
 2 local government tax control board finds that the civil taxing unit  
 3 needs the increase to pay the costs of furnishing fire protection for  
 4 the civil taxing unit through a volunteer fire department. For  
 5 purposes of determining a township's need for an increased levy,  
 6 the local government tax control board shall not consider the  
 7 amount of money borrowed under IC 36-6-6-14 during the  
 8 immediately preceding calendar year. However, any increase in  
 9 the amount of the civil taxing unit's levy recommended by the  
 10 local government tax control board under this subdivision for the  
 11 ensuing calendar year may not exceed the lesser of:

12 (A) ten thousand dollars (\$10,000); or

13 (B) twenty percent (20%) of:

14 (i) the amount authorized for operating expenses of a  
 15 volunteer fire department in the budget of the civil taxing  
 16 unit for the immediately preceding calendar year; plus

17 (ii) the amount of any additional appropriations authorized  
 18 during that calendar year for the civil taxing unit's use in  
 19 paying operating expenses of a volunteer fire department  
 20 under this chapter; minus

21 (iii) the amount of money borrowed under IC 36-6-6-14  
 22 during that calendar year for the civil taxing unit's use in  
 23 paying operating expenses of a volunteer fire department.

24 (5) A levy increase may not be granted under this subdivision for  
 25 property taxes first due and payable after December 31, 2008.  
 26 Permission to a civil taxing unit to increase its levy in excess of  
 27 the limitations established under section 3 of this chapter in order  
 28 to raise revenues for pension payments and contributions the civil  
 29 taxing unit is required to make under IC 36-8. The maximum  
 30 increase in a civil taxing unit's levy that may be recommended  
 31 under this subdivision for an ensuing calendar year equals the  
 32 amount, if any, by which the pension payments and contributions  
 33 the civil taxing unit is required to make under IC 36-8 during the  
 34 ensuing calendar year exceeds the product of one and one-tenth  
 35 (1.1) multiplied by the pension payments and contributions made  
 36 by the civil taxing unit under IC 36-8 during the calendar year that  
 37 immediately precedes the ensuing calendar year. For purposes of  
 38 this subdivision, "pension payments and contributions made by a  
 39 civil taxing unit" does not include that part of the payments or  
 40 contributions that are funded by distributions made to a civil  
 41 taxing unit by the state.

42 (6) A levy increase may not be granted under this subdivision for

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1 property taxes first due and payable after December 31, 2008.  
2 Permission to increase its levy in excess of the limitations  
3 established under section 3 of this chapter if the local government  
4 tax control board finds that:

5 (A) the township's township assistance ad valorem property  
6 tax rate is less than one and sixty-seven hundredths cents  
7 (\$0.0167) per one hundred dollars (\$100) of assessed  
8 valuation; and

9 (B) the township needs the increase to meet the costs of  
10 providing township assistance under IC 12-20 and IC 12-30-4.

11 The maximum increase that the board may recommend for a  
12 township is the levy that would result from an increase in the  
13 township's township assistance ad valorem property tax rate of  
14 one and sixty-seven hundredths cents (\$0.0167) per one hundred  
15 dollars (\$100) of assessed valuation minus the township's ad  
16 valorem property tax rate per one hundred dollars (\$100) of  
17 assessed valuation before the increase.

18 (7) A levy increase may not be granted under this subdivision for  
19 property taxes first due and payable after December 31, 2008.  
20 Permission to a civil taxing unit to increase its levy in excess of  
21 the limitations established under section 3 of this chapter if:

22 (A) the increase has been approved by the legislative body of  
23 the municipality with the largest population where the civil  
24 taxing unit provides public transportation services; and

25 (B) the local government tax control board finds that the civil  
26 taxing unit needs the increase to provide adequate public  
27 transportation services.

28 The local government tax control board shall consider tax rates  
29 and levies in civil taxing units of comparable population, and the  
30 effect (if any) of a loss of federal or other funds to the civil taxing  
31 unit that might have been used for public transportation purposes.  
32 However, the increase that the board may recommend under this  
33 subdivision for a civil taxing unit may not exceed the revenue that  
34 would be raised by the civil taxing unit based on a property tax  
35 rate of one cent (\$0.01) per one hundred dollars (\$100) of  
36 assessed valuation.

37 (8) A levy increase may not be granted under this subdivision for  
38 property taxes first due and payable after December 31, 2008.  
39 Permission to a civil taxing unit to increase the unit's levy in  
40 excess of the limitations established under section 3 of this  
41 chapter if the local government tax control board finds that:

42 (A) the civil taxing unit is:

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- 1 (i) a county having a population of more than one hundred
- 2 forty-eight thousand (148,000) but less than one hundred
- 3 seventy thousand (170,000);
- 4 (ii) a city having a population of more than fifty-five
- 5 thousand (55,000) but less than fifty-nine thousand (59,000);
- 6 (iii) a city having a population of more than twenty-eight
- 7 thousand seven hundred (28,700) but less than twenty-nine
- 8 thousand (29,000);
- 9 (iv) a city having a population of more than fifteen thousand
- 10 four hundred (15,400) but less than sixteen thousand six
- 11 hundred (16,600); or
- 12 (v) a city having a population of more than seven thousand
- 13 (7,000) but less than seven thousand three hundred (7,300);
- 14 and

15 (B) the increase is necessary to provide funding to undertake  
 16 removal (as defined in IC 13-11-2-187) and remedial action  
 17 (as defined in IC 13-11-2-185) relating to hazardous  
 18 substances (as defined in IC 13-11-2-98) in solid waste  
 19 disposal facilities or industrial sites in the civil taxing unit that  
 20 have become a menace to the public health and welfare.

21 The maximum increase that the local government tax control  
 22 board may recommend for such a civil taxing unit is the levy that  
 23 would result from a property tax rate of six and sixty-seven  
 24 hundredths cents (\$0.0667) for each one hundred dollars (\$100)  
 25 of assessed valuation. For purposes of computing the ad valorem  
 26 property tax levy limit imposed on a civil taxing unit under  
 27 section 3 of this chapter, the civil taxing unit's ad valorem  
 28 property tax levy for a particular year does not include that part of  
 29 the levy imposed under this subdivision. In addition, a property  
 30 tax increase permitted under this subdivision may be imposed for  
 31 only two (2) calendar years.

32 (9) A levy increase may not be granted under this subdivision for  
 33 property taxes first due and payable after December 31, 2008.  
 34 Permission for a county:

- 35 (A) having a population of more than eighty thousand (80,000)
- 36 but less than ninety thousand (90,000) to increase the county's
- 37 levy in excess of the limitations established under section 3 of
- 38 this chapter, if the local government tax control board finds
- 39 that the county needs the increase to meet the county's share of
- 40 the costs of operating a jail or juvenile detention center,
- 41 including expansion of the facility, if the jail or juvenile
- 42 detention center is opened after December 31, 1991;

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- 1 (B) that operates a county jail or juvenile detention center that
- 2 is subject to an order that:
- 3 (i) was issued by a federal district court; and
- 4 (ii) has not been terminated;
- 5 (C) that operates a county jail that fails to meet:
- 6 (i) American Correctional Association Jail Construction
- 7 Standards; and
- 8 (ii) Indiana jail operation standards adopted by the
- 9 department of correction; or
- 10 (D) that operates a juvenile detention center that fails to meet
- 11 standards equivalent to the standards described in clause (C)
- 12 for the operation of juvenile detention centers.

13 Before recommending an increase, the local government tax  
 14 control board shall consider all other revenues available to the  
 15 county that could be applied for that purpose. An appeal for  
 16 operating funds for a jail or a juvenile detention center shall be  
 17 considered individually, if a jail and juvenile detention center are  
 18 both opened in one (1) county. The maximum aggregate levy  
 19 increases that the local government tax control board may  
 20 recommend for a county equals the county's share of the costs of  
 21 operating the jail or a juvenile detention center for the first full  
 22 calendar year in which the jail or juvenile detention center is in  
 23 operation.

24 (10) A levy increase may not be granted under this subdivision for  
 25 property taxes first due and payable after December 31, 2008.  
 26 Permission for a township to increase its levy in excess of the  
 27 limitations established under section 3 of this chapter, if the local  
 28 government tax control board finds that the township needs the  
 29 increase so that the property tax rate to pay the costs of furnishing  
 30 fire protection for a township, or a portion of a township, enables  
 31 the township to pay a fair and reasonable amount under a contract  
 32 with the municipality that is furnishing the fire protection.  
 33 However, for the first time an appeal is granted the resulting rate  
 34 increase may not exceed fifty percent (50%) of the difference  
 35 between the rate imposed for fire protection within the  
 36 municipality that is providing the fire protection to the township  
 37 and the township's rate. A township is required to appeal a second  
 38 time for an increase under this subdivision if the township wants  
 39 to further increase its rate. However, a township's rate may be  
 40 increased to equal but may not exceed the rate that is used by the  
 41 municipality. More than one (1) township served by the same  
 42 municipality may use this appeal.

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(11) A levy increase may not be granted under this subdivision for property taxes first due and payable after December 31, 2008. Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(12) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under this section to reallocate property tax replacement credits under IC 6-3.5-1.1 in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned under this section to have reallocated in 2001 for a purpose other than property tax relief.

(13) A levy increase may be granted under this subdivision only for property taxes first due and payable after December 31, 2008. Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if the civil taxing unit cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by section 3 of this chapter due to a natural disaster, an accident, or another unanticipated emergency. **An unanticipated emergency includes an economic downturn that has caused an unanticipated increase in the amount of township assistance being paid by a township.**

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