

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1007 be amended to read as follows:

- 1 Page 3, line 16, delete "and the appropriateness of allowing local"
2 and insert ".".
- 3 Page 3, delete lines 17 through 19.
- 4 Page 4, between lines 14 and 15, begin a new paragraph and insert:
5 "SECTION 3. IC 4-13.6-3-2 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The public works
7 division is established within the department. Subject to this article, the
8 division shall:
- 9 (1) prepare or supervise preparation of contract documents for
10 public works projects;
- 11 (2) approve contract documents for public works projects;
- 12 (3) advertise for bids for public works contracts;
- 13 (4) recommend to the commissioner award of public works
14 contracts;
- 15 (5) supervise and inspect all work relating to public works
16 projects;
- 17 (6) recommend to the commissioner approval of any necessary
18 lawful changes in contract documents relating to a public works
19 contract that has been awarded;
- 20 (7) approve or reject estimates for payment;
- 21 (8) accept or reject a public works project; and
- 22 (9) administer this article.
- 23 (b) Except as provided in ~~IC 4-13.6-5-4(b)~~ **IC 4-13.6-5-4(d)** and
24 subject to IC 4-13.6-2-6, whenever in this article a duty is specified or
25 authority is granted that relates to the estimated dollar value of a public
26 works project, the director shall make the determination of the value of
27 the project. Such a determination of the director is final and conclusive
28 and is the amount against which the existence of the duty or the
29 authority shall be determined, even if it is later found that the
30 determination of the director was erroneous.

1 (c) The division may delegate any of its authority to a governmental
2 body.

3 SECTION 4. IC 4-13.6-5-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Except as
5 provided by this chapter and IC 16-33-4-10, if the estimated cost of a
6 public works project is at least ~~seventy-five thousand dollars (\$75,000);~~
7 **one hundred fifty thousand dollars (\$150,000)**, the division shall
8 award a contract for the project based on competitive bids.

9 (b) If the estimated cost of a public works project is at least
10 ~~seventy-five thousand dollars (\$75,000);~~ **one hundred fifty thousand**
11 **dollars (\$150,000)**, the division shall develop contract documents for
12 a public works contract and keep the contract documents on file in its
13 offices so that they may be inspected by contractors and members of
14 the public.

15 (c) The division shall advertise for bids under section 8 of this
16 chapter. The director shall award a contract under IC 4-13.6-6.

17 (d) A contractor shall submit under oath a financial statement as a
18 part of the bid. The director may waive filing of the financial statement.

19 (e) After bids are opened but before a contract is awarded, the
20 director may require a contractor to submit a statement of the
21 contractor's experience, a proposed plan of performing the work, and
22 a listing of the equipment that is available to the contractor for
23 performance of the work.

24 (f) The statements required by this section shall be submitted on
25 forms approved by the state board of accounts. The forms shall be
26 based, so far as applicable, on standard questionnaires and financial
27 statements for contractors used in investigating the qualifications of
28 contractors on public construction work.

29 (g) The division shall reject the bid of a contractor if:

30 (1) the estimated cost of the public works project is one hundred
31 fifty thousand dollars (\$150,000) or more and the contractor is not
32 qualified under chapter 4 of this article;

33 (2) the estimated cost of the public works project is less than one
34 hundred fifty thousand dollars (\$150,000) and the director makes
35 a written determination, based upon information provided under
36 subsections (d) and (e), that the contractor is not qualified to
37 perform the public works contract;

38 (3) the contractor has failed to perform a previous contract with
39 the state satisfactorily and has submitted the bid during a period
40 of suspension imposed by the director (the failure of the
41 contractor to perform a contract satisfactorily must be based upon
42 a written determination by the director);

43 (4) the contractor has not complied with a rule adopted under this
44 article and the rule specifies that failure to comply with it is a
45 ground for rejection of a bid; or

46 (5) the contractor has not complied with any requirement under

1 section 2.5 of this chapter.

2 (h) The division shall keep a record of all bids. The state board of
3 accounts shall approve the form of this record, and the record must
4 include at least the following information:

5 (1) The name of each contractor.

6 (2) The amount bid by each contractor.

7 (3) The name of the contractor making the lowest bid.

8 (4) The name of the contractor to whom the contract was
9 awarded.

10 (5) The reason the contract was awarded to a contractor other than
11 the lowest bidder, if applicable.

12 (6) Purchase order numbers.

13 SECTION 5. IC 4-13.6-5-3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) If the estimated
15 cost of a public works project is less than ~~seventy-five thousand dollars~~
16 ~~(\$75,000)~~, **one hundred fifty thousand dollars (\$150,000)**, the
17 division may award a public works contract either under section 2 of
18 this chapter or under this section, at the discretion of the director.

19 (b) If the director awards a contract under this section, the division
20 shall invite quotations from at least three (3) contractors known to the
21 division to deal in the work required to be done. However, if fewer than
22 three (3) contractors are known to the division to be qualified to
23 perform the work, the division shall invite quotations from as many
24 contractors as are known to be qualified to perform the work. Failure
25 to receive three (3) quotations shall not prevent an award from being
26 made.

27 (c) The division may authorize the governmental body for which the
28 public work is to be performed to invite quotations, but award of a
29 contract based upon those quotations is the responsibility of the
30 division.

31 (d) Quotations given by a contractor under this section must be in
32 writing and sealed in an envelope, shall be considered firm, and may
33 be the basis upon which the division awards a public works contract.

34 (e) The division shall award a contract to the lowest responsible and
35 responsive contractor and in accordance with any requirement imposed
36 under section 2.5 of this chapter.

37 SECTION 6. IC 4-13.6-5-4, AS AMENDED BY P.L.34-2005,
38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2011]: Sec. 4. (a) If the estimated cost of a public works
40 project is less than ~~seventy-five thousand dollars (\$75,000)~~, **one**
41 **hundred fifty thousand dollars (\$150,000)**, the division may perform
42 the public work without awarding a public works contract under
43 section 2 of this chapter. In performing the public work, the division
44 may authorize use of equipment owned, rented, or leased by the state,
45 may authorize purchase of materials in the manner provided by law,
46 and may authorize performance of the public work using employees of

1 the state.

2 **(b) The workforce of a state agency may perform a public work**
3 **described in subsection (a) only if:**

4 **(1) the workforce, through demonstrated skills, training, or**
5 **expertise, is capable of performing the public work; and**
6 **(2) for a public works project under subsection (a) whose cost**
7 **is estimated to be more than one hundred thousand dollars**
8 **(\$100,000), the agency:**

9 **(A) publishes a notice under IC 5-3-1 that:**

10 **(i) describes the public work that the agency intends to**
11 **perform with its own workforce; and**

12 **(ii) sets forth the projected cost of each component of the**
13 **public work as described in subsection (a); and**

14 **(B) determines at a public meeting that it is in the public**
15 **interest to perform the public work with the agency's own**
16 **workforce.**

17 **A public works project performed by an agency's own workforce**
18 **must be inspected and accepted as complete in the same manner as**
19 **a public works project performed under a contract awarded after**
20 **receiving bids.**

21 **(c) If a public works project involves a structure, an**
22 **improvement, or a facility under the control of an agency, the**
23 **agency may not artificially divide the project to bring any part of**
24 **the project under this section.**

25 ~~(b)~~ **(d) If a public works project involves a structure, improvement,**
26 **or facility under the control of the department of natural resources, the**
27 **department of natural resources may purchase materials for the project**
28 **in the manner provided by law and without a contract being awarded,**
29 **and may use its employees to perform the labor and supervision, if:**

30 **(1) the department of natural resources uses equipment owned or**
31 **leased by it; and**

32 **(2) the division of engineering of the department of natural**
33 **resources estimates the cost of the public works project will be**
34 **less than ~~seventy-five~~ one hundred fifty thousand dollars**
35 **~~(\$75,000). (\$150,000).~~**

36 ~~(c)~~ **(e) If a public works project involves a structure, improvement,**
37 **or facility under the control of the department of correction, the**
38 **department of correction may purchase materials for the project in the**
39 **manner provided by law and use inmates in the custody of the**
40 **department of correction to perform the labor and use its own**
41 **employees for supervisory purposes, without awarding a contract, if:**

42 **(1) the department of correction uses equipment owned or leased**
43 **by it; and**

44 **(2) the estimated cost of the public works project using employee**
45 **or inmate labor is less than the greater of:**

46 **(A) fifty thousand dollars (\$50,000); or**

1 (B) the project cost limitation set by IC 4-13-2-11.1.
 2 All public works projects covered by this subsection must comply with
 3 the remaining provisions of this article, and all plans and specifications
 4 for the public works project must be approved by a licensed architect
 5 or engineer.

6 SECTION 7. IC 4-13.6-7-2, AS AMENDED BY P.L.160-2006,
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2011]: Sec. 2. (a) If the estimated cost of a public works
 9 project is ~~one hundred fifty thousand dollars (\$150,000)~~ **one million**
 10 **dollars (\$1,000,000)** or more, the division shall include as part of the
 11 public works contract provisions for the retainage of portions of
 12 payments by the division to the contractor, by the contractor to
 13 subcontractors, and for the payment of subcontractors and suppliers by
 14 the contractor. The contract must provide that the division may
 15 withhold from the contractor sufficient funds from the contract price to
 16 pay subcontractors and suppliers as provided in section 4 of this
 17 chapter.

18 (b) A public works contract and contracts between contractors and
 19 subcontractors, if portions of the public works contract are
 20 subcontracted, may include a provision that at the time any retainage
 21 is withheld, the division or the contractor, as the case may be, may
 22 place the retainage in an escrow account, as mutually agreed, with:

- 23 (1) a bank;
- 24 (2) a savings and loan institution;
- 25 (3) the state of Indiana; or
- 26 (4) an instrumentality of the state of Indiana;

27 as escrow agent. The parties to the contract shall select the escrow
 28 agent by mutual agreement. The parties to the agreement shall enter
 29 into a written agreement with the escrow agent.

30 (c) The escrow agreement must provide the following:

- 31 (1) The escrow agent shall promptly invest all escrowed principal
 32 in the obligations that the escrow agent selects, in its discretion.
- 33 (2) The escrow agent shall hold the escrowed principal and
 34 income until it receives notice from both of the other parties to the
 35 escrow agreement specifying the percentage of the escrowed
 36 principal to be released from the escrow and the persons to whom
 37 this percentage is to be released. When it receives this notice, the
 38 escrow agent shall promptly pay the designated percentage of
 39 escrowed principal and the same percentage of the accumulated
 40 escrowed income to the persons designated in the notice.
- 41 (3) The escrow agent shall be compensated for its services as the
 42 parties may agree. The compensation shall be a commercially
 43 reasonable fee commensurate with fees being charged at the time
 44 the escrow fund is established for the handling of escrow accounts
 45 of like size and duration. The fee must be paid from the escrowed
 46 income of the escrow account.

1 (d) The escrow agreement may include other terms and conditions
 2 that are not inconsistent with subsection (c). Additional provisions may
 3 include provisions authorizing the escrow agent to commingle the
 4 escrowed funds held under other escrow agreements and provisions
 5 limiting the liability of the escrow agent."

6 Page 7, between lines 3 and 4, begin a new paragraph and insert:

7 "SECTION 11. IC 5-11-1-26 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 26. (a) If a state office,
 9 municipality, or other entity has authority to contract for the
 10 construction, reconstruction, alteration, repair, improvement, or
 11 maintenance of a public work, the state board of accounts shall include
 12 in each examination report concerning the state office, municipality, or
 13 entity:

- 14 (1) an opinion concerning whether the state office, municipality,
 15 or entity has complied with IC 5-16-8; and
- 16 (2) a brief description of each instance in which the state office,
 17 municipality, or entity has exercised its authority under
 18 IC 5-16-8-2(b) or IC 5-16-8-4.

19 **(b) If a municipality or a county performs a public work by**
 20 **means of its own workforce under IC 36-1-12-3, the state board of**
 21 **accounts shall include the following in each examination report**
 22 **concerning the municipality or county:**

- 23 (1) **An opinion concerning whether the municipality or county**
 24 **has complied with IC 36-1-12-3 for each public work**
 25 **performed by the entity's own workforce.**
- 26 (2) **A brief description of each public work that the**
 27 **municipality or county has performed with its own workforce**
 28 **under IC 36-1-12-3, including a calculation of the actual cost**
 29 **of each public work under IC 36-1-12-3.**
- 30 (3) **An opinion concerning whether the municipality or county**
 31 **has complied with IC 36-1-12-19 in calculating the actual**
 32 **costs of a public work project performed under IC 36-1-12-3.**

33 **(c) If a state agency performs a public work by means of its own**
 34 **workforce under IC 4-13.6-5-4, the state board of accounts shall**
 35 **include the following in each examination report concerning the**
 36 **agency:**

- 37 (1) **An opinion concerning whether the agency has complied**
 38 **with IC 4-13.6-5-4 for each public work performed by the**
 39 **agency's own workforce.**
- 40 (2) **A brief description of each public work that the agency has**
 41 **performed with its own workforce under IC 4-13.6-5-4,**
 42 **including a calculation of the actual cost of each public work**
 43 **under IC 4-13.6-5-4.**
- 44 (3) **An opinion concerning whether the agency has complied**
 45 **with IC 4-13.6-5-4(c) in calculating the actual costs of a public**
 46 **work project performed under IC 4-13.6-5-4.**

47 **(d) If a state educational institution performs a public work by**

1 means of its own workforce under IC 5-16-1-1.5, the state board of
 2 accounts shall include the following in each examination report
 3 concerning the state educational institution:

4 (1) An opinion concerning whether the state educational
 5 institution has complied with IC 5-16-1-1.5 for each public
 6 work performed by the state educational institution's own
 7 workforce.

8 (2) A brief description of each public work that the state
 9 educational institution has performed with its own workforce
 10 under IC 5-16-1-1.5, including a calculation of the actual cost
 11 of each public work under IC 5-16-1-1.5.

12 (3) An opinion concerning whether the state educational
 13 institution has complied with IC 5-16-1-1.5 in calculating the
 14 actual costs of a public work project performed under
 15 IC 5-16-1-1.5.

16 ~~(b)~~ (e) The state board of accounts may exercise any of its powers
 17 under this chapter concerning public accounts to carry out this section,
 18 including the power to require a uniform system of accounting or the
 19 use of forms prescribed by the state board of accounts."

20 Page 7, between lines 28 and 29, begin a new paragraph and insert:

21 "SECTION 13. IC 5-16-1-1.5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) The governing
 23 board of any state educational institution, acting on behalf of said
 24 institution, may purchase materials in the manner provided by law and
 25 perform any work by means of its own employees and owned or leased
 26 equipment in the construction, rehabilitation, extension, maintenance,
 27 or repair of any building, structure, improvement, or facility of said
 28 institutions, without awarding a contract therefor, whenever the cost of
 29 such work shall be estimated to be less than ~~fifty thousand dollars~~
 30 ~~(\$50,000)~~: two hundred thousand dollars (\$200,000).

31 (b) The workforce of a state educational institution may
 32 perform a public work described in subsection (a) only if:

33 (1) the workforce, through demonstrated skills, training, or
 34 expertise, is capable of performing the public work; and

35 (2) for a public work project under subsection (a) whose cost
 36 is estimated to be more than one hundred thousand dollars
 37 (\$100,000), the state educational institution:

38 (A) publishes a notice under IC 5-3-1 that:

39 (i) describes the public work that the state educational
 40 institution intends to perform with its own workforce;
 41 and

42 (ii) sets forth the projected cost of each component of the
 43 public work as described in subsection (a); and

44 (B) determines at a public meeting that it is in the public
 45 interest to perform the public work with the state
 46 educational institution's own workforce.

47 A public work project performed by a state educational

1 **institution's own workforce must be inspected and accepted as**
 2 **complete in the same manner as a public work project performed**
 3 **under a contract awarded after receiving bids.**

4 **(c) If a public work project involves a structure, an**
 5 **improvement, or a facility under the control of a state educational**
 6 **institution, the state educational institution may not artificially**
 7 **divide the project to bring any part of the project under this**
 8 **section.**

9 SECTION 14. IC 5-16-1-1.7 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.7. On agricultural or
 11 forestry land owned or occupied by Purdue University and used by it
 12 for educational or research purposes, the trustees of the university may,
 13 upon a declaration of necessity recorded in its minutes, award contracts
 14 without advertising for bids or otherwise satisfying the requirements of
 15 this chapter, if the cost of work is estimated to be less than **fifty two**
 16 **hundred** thousand dollars (~~\$50,000~~). **(\$200,000)**. However, bids shall
 17 be invited from at least three (3) or more persons, firms, limited
 18 liability companies, or corporations known to deal in the work required
 19 to be done. The minutes of the board shall show the names of those
 20 invited to bid.

21 SECTION 15. IC 5-16-1-1.9, AS AMENDED BY P.L.2-2007,
 22 SECTION 103, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2011]: Sec. 1.9. Notwithstanding this article, a
 24 state educational institution may award a contract for any construction
 25 or repair work to any building, structure, or improvement of the
 26 institution without advertising for bids and meeting other contract
 27 awarding requirements of this article whenever the estimated cost of
 28 the project is less than **fifty two hundred** thousand dollars (~~\$50,000~~).
 29 **(\$200,000)**. However, in awarding any contract under this section the
 30 state educational institution must do the following:

31 (1) Invite bids from at least three (3) persons, firms, limited
 32 liability companies, or corporations known to deal in the work
 33 required to be done.

34 (2) Give notice of the project if the estimated cost of the project
 35 is more than twenty-five thousand dollars (\$25,000). If required,
 36 notice must include a description of the work to be done and be
 37 given in at least one (1) newspaper of general circulation printed
 38 and published in the county in which the work is to be done.

39 (3) Award the contract to the lowest and best bidder."

40 Page 10, delete line 42, begin a new paragraph and insert:

41 **"(c) This subsection applies only to the determination of the**
 42 **assessed value of personal property for property taxes first due and**
 43 **payable after December 31, 2010, and before January 1, 2013. The**
 44 **following apply to the determination of the assessed value of**
 45 **personal property that was transferred to a taxpayer by an affiliate**
 46 **of the taxpayer under the federal Troubled Asset Relief Program**

- 1 (commonly referred to as TARP):
- 2 (1) The historical cost shall be reduced by thirty percent
- 3 (30%).
- 4 (2) The minimum valuation rules under 50 IAC 4.2-4-9
- 5 concerning the total valuation of a taxpayer's assessable
- 6 depreciable personal property in a single taxing district do not
- 7 apply."
- 8 Page 11, delete lines 1 through 22.
- 9 Page 12, line 34, delete "state" and insert "county".
- 10 Page 17, delete lines 3 through 24, begin a new paragraph and
- 11 insert:
- 12 "SECTION 23. IC 6-1.1-12-46 IS ADDED TO THE INDIANA
- 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 14 [EFFECTIVE JANUARY 1, 2011 (RETROACTIVE)]: **Sec. 46. (a)**
- 15 **This section applies to real property for an assessment date in 2011**
- 16 **or a later year if:**
- 17 (1) the real property is not exempt from property taxation for
- 18 the assessment date;
- 19 (2) title to the real property is transferred after the
- 20 assessment date and on or before the December 31 that next
- 21 succeeds the assessment date;
- 22 (3) the transferee of the real property applies for an
- 23 exemption under IC 6-1.1-11 for the next succeeding
- 24 assessment date; and
- 25 (4) the county property tax assessment board of appeals
- 26 determines that the real property is exempt from property
- 27 taxation for that next succeeding assessment date.
- 28 (b) For the assessment date referred to in subsection (a)(1), real
- 29 property is eligible for any deductions for which the transferor
- 30 under subsection (a)(2) was eligible for that assessment date under
- 31 the following:
- 32 (1) IC 6-1.1-12-1.
- 33 (2) IC 6-1.1-12-9.
- 34 (3) IC 6-1.1-12-11.
- 35 (4) IC 6-1.1-12-13.
- 36 (5) IC 6-1.1-12-14.
- 37 (6) IC 6-1.1-12-16.
- 38 (7) IC 6-1.1-12-17.4.
- 39 (8) IC 6-1.1-12-18.
- 40 (9) IC 6-1.1-12-22.
- 41 (10) IC 6-1.1-12-37.
- 42 (11) IC 6-1.1-12-37.5.
- 43 (c) For the payment date applicable to the assessment date
- 44 referred to in subsection (a)(1), real property is eligible for the
- 45 credit for excessive residential property taxes under IC 6-1.1-20.6
- 46 for which the transferor under subsection (a)(2) would be eligible
- 47 for that payment date if the transfer had not occurred."

- 1 Page 91, line 37, delete ", considering the recommendations" and
2 insert ".".
- 3 Page 91, delete line 38.
- 4 Page 97, line 18, delete "before" and insert "**after**".
- 5 Page 138, line 20, delete "for any amount of one" and insert "**per**
6 **ounce of moist snuff, and a proportionate tax at the same rate on**
7 **all fractional parts of an ounce.**".
- 8 Page 138, delete lines 21 through 23.
- 9 Page 140, delete lines 6 through 23.
- 10 Page 146, between lines 40 and 41, begin a new paragraph and
11 insert:
- 12 "SECTION 90. IC 6-9-2-1, AS AMENDED BY P.L.2-2007,
13 SECTION 130, IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A county having a population
15 of more than four hundred thousand (400,000) but less than seven
16 hundred thousand (700,000) that establishes a medical center
17 development agency pursuant to IC 16-23.5-2 may levy each year a tax
18 on every person engaged in the business of renting or furnishing, for
19 periods of less than thirty (30) days **by the same party in the same**
20 **room**, any room or rooms, lodgings, or accommodations, in any hotel,
21 motel, inn, tourist camp, tourist cabin, or any other place in which
22 rooms, lodgings, or accommodations are regularly furnished for a
23 consideration.
- 24 (b) Such tax shall be at a rate of five percent (5%) on the gross retail
25 income derived therefrom and ~~shall be~~ **is** in addition to the state gross
26 retail tax imposed on ~~such persons by law:~~ **the retail transaction.**
- 27 (c) The county fiscal body may adopt an ordinance to require that
28 the tax be reported on forms approved by the county treasurer and that
29 the tax shall be paid monthly to the county treasurer. If such an
30 ordinance is adopted. The tax shall be paid to the county treasurer not
31 more than twenty (20) days after the end of the month the tax is
32 collected. If such an ordinance is not adopted, the tax shall be imposed,
33 paid, and collected in exactly the same manner as the state gross retail
34 tax is imposed, paid, and collected.
- 35 (d) All of the provisions of the state gross retail tax (IC 6-2.5)
36 relating to rights, duties, liabilities, procedures, penalties, definitions,
37 exemptions, and administration shall be applicable to the imposition
38 and administration of the tax imposed by this section except to the
39 extent such provisions are in conflict or inconsistent with the specific
40 provisions of this chapter or the requirements of the county treasurer.
41 Specifically and not in limitation of the foregoing sentence, the terms
42 "person" and "gross retail income" shall have the same meaning in this
43 section as they have in the state gross retail tax (IC 6-2.5). If the tax is
44 paid to the department of state revenue, the returns to be filed for the
45 payment of the tax under this section may be either a separate return or
46 may be combined with the return filed for the payment of the state

1 gross retail tax as the department of state revenue may, by rule,
2 determine.

3 (e) If the tax is paid to the department of state revenue, the amounts
4 received from the tax shall be paid by the end of the next succeeding
5 month by the treasurer of state to the county treasurer upon warrants
6 issued by the auditor of state. The county treasurer shall deposit the
7 revenue received under this chapter as provided in section 2 of this
8 chapter.

9 SECTION 91. IC 6-9-2-2, AS AMENDED BY P.L.113-2010,
10 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2011]: Sec. 2. (a) The revenue received by the county
12 treasurer under this chapter shall be allocated to the Lake County
13 convention and visitor bureau, Indiana University-Northwest, Purdue
14 University-Calumet, municipal public safety departments, municipal
15 physical and economic development divisions, and the cities and towns
16 in the county as provided in this section. Subsections (b) through (g) do
17 not apply to the distribution of revenue received under section 1 of this
18 chapter from hotels, motels, inns, tourist camps, tourist cabins, and
19 other lodgings or accommodations built or refurbished after June 30,
20 1993, that are located in the largest city of the county.

21 (b) The Lake County convention and visitor bureau shall establish
22 a convention, tourism, and visitor promotion fund (referred to in this
23 chapter as the "promotion fund"). The county treasurer shall transfer to
24 the Lake County convention and visitor bureau for deposit in the
25 promotion fund thirty-five percent (35%) of the first one million two
26 hundred thousand dollars (\$1,200,000) of revenue received from the
27 tax imposed under this chapter in each year. The promotion fund
28 consists of:

- 29 (1) money in the promotion fund on June 30, 2005;
- 30 (2) revenue deposited in the promotion fund under this subsection
31 after June 30, 2005; and
- 32 (3) investment income earned on the promotion fund's assets.

33 Money in the ~~bureau's~~ **funds established by the bureau** may be
34 expended to promote and encourage conventions, trade shows, special
35 events, recreation, and visitors. Money may be paid from the ~~promotion~~
36 ~~fund~~, **funds established by the bureau**, by claim in the same manner
37 as municipalities may pay claims under IC 5-11-10-1.6.

38 (c) This subsection applies to the first one million two hundred
39 thousand dollars (\$1,200,000) of revenue received from the tax
40 imposed under this chapter in each year. During each year, the county
41 treasurer shall transfer to Indiana University-Northwest forty-four and
42 thirty-three hundredths percent (44.33%) of the revenue received under
43 this chapter for that year to be used as follows:

- 44 (1) Seventy-five percent (75%) of the revenue received under this
45 subsection may be used only for the university's medical
46 education programs.

1 (2) Twenty-five percent (25%) of the revenue received under this
2 subsection may be used only for the university's allied health
3 education programs.

4 (d) This subsection applies to the first one million two hundred
5 thousand dollars (\$1,200,000) of revenue received from the tax
6 imposed under this chapter in each year. During each year, the county
7 treasurer shall allocate among the cities and towns throughout the
8 county nine percent (9%) of the revenue received under this chapter for
9 that year as follows:

10 (1) Ten percent (10%) of the revenue covered by this subsection
11 shall be distributed to cities having a population of more than
12 ninety thousand (90,000) but less than one hundred five thousand
13 (105,000).

14 (2) Ten percent (10%) of the revenue covered by this subsection
15 shall be distributed to cities having a population of more than
16 seventy-five thousand (75,000) but less than ninety thousand
17 (90,000).

18 (3) Ten percent (10%) of the revenue covered by this subsection
19 shall be distributed to cities having a population of more than
20 thirty-two thousand (32,000) but less than thirty-two thousand
21 eight hundred (32,800).

22 (4) Seventy percent (70%) of the revenue covered by this
23 subsection shall be distributed in equal amounts to each town and
24 each city not receiving a distribution under subdivisions (1)
25 through (3).

26 The money distributed under this subsection may be used only for
27 tourism and economic development projects. The county treasurer shall
28 make the distributions on or before December 1 of each year.

29 (e) This subsection applies to the first one million two hundred
30 thousand dollars (\$1,200,000) of revenue received from the tax
31 imposed under this chapter in each year. During each year, the county
32 treasurer shall transfer to Purdue University-Calumet nine percent (9%)
33 of the revenue received under this chapter for that year. The money
34 received by Purdue University-Calumet may be used by the university
35 only for nursing education programs.

36 (f) This subsection applies to the first one million two hundred
37 thousand dollars (\$1,200,000) of revenue received from the tax
38 imposed under this chapter in each year. During each year, the county
39 treasurer shall transfer two and sixty-seven hundredths percent (2.67%)
40 of the revenue received under this chapter for that year to the following
41 cities:

42 (1) Fifty percent (50%) of the revenue covered by this subsection
43 shall be transferred to cities having a population of more than
44 ninety thousand (90,000) but less than one hundred five thousand
45 (105,000).

46 (2) Fifty percent (50%) of the revenue covered by this subsection

1 shall be transferred to cities having a population of more than
 2 seventy-five thousand (75,000) but less than ninety thousand
 3 (90,000).

4 Money transferred under this subsection may be used only for
 5 convention facilities located within the city. In addition, the money may
 6 be used only for facility marketing, sales, and public relations
 7 programs. Money transferred under this subsection may not be used for
 8 salaries, facility operating costs, or capital expenditures related to the
 9 convention facilities. The county treasurer shall make the transfers on
 10 or before December 1 of each year.

11 (g) This subsection applies to the revenue received from the tax
 12 imposed under this chapter in each year that exceeds one million two
 13 hundred thousand dollars (\$1,200,000). During each year, the county
 14 treasurer shall distribute money in the promotion fund as follows:

15 (1) Eighty-five percent (85%) of the revenue covered by this
 16 subsection shall be deposited in the convention, tourism, and
 17 visitor promotion fund. The money deposited in the fund under
 18 this subdivision may be used only for the purposes for which
 19 other money in the fund may be used.

20 (2) Five percent (5%) of the revenue covered by this subsection
 21 shall be transferred to Purdue University-Calumet. The money
 22 received by Purdue University-Calumet under this subdivision
 23 may be used by the university only for nursing education
 24 programs.

25 (3) Five percent (5%) of the revenue covered by this subsection
 26 shall be transferred to Indiana University-Northwest. The money
 27 received by Indiana University-Northwest under this subdivision
 28 may be used only for the university's medical education programs.

29 (4) Five percent (5%) of the revenue covered by this subsection
 30 shall be transferred to Indiana University-Northwest. The money
 31 received by Indiana University-Northwest under this subdivision
 32 may be used only for the university's allied health education
 33 programs.

34 (h) This subsection applies only to the distribution of revenue
 35 received from the tax imposed under section 1 of this chapter from
 36 hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or
 37 accommodations built or refurbished after June 30, 1993, that are
 38 located in the largest city of the county. During each year, the county
 39 treasurer shall transfer:

40 (1) seventy-five percent (75%) of the revenues under this
 41 subsection to the department of public safety; and

42 (2) twenty-five percent (25%) of the revenues under this
 43 subsection to the division of physical and economic development;
 44 of the largest city of the county.

45 (i) The Lake County convention and visitor bureau shall assist the
 46 county treasurer, as needed, with the calculation of the amounts that

1 must be deposited and transferred under this section."
2 Page 149, between lines 1 and 2, begin a new paragraph and insert:
3 "SECTION 93. IC 6-9-2-4, AS AMENDED BY P.L.223-2007,
4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 4. (a) The bureau may:
6 (1) accept and use gifts, grants, and contributions from any public
7 or private source, under terms and conditions that the bureau
8 considers necessary and desirable;
9 (2) sue and be sued;
10 (3) enter into contracts and agreements;
11 (4) make rules necessary for the conduct of its business and the
12 accomplishment of its purposes;
13 (5) receive and approve, alter, or reject requests and proposals for
14 funding by corporations qualified under subdivision (6);
15 (6) after its approval of a proposal, transfer money from **any fund**
16 **established by the bureau**, the promotion fund, or ~~from~~ the
17 alternate revenue fund to any Indiana nonprofit corporation to
18 promote and encourage conventions, trade shows, visitors, or
19 special events in the county;
20 (7) require financial or other reports from any corporation that
21 receives funds under this chapter;
22 (8) enter into leases under IC 36-1-10 for the construction,
23 acquisition, and equipping of a visitor center; and
24 (9) exercise the power of eminent domain to acquire property to
25 promote and encourage conventions, trade shows, special events,
26 recreation, and visitors within the county.
27 (b) All expenses of the bureau shall be paid from funds established
28 by the bureau. Before ~~September~~ **December 20** of each year, the
29 bureau shall prepare a budget for expenditures during the following
30 year, taking into consideration the recommendations made by a
31 corporation qualified under subsection (a)(6). A budget prepared under
32 this section must be submitted to the department of local government
33 finance and placed on file with the county auditor.
34 (c) All money in the bureau's funds shall be deposited, held,
35 secured, invested, and paid in accordance with statutes relating to the
36 handling of public funds. The handling and expenditure of money in
37 the bureau's funds are subject to audit and supervision by the state
38 board of accounts.
39 SECTION 94. IC 6-9-2-4.3, AS ADDED BY P.L.168-2005,
40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2011]: Sec. 4.3. (a) The Lake County convention and visitor
42 bureau shall establish a convention, tourism, and visitor promotion
43 alternate revenue fund (referred to in this chapter as the "alternate
44 revenue fund"). The bureau may deposit in the alternate revenue fund
45 all money received by the bureau after June 30, 2005, that is not
46 required to be deposited in the promotion fund under section 2 of this

1 chapter **or a fund established by the bureau**, including
 2 appropriations, gifts, grants, membership dues, and contributions from
 3 any public or private source.

4 (b) The bureau may, without appropriation by the county council,
 5 expend money from the alternate revenue fund to promote and
 6 encourage conventions, trade shows, visitors, special events, sporting
 7 events, and exhibitions in the county. Money may be paid from the
 8 alternate revenue fund by claim in the same manner as municipalities
 9 may pay claims under IC 5-11-10-1.6.

10 (c) All money in the alternate revenue fund shall be deposited, held,
 11 secured, invested, and paid in accordance with statutes relating to the
 12 handling of public funds. The handling and expenditure of money in
 13 the alternate revenue fund is subject to audit and supervision by the
 14 state board of accounts.

15 (d) Money derived from the taxes imposed under IC 4-33-12 and
 16 IC 4-33-13 may not be transferred to the alternate revenue fund.

17 SECTION 95. IC 6-9-2-9, AS AMENDED BY P.L.223-2007,
 18 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2011]: Sec. 9. (a) The legislative body of a county that
 20 imposes a tax under section 1 of this chapter shall annually prepare a
 21 report concerning the disbursement and use of the money collected
 22 under this chapter during the preceding calendar year. The report shall
 23 be prepared before ~~March~~ **April** 15 each year and shall be made
 24 available to the public.

25 (b) If in any year an entity receiving money under this chapter fails
 26 to provide the county legislative body with sufficient information, as
 27 reasonably requested by the county legislative body:

28 (1) for the county legislative body to comply with this section;
 29 and

30 (2) before the date specified by the county legislative body;
 31 the county legislative body may direct the county treasurer by
 32 resolution to stop deposits and transfers under this chapter to the entity.
 33 When an entity provides the information that is the subject of the
 34 resolution, the county legislative body shall as soon as practicable
 35 direct the county treasurer, by resolution, to resume making deposits
 36 and transfers to the entity, including any deposits and transfers that
 37 would otherwise have been made to the entity during the time that
 38 deposits and transfers were stopped under this subsection. A copy of a
 39 resolution adopted under this subsection must be distributed to the
 40 county treasurer and the entity that is the subject of the resolution
 41 within ten (10) business days after the resolution is adopted. The
 42 county treasurer shall comply with a resolution adopted under this
 43 subsection."

44 Page 160, delete lines 27 through 42.

45 Page 161, delete lines 1 through 12.

46 Page 166, line 33, delete "A levy imposed for an".

- 1 Page 166, delete lines 34 through 42.
 2 Page 167, delete lines 1 through 2.
 3 Page 168, line 7, delete "[EFFECTIVE JULY 1, 2011]" and insert
 4 "[EFFECTIVE UPON PASSAGE]".
 5 Page 175, delete lines 18 through 42, begin a new paragraph and
 6 insert:
 7 "SECTION 133. IC 36-1-12-3 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The board may
 9 purchase or lease materials in the manner provided in IC 5-22 and
 10 perform any public work, by means of its own workforce, without
 11 awarding a contract whenever the cost of that public work project is
 12 estimated to be less than one hundred **fifty** thousand dollars
 13 ~~(\$100,000)~~. **(\$150,000)**. Before a board may perform any work under
 14 this section by means of its own workforce, the political subdivision or
 15 agency must have a group of employees on its staff who are capable of
 16 performing the construction, maintenance, and repair applicable to that
 17 work. For purposes of this subsection, the cost of a public work project
 18 includes:
 19 (1) the actual cost of materials, labor, equipment, **and** rental;
 20 (2) a reasonable rate for use of trucks and heavy equipment
 21 owned; and
 22 (3) all other expenses incidental to the performance of the project.
 23 **(b) This subsection applies only to a municipality or a county.**
 24 **The workforce of a municipality or county may perform a public**
 25 **work described in subsection (a) only if:**
 26 **(1) the workforce, through demonstrated skills, training, or**
 27 **expertise, is capable of performing the public work; and**
 28 **(2) for a public work project under subsection (a) whose cost**
 29 **is estimated to be more than one hundred thousand dollars**
 30 **(\$100,000), the board:**
 31 **(A) publishes a notice under IC 5-3-1 that:**
 32 **(i) describes the public work that the board intends to**
 33 **perform with its own workforce; and**
 34 **(ii) sets forth the projected cost of each component of the**
 35 **public work as described in subsection (a); and**
 36 **(B) determines at a public meeting that it is in the public**
 37 **interest to perform the public work with the board's own**
 38 **workforce.**
 39 **A public work project performed by a board's own workforce must**
 40 **be inspected and accepted as complete in the same manner as a**
 41 **public work project performed under a contract awarded after**
 42 **receiving bids.**
 43 ~~(b)~~ **(c)** When the project involves the rental of equipment with an
 44 operator furnished by the owner, or the installation or application of
 45 materials by the supplier of the materials, the project is considered to
 46 be a public work project and subject to this chapter. However, an

1 annual contract may be awarded for equipment rental and materials to
 2 be installed or applied during a calendar or fiscal year if the proposed
 3 project or projects are described in the bid specifications.

4 ~~(c)~~ (d) A board of aviation commissioners or an airport authority
 5 board may purchase or lease materials in the manner provided in
 6 IC 5-22 and perform any public work by means of its own workforce
 7 and owned or leased equipment, in the construction, maintenance, and
 8 repair of any airport roadway, runway, taxiway, or aircraft parking
 9 apron whenever the cost of that public work project is estimated to be
 10 less than **one hundred** fifty thousand dollars (~~\$50,000~~): **(\$150,000)**.

11 ~~(d)~~ (e) Municipal and county hospitals must comply with this
 12 chapter for all contracts for public work that are financed in whole or
 13 in part with cumulative building fund revenue, as provided in section
 14 1(c) of this chapter. However, if the cost of the public work is
 15 estimated to be less than fifty thousand dollars (\$50,000), as reflected
 16 in the board minutes, the hospital board may have the public work done
 17 without receiving bids, by purchasing the materials and performing the
 18 work by means of its own workforce and owned or leased equipment.

19 ~~(e)~~ (f) If a public works project involves a structure, an
 20 improvement, or a facility under the control of a department (as defined
 21 in IC 4-3-19-2(2)), the department may not artificially divide the
 22 project to bring any part of the project under this section.

23 SECTION 134. IC 36-1-12-4, AS AMENDED BY P.L.113-2010,
 24 SECTION 108, IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section applies whenever
 26 the cost of a public work project will be **at least one hundred fifty**
 27 **thousand dollars (\$150,000)**.

28 ~~(1)~~ at least ~~seventy-five thousand dollars (\$75,000)~~ in:

29 (A) a consolidated city or second class city;

30 (B) a county containing a consolidated city or second class
 31 city; or

32 ~~(C)~~ a regional water or sewage district established under
 33 ~~IC 13-26~~; or

34 ~~(2)~~ at least fifty thousand dollars (\$50,000) in a political
 35 subdivision or an agency not described in subdivision ~~(1)~~:

36 (b) The board must comply with the following procedure:

37 (1) The board shall prepare general plans and specifications
 38 describing the kind of public work required, but shall avoid
 39 specifications which might unduly limit competition. If the
 40 project involves the resurfacing (as defined by IC 8-14-2-1) of a
 41 road, street, or bridge, the specifications must show how the
 42 weight or volume of the materials will be accurately measured
 43 and verified.

44 (2) The board shall file the plans and specifications in a place
 45 reasonably accessible to the public, which shall be specified in the
 46 notice required by subdivision (3).

- 1 (3) Upon the filing of the plans and specifications, the board shall
- 2 publish notice in accordance with IC 5-3-1 calling for sealed
- 3 proposals for the public work needed.
- 4 (4) The notice must specify the place where the plans and
- 5 specifications are on file and the date fixed for receiving bids.
- 6 (5) The period of time between the date of the first publication
- 7 and the date of receiving bids shall be governed by the size of the
- 8 contemplated project in the discretion of the board. The period of
- 9 time between the date of the first publication and receiving bids
- 10 may not be more than:
 - 11 (A) six (6) weeks if the estimated cost of the public works
 - 12 project is less than twenty-five million dollars (\$25,000,000);
 - 13 and
 - 14 (B) ten (10) weeks if the estimated cost of the public works
 - 15 project is at least twenty-five million dollars (\$25,000,000).
- 16 (6) ~~If the cost of a project is one hundred thousand dollars~~
- 17 ~~(\$100,000) or more;~~ The board shall require the bidder to submit
- 18 a financial statement, a statement of experience, a proposed plan
- 19 or plans for performing the public work, and the equipment that
- 20 the bidder has available for the performance of the public work.
- 21 The statement shall be submitted on forms prescribed by the state
- 22 board of accounts.
- 23 (7) The board may not require a bidder to submit a bid before the
- 24 meeting at which bids are to be received. The meeting for
- 25 receiving bids must be open to the public. All bids received shall
- 26 be opened publicly and read aloud at the time and place
- 27 designated and not before.
- 28 (8) Except as provided in subsection (c), the board shall:
 - 29 (A) award the contract for public work or improvements to the
 - 30 lowest responsible and responsive bidder; or
 - 31 (B) reject all bids submitted.
- 32 (9) If the board awards the contract to a bidder other than the
- 33 lowest bidder, the board must state in the minutes or memoranda,
- 34 at the time the award is made, the factors used to determine which
- 35 bidder is the lowest responsible and responsive bidder and to
- 36 justify the award. The board shall keep a copy of the minutes or
- 37 memoranda available for public inspection.
- 38 (10) In determining whether a bidder is responsive, the board may
- 39 consider the following factors:
 - 40 (A) Whether the bidder has submitted a bid or quote that
 - 41 conforms in all material respects to the specifications.
 - 42 (B) Whether the bidder has submitted a bid that complies
 - 43 specifically with the invitation to bid and the instructions to
 - 44 bidders.
 - 45 (C) Whether the bidder has complied with all applicable
 - 46 statutes, ordinances, resolutions, or rules pertaining to the

- 1 award of a public contract.
- 2 (11) In determining whether a bidder is a responsible bidder, the
- 3 board may consider the following factors:
- 4 (A) The ability and capacity of the bidder to perform the work.
- 5 (B) The integrity, character, and reputation of the bidder.
- 6 (C) The competence and experience of the bidder.
- 7 (12) The board shall require the bidder to submit an affidavit:
- 8 (A) that the bidder has not entered into a combination or
- 9 agreement:
- 10 (i) relative to the price to be bid by a person;
- 11 (ii) to prevent a person from bidding; or
- 12 (iii) to induce a person to refrain from bidding; and
- 13 (B) that the bidder's bid is made without reference to any other
- 14 bid.
- 15 (c) Notwithstanding subsection (b)(8), a county may award sand,
- 16 gravel, asphalt paving materials, or crushed stone contracts to more
- 17 than one (1) responsible and responsive bidder if the specifications
- 18 allow for bids to be based upon service to specific geographic areas and
- 19 the contracts are awarded by geographic area. The geographic areas do
- 20 not need to be described in the specifications.
- 21 SECTION 135. IC 36-1-12-4.7, AS AMENDED BY P.L.195-2007,
- 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2011]: Sec. 4.7. (a) This section applies whenever a public
- 24 work project is estimated to cost **at least fifty thousand dollars**
- 25 **(\$50,000) and less than one hundred fifty thousand dollars**
- 26 **(\$150,000).**
- 27 ~~(1) at least twenty-five thousand dollars (\$25,000) and less than~~
- 28 ~~one hundred thousand dollars (\$100,000) in:~~
- 29 ~~(A) a consolidated city, second class city, or third class city~~
- 30 ~~with a population of fifteen thousand (15,000) or more;~~
- 31 ~~(B) a county containing a consolidated city or second class~~
- 32 ~~city; or~~
- 33 ~~(C) a regional water or sewage district established under~~
- 34 ~~IC 13-26; or~~
- 35 ~~(2) at least twenty-five thousand dollars (\$25,000) and less than~~
- 36 ~~fifty thousand dollars (\$50,000) in a political subdivision or~~
- 37 ~~agency not described in subdivision (1).~~
- 38 (b) The board must proceed under the following provisions:
- 39 (1) The board shall invite quotes from at least three (3) persons
- 40 known to deal in the class of work proposed to be done by mailing
- 41 them a notice stating that plans and specifications are on file in a
- 42 specified office. The notice must be mailed not less than seven (7)
- 43 days before the time fixed for receiving quotes.
- 44 (2) The board may not require a person to submit a quote before
- 45 the meeting at which quotes are to be received. The meeting for
- 46 receiving quotes must be open to the public. All quotes received

1 shall be opened publicly and read aloud at the time and place
2 designated and not before.

3 (3) The board shall award the contract for the public work to the
4 lowest responsible and responsive quoter.

5 (4) The board may reject all quotes submitted.

6 SECTION 136. IC 36-7-4-205 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 205. (a)
8 ADVISORY. A municipal plan commission shall adopt a
9 comprehensive plan, as provided for under the 500 series of the
10 advisory planning law, for the development of the municipality. For
11 comprehensive plans adopted after July 1, 1999, if:

12 (1) the municipality provides municipal services to the contiguous
13 unincorporated area; or

14 (2) the municipal plan commission obtains the approval of the
15 county legislative body of each affected county;

16 the municipal plan commission may provide in the comprehensive plan
17 for the development of the contiguous unincorporated area, designated
18 by the commission, that is outside the corporate boundaries of the
19 municipality, and that, in the judgment of the commission, bears
20 reasonable relation to the development of the municipality. **For
21 purposes of this section, participation of a municipality in a fire
22 protection territory established under IC 36-8-19 that includes
23 unincorporated areas contiguous to the municipality may not be
24 treated as providing municipal services to the contiguous
25 unincorporated areas.**

26 (b) ADVISORY. Except as limited by the boundaries of
27 unincorporated areas subject to the jurisdiction of other municipal plan
28 commissions, an area designated under this section may include any
29 part of the contiguous unincorporated area within two (2) miles from
30 the corporate boundaries of the municipality. If, however, the corporate
31 boundaries of the municipality or the boundaries of that contiguous
32 unincorporated area include any part of the public waters or shoreline
33 of a lake (which lies wholly within Indiana), the designated area may
34 also include:

35 (1) any part of those public waters and shoreline of the lake; and

36 (2) any land area within two thousand five hundred (2,500) feet
37 from that shoreline.

38 (c) ADVISORY. Before exercising their rights, powers, and duties
39 of the advisory planning law with respect to an area designated under
40 this section, a municipal plan commission must file, with the recorder
41 of the county in which the municipality is located, a description or map
42 defining the limits of that area. If the commission revises the limits, it
43 shall file, with the recorder, a revised description or map defining those
44 revised limits.

45 (d) ADVISORY. If any part of the contiguous unincorporated area
46 within the potential jurisdiction of a municipal plan commission is also

1 within the potential jurisdiction of another municipal plan commission,
 2 the first municipal plan commission may exercise territorial jurisdiction
 3 over that part of the area within the potential jurisdiction of both
 4 municipal plan commissions that equals the product obtained by
 5 multiplying a fraction, the numerator of which is the area within the
 6 corporate boundaries of that municipality and the denominator of
 7 which is the total area within the corporate boundaries of both
 8 municipalities times the area within the potential jurisdiction of both
 9 municipal plan commissions. Furthermore, this commission may
 10 exercise territorial jurisdiction within those boundaries, enclosing an
 11 area reasonably compact and regular in shape, that the municipal plan
 12 commission first acting designates.

13 (e) ADVISORY. If the legislative body of a county adopts a
 14 comprehensive plan and ordinance covering the unincorporated areas
 15 of the county, a municipal plan commission may not exercise
 16 jurisdiction, as provided in this section, over any part of that
 17 unincorporated area unless it is authorized by ordinance of the
 18 legislative body of the county. This ordinance may be initiated by the
 19 county legislative body or by petition duly signed and presented to the
 20 county auditor by:

- 21 (1) not less than fifty (50) property owners residing in the area
- 22 involved in the petition;
- 23 (2) the county plan commission; or
- 24 (3) the municipal plan commission.

25 Before final action on the ordinance by the county legislative body, the
 26 county plan commission must hold an advertised public hearing as
 27 required for other actions of the county plan commission under the
 28 advisory planning law. Upon the passage of the ordinance by the
 29 county legislative body and the subsequent acceptance of jurisdiction
 30 by the municipal plan commission, the municipal plan commission
 31 shall exercise the same rights, powers, and duties conferred in this
 32 section exclusively with respect to the contiguous unincorporated area.
 33 The jurisdiction of a municipal plan commission, as authorized under
 34 this subsection, may be terminated by ordinance at the discretion of the
 35 legislative body of the county, but only if the county has adopted a
 36 comprehensive plan for that area that is as comprehensive in scope and
 37 subject matter as that in effect by municipal ordinance.

38 (f) ADVISORY. Each municipal plan commission in a municipality
 39 located in a county having:

- 40 (1) a population of less than ninety-five thousand (95,000); and
- 41 (2) a county plan commission that has adopted, in accord with the
- 42 advisory planning law, a comprehensive plan and ordinance
- 43 covering the unincorporated areas of the county;
- 44 may, at any time, after filing notice with the county recorder and the
- 45 county plan commission, exercise or reject territorial jurisdiction over
- 46 any part of the area within two (2) miles of the corporate boundaries of

1 that municipality and within that county, whether or not that
 2 commission has previously exercised that jurisdiction, if the
 3 municipality is providing municipal services to the area. Within sixty
 4 (60) days after receipt of that notice, the county plan commission and
 5 the county legislative body shall have the county comprehensive plan
 6 and ordinance revised to reflect the decision of the municipal plan
 7 commission exercising the option provided for in this subsection. If the
 8 municipality is not providing municipal services to the area, the
 9 municipal plan commission must obtain the approval of the county
 10 legislative body of each affected county before exercising jurisdiction.

11 (g) AREA. Wherever in the area planning law authority is conferred
 12 to establish a comprehensive plan or an ordinance for its enforcement,
 13 the authority applies everywhere:

- 14 (1) within the county that is outside the municipalities; and
- 15 (2) within each participating municipality.

16 (h) ADVISORY—AREA. Whenever a new town is incorporated in
 17 a county having a county plan commission or an area plan commission,
 18 that plan commission and its board of zoning appeals shall continue to
 19 exercise territorial jurisdiction within the town until the effective date
 20 of a town ordinance:

- 21 (1) establishing an advisory plan commission under section
- 22 202(a) of this chapter; or
- 23 (2) adopting the area planning law under section 202(b) or 204 of
- 24 this chapter.

25 Beginning on that effective date, the planning and zoning functions of
 26 the town shall be exercised under the advisory planning law or area
 27 planning law, as the case may be."

28 Delete pages 176 through 179.

29 Page 180, delete lines 1 through 32.

30 Page 190, between lines 23 and 24, begin a new paragraph and
 31 insert:

32 "SECTION 146. IC 36-8-19-6.3 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. A member of the**
 35 **legislative body of a unit may not vote on a proposed ordinance or**
 36 **resolution authorizing the unit to become a party to an agreement**
 37 **to join or establish a fire protection territory if that member is also**
 38 **an employee of:**

- 39 (1) another unit that is a participating unit in the fire
- 40 protection territory; or
- 41 (2) another unit that is proposing to become a participating
- 42 unit in the fire protection territory.

43 SECTION 147. IC 36-8-19-7 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A tax levied
 45 under this chapter ~~must~~ **may** be levied at:

- 46 (1) a uniform rate upon all taxable property within the territory;

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

5 **(b) If a uniform tax rate is levied upon all taxable property**
 6 **within a territory upon the formation of the territory, different tax**
 7 **rates may be levied for the participating units included within the**
 8 **territory in subsequent years.**

9 SECTION 148. [EFFECTIVE UPON PASSAGE] **(a) In addition**
 10 **to any other requirements under IC 36-8-19-6(a), before the**
 11 **legislative body of a unit that desires to become part of a fire**
 12 **protection territory may adopt an ordinance or a resolution to**
 13 **form a territory, the legislative body of the unit must**
 14 **(notwithstanding IC 36-8-19-6(a)) do the following:**

15 **(1) Hold a public hearing at least thirty (30) days before**
 16 **adopting an ordinance or a resolution to form a territory at**
 17 **which the legislative body makes available to the public the**
 18 **following information:**

19 **(A) The property tax levy, property tax rate, and budget to**
 20 **be imposed or adopted during the first year of the territory**
 21 **for each of the units that would participate in the proposed**
 22 **fire protection territory.**

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

29 **(C) The estimated effect of the proposed reorganization to**
 30 **other units in the county in the following years and to local**
 31 **option income taxes, excise taxes, and property tax circuit**
 32 **breaker credits.**

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

35 **(E) A description of any capital improvements to be**
 36 **provided in the proposed fire protection territory.**

37 **(2) Hold at least one (1) additional public hearing before**
 38 **adopting an ordinance or a resolution to form a territory to**
 39 **receive public comment on the proposed ordinance or**
 40 **resolution.**

41 **The legislative body must give notice of the hearings under**
 42 **IC 5-3-1.**

43 **(b) In addition to the information required by IC 36-8-19-6(b),**
 44 **the notice required under that section must include the proposed**
 45 **levies and tax rates for each participating unit.**

46 **(c) This SECTION expires June 30, 2012.**

47 SECTION 149. [EFFECTIVE UPON PASSAGE] **(a) The**

1 department of local government finance shall review the tax rates
 2 and levies for each fire protection territory that is located in
 3 Hancock County and that has a uniform tax rate throughout the
 4 territory. The department of local government finance shall
 5 reconsider whether different tax rates for fire protection services
 6 should be applied for the participating units included within the
 7 territory. In conducting its review, the department of local
 8 government finance shall consider the following factors and discuss
 9 the factors with each participating unit in the territory:

- 10 (1) The population and change in population of each unit in
 11 the territory.
- 12 (2) The assessed valuation and change of assessed valuation of
 13 real property in each unit in the territory.
- 14 (3) The cost of providing fire service to each unit in the
 15 territory.
- 16 (4) Comparisons to other jurisdictions providing similar fire
 17 service.
- 18 (5) Previous tax rates and levies for fire protection.
- 19 (6) Future needs and planned or expected expenses for fire
 20 service.
- 21 (7) Other factors as determined by the department.

22 (b) This SECTION expires June 30, 2012.

23 SECTION 150. [EFFECTIVE UPON PASSAGE] (a) The
 24 commission on state tax and financing policy established under
 25 IC 2-5-3 shall, during the interim in 2011 between sessions of the
 26 general assembly, study the issues related to fire protection
 27 territories, including the following:

- 28 (1) The formation process for territories.
- 29 (2) The establishment of tax rates and tax levies for
 30 territories, including tax rates for agricultural land.
- 31 (3) Other issues as determined by the commission.

32 (b) Before November 1, 2011, the commission on state tax and
 33 financing policy shall report its findings and any recommendations
 34 concerning the study topic described in subsection (a) in a final
 35 report to the legislative council in an electronic format under
 36 IC 5-14-6.

37 (c) This SECTION expires January 1, 2012.

38 SECTION 151. [EFFECTIVE JULY 1, 2011] (a) Notwithstanding
 39 IC 20-46-4-6, the Lake Central School Corporation, Lake County,
 40 may request that the department of local government finance make
 41 an adjustment to its transportation fund property tax levy for
 42 property taxes first due and payable in 2012. The request must be
 43 filed before September 1, 2011.

44 (b) The amount of the requested adjustment may not exceed
 45 seven hundred thousand dollars (\$700,000).

46 (c) If the school corporation makes a request for an adjustment
 47 in an amount not exceeding the limit prescribed by subsection (b),

1 the department of local government finance shall make the
2 adjustment to the school corporation's transportation fund
3 property tax levy for property taxes first due and payable in 2012.
4 (d) The school corporation's transportation fund property tax
5 levy determined under this SECTION for 2012 shall be used as the
6 basis for determining the property tax levy for property taxes first
7 due and payable after 2012.
8 (e) This SECTION expires January 1, 2014.
9 SECTION 152. [EFFECTIVE JULY 1, 2011] (a) IC 6-7-2-2.1, as
10 added by this act, and IC 6-7-2-5, IC 6-7-2-7, and IC 6-7-2-12, all
11 as amended by this act, apply to a tobacco product:
12 (1) brought into Indiana for distribution;
13 (2) manufactured in Indiana for distribution; or
14 (3) transported to a retail dealer in Indiana for resale by the
15 retail dealer;
16 by a distributor after June 30, 2011.
17 (b) This SECTION expires January 1, 2012."
18 Renumber all SECTIONS consecutively.
(Reference is to EHB 1007 as printed April 15, 2011.)

Senator HERSHMAN