



January 26, 2011

SENATE BILL No. 440

DIGEST OF SB 440 (Updated January 25, 2011 11:28 am - DI 58)

Citations Affected: IC 6-3.5; noncode.

Synopsis: Public safety LOIT distributions. Provides that a fire department, volunteer fire department, or emergency medical services provider that provides fire protection or emergency medical services within the county and is operated by or serves a political subdivision that is not entitled to receive a distribution of the public safety LOIT tax revenue may apply to the county council (in a CAGIT county) or the county income tax council (in a COIT county) for a distribution of the tax revenue. Provides that the county council or county income tax council may adopt a resolution requiring that one or more of the applicants shall receive a specified amount of the public safety LOIT tax revenue. Requires that any public safety LOIT tax revenue distributed in this manner shall be distributed before the remainder of the tax revenue is distributed to the county and to the municipalities in the county. Specifies that a municipality is entitled to receive a distribution of public safety LOIT revenue only if the municipality is carrying out or providing at least one of the public safety purposes listed in the LOIT statute.

Effective: July 1, 2011.

Hershman

January 12, 2011, read first time and referred to Committee on Tax and Fiscal Policy.
January 25, 2011, amended, reported favorably — Do Pass.

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SB 440—LS 6921/DI 73+



January 26, 2011

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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SENATE BILL No. 440

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 JULY 1, 2011]: 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

SB 440—LS 6921/DI 73+



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) **or (l)**, the county auditor
3 shall distribute the portion of the certified distribution that is
4 attributable to a tax rate under this section to the county and to each
5 municipality in the county **that is carrying out or providing at least**
6 **one (1) of the public safety purposes described in subsection (a)**.
7 The amount that shall be distributed to the county or municipality is
8 equal to the result of:

- 9 (1) the portion of the certified distribution that is attributable to a
- 10 tax rate under this section; multiplied by
- 11 (2) a fraction equal to:
 - 12 (A) the attributed allocation amount (as defined in
 - 13 IC 6-3.5-1.1-15) of the county or municipality for the calendar
 - 14 year; divided by
 - 15 (B) the sum of the attributed allocation amounts of the county
 - 16 and each municipality in the county **that is entitled to a**
 - 17 **distribution under this section** for the calendar year.

18 The county auditor shall make the distributions required by this
19 subsection not more than thirty (30) days after receiving the portion of
20 the certified distribution that is attributable to a tax rate under this
21 section. Tax revenue distributed to a county or municipality under this
22 subsection must be deposited into a separate account or fund and may
23 be appropriated by the county or municipality only for public safety
24 purposes.

25 (g) The department of local government finance may not require a
26 county or municipality receiving tax revenue under this section to
27 reduce the county's or municipality's property tax levy for a particular
28 year on account of the county's or municipality's receipt of the tax
29 revenue.

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

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

42 (i) The tax rate under this section may be imposed or rescinded at

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1 the same time and in the same manner that the county may impose or
2 increase a tax rate under section 24 of this chapter.

3 (j) The department of local government finance and the department
4 of state revenue may take any actions necessary to carry out the
5 purposes of this section.

6 (k) Two (2) or more political subdivisions that are entitled to receive
7 a distribution under this section may adopt resolutions providing that
8 some part or all of those distributions shall instead be paid to one (1)
9 political subdivision in the county to carry out specific public safety
10 purposes specified in the resolutions.

11 **(l) A fire department, volunteer fire department, or emergency
12 medical services provider that:**

13 **(1) provides fire protection or emergency medical services
14 within the county; and**

15 **(2) is operated by or serves a political subdivision that is not
16 otherwise entitled to receive a distribution of tax revenue
17 under this section;**

18 **may apply to the county council for a distribution of tax revenue
19 under this section. The county council shall review an application
20 submitted under this subsection and may adopt a resolution
21 requiring that one (1) or more of the applicants shall receive a
22 specified amount of the tax revenue to be distributed under this
23 section. Any amount of tax revenue distributed under this
24 subsection to a fire department, volunteer fire department, or
25 emergency medical services provider shall be distributed before
26 the remainder of the tax revenue is distributed under subsection
27 (f).**

28 SECTION 2. IC 6-3.5-6-31, AS AMENDED BY P.L.146-2008,
29 SECTION 342, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) As used in this section,
31 "public safety" refers to the following:

32 (1) A police and law enforcement system to preserve public peace
33 and order.

34 (2) A firefighting and fire prevention system.

35 (3) Emergency ambulance services (as defined in
36 IC 16-18-2-107).

37 (4) Emergency medical services (as defined in IC 16-18-2-110).

38 (5) Emergency action (as defined in IC 13-11-2-65).

39 (6) A probation department of a court.

40 (7) Confinement, supervision, services under a community
41 corrections program (as defined in IC 35-38-2.6-2), or other
42 correctional services for a person who has been:

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- 1 (A) diverted before a final hearing or trial under an agreement
- 2 that is between the county prosecuting attorney and the person
- 3 or the person's custodian, guardian, or parent and that provides
- 4 for confinement, supervision, community corrections services,
- 5 or other correctional services instead of a final action
- 6 described in clause (B) or (C);
- 7 (B) convicted of a crime; or
- 8 (C) adjudicated as a delinquent child or a child in need of
- 9 services.
- 10 (8) A juvenile detention facility under IC 31-31-8.
- 11 (9) A juvenile detention center under IC 31-31-9.
- 12 (10) A county jail.
- 13 (11) A communications system (as defined in IC 36-8-15-3) or an
- 14 enhanced emergency telephone system (as defined in
- 15 IC 36-8-16-2).
- 16 (12) Medical and health expenses for jail inmates and other
- 17 confined persons.
- 18 (13) Pension payments for any of the following:
- 19 (A) A member of the fire department (as defined in
- 20 IC 36-8-1-8) or any other employee of a fire department.
- 21 (B) A member of the police department (as defined in
- 22 IC 36-8-1-9), a police chief hired under a waiver under
- 23 IC 36-8-4-6.5, or any other employee hired by a police
- 24 department.
- 25 (C) A county sheriff or any other member of the office of the
- 26 county sheriff.
- 27 (D) Other personnel employed to provide a service described
- 28 in this section.
- 29 (b) The county income tax council may adopt an ordinance to
- 30 impose an additional tax rate under this section to provide funding for
- 31 public safety if:
- 32 (1) the county income tax council has imposed a tax rate under
- 33 section 30 of this chapter, in the case of a county containing a
- 34 consolidated city; or
- 35 (2) the county income tax council has imposed a tax rate of at
- 36 least twenty-five hundredths of one percent (0.25%) under section
- 37 30 of this chapter, a tax rate of at least twenty-five hundredths of
- 38 one percent (0.25%) under section 32 of this chapter, or a total
- 39 combined tax rate of at least twenty-five hundredths of one
- 40 percent (0.25%) under sections 30 and 32 of this chapter, in the
- 41 case of a county other than a county containing a consolidated
- 42 city.

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1 (c) A tax rate under this section may not exceed the following:

2 (1) Five-tenths of one percent (0.5%), in the case of a county

3 containing a consolidated city.

4 (2) Twenty-five hundredths of one percent (0.25%), in the case of

5 a county other than a county containing a consolidated city.

6 (d) If a county income tax council adopts an ordinance to impose a

7 tax rate under this section, the county auditor shall send a certified

8 copy of the ordinance to the department and the department of local

9 government finance by certified mail.

10 (e) A tax rate under this section is in addition to any other tax rates

11 imposed under this chapter and does not affect the purposes for which

12 other tax revenue under this chapter may be used.

13 (f) Except as provided in ~~subsection~~ **subsections (l) and (m)**, the

14 county auditor shall distribute the portion of the certified distribution

15 that is attributable to a tax rate under this section to the county and to

16 each municipality in the county **that is carrying out or providing at**

17 **least one (1) of the public safety purposes described in subsection**

18 **(a)**. The amount that shall be distributed to the county or municipality

19 is equal to the result of:

20 (1) the portion of the certified distribution that is attributable to a

21 tax rate under this section; multiplied by

22 (2) a fraction equal to:

23 (A) the total property taxes being collected in the county by

24 the county or municipality for the calendar year; divided by

25 (B) the sum of the total property taxes being collected in the

26 county by the county and each municipality in the county **that**

27 **is entitled to a distribution under this section** for the

28 calendar year.

29 The county auditor shall make the distributions required by this

30 subsection not more than thirty (30) days after receiving the portion of

31 the certified distribution that is attributable to a tax rate under this

32 section. Tax revenue distributed to a county or municipality under this

33 subsection must be deposited into a separate account or fund and may

34 be appropriated by the county or municipality only for public safety

35 purposes.

36 (g) The department of local government finance may not require a

37 county or municipality receiving tax revenue under this section to

38 reduce the county's or municipality's property tax levy for a particular

39 year on account of the county's or municipality's receipt of the tax

40 revenue.

41 (h) The tax rate under this section and the tax revenue attributable

42 to the tax rate under this section shall not be considered for purposes

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- 1 of computing:
- 2 (1) the maximum income tax rate that may be imposed in a county
- 3 under section 8 or 9 of this chapter or any other provision of this
- 4 chapter;
- 5 (2) the maximum permissible property tax levy under STEP
- 6 EIGHT of IC 6-1.1-18.5-3(b);
- 7 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
- 8 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of
- 9 IC 6-1.1-21); or
- 10 (4) the credit under IC 6-1.1-20.6.
- 11 (i) The tax rate under this section may be imposed or rescinded at
- 12 the same time and in the same manner that the county may impose or
- 13 increase a tax rate under section 30 of this chapter.
- 14 (j) The department of local government finance and the department
- 15 of state revenue may take any actions necessary to carry out the
- 16 purposes of this section.
- 17 (k) Notwithstanding any other provision, in Lake County the county
- 18 council (and not the county income tax council) is the entity authorized
- 19 to take actions concerning the additional tax rate under this section.
- 20 (l) Two (2) or more political subdivisions that are entitled to receive
- 21 a distribution under this section may adopt resolutions providing that
- 22 some part or all of those distributions shall instead be paid to one (1)
- 23 political subdivision in the county to carry out specific public safety
- 24 purposes specified in the resolutions.
- 25 **(m) A fire department, volunteer fire department, or emergency**
- 26 **medical services provider that:**
- 27 **(1) provides fire protection or emergency medical services**
- 28 **within the county; and**
- 29 **(2) is operated by or serves a political subdivision that is not**
- 30 **otherwise entitled to receive a distribution of tax revenue**
- 31 **under this section;**
- 32 **may apply to the county income tax council for a distribution of tax**
- 33 **revenue under this section. The county income tax council shall**
- 34 **review an application submitted under this subsection and may**
- 35 **adopt a resolution requiring that one (1) or more of the applicants**
- 36 **shall receive a specified amount of the tax revenue to be distributed**
- 37 **under this section. Any amount of tax revenue distributed under**
- 38 **this subsection to a fire department, volunteer fire department, or**
- 39 **emergency medical services provider shall be distributed before**
- 40 **the remainder of the tax revenue is distributed under subsection**
- 41 **(f).**
- 42 SECTION 3. [EFFECTIVE JULY 1, 2011] (a) IC 6-3.5-1.1-25 and

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1 **IC 6-3.5-6-31, both as amended by this act, apply to distributions**
2 **of tax revenue made under those sections after December 31, 2011.**
3 **(b) This SECTION expires July 1, 2013.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 440, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 5, after "county" delete "." and insert "**that is carrying out or providing at least one (1) of the public safety purposes described in subsection (a).**".

Page 3, line 14, after "county" insert "**that is entitled to a distribution under this section**".

Page 6, line 13, after "county" delete "." and insert "**that is carrying out or providing at least one (1) of the public safety purposes described in subsection (a).**".

Page 6, line 21, after "in the county" insert "**that is entitled to a distribution under this section**".

and when so amended that said bill do pass.

(Reference is to SB 440 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 2.

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