



Reprinted
January 28, 2011

SENATE BILL No. 440

DIGEST OF SB 440 (Updated January 27, 2011 2:32 pm - DI 73)

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. Specifies that an application from a fire department, volunteer fire department, or emergency services provider for a distribution of public safety LOIT revenue must be submitted before July 1 of a year for a distribution to be made in the following calendar year. 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. Provides that a resolution providing for a distribution of public safety LOIT revenue applies only to distributions in the following calendar year. Provides that the total amount of public safety LOIT revenue that may be distributed to all fire departments, volunteer fire departments, or emergency services providers in a calendar year may not exceed 10% of the total amount of public safety LOIT revenue distributed to all entities in that calendar year. 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.

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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.
January 27, 2011, read second time, amended, ordered engrossed.

SB 440—LS 6921/DI 73+



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



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 before July 1 of a year apply to the county council for a
19 distribution of tax revenue under this section during the following
20 calendar year. The county council shall review an application
21 submitted under this subsection and may before September 1 of a
22 year adopt a resolution requiring that one (1) or more of the
23 applicants shall receive a specified amount of the tax revenue to be
24 distributed under this section during the following calendar year.
25 A resolution approved under this subsection providing for a
26 distribution to one (1) or more fire departments, volunteer fire
27 departments, or emergency services providers applies only to
28 distributions in the following calendar year. Any amount of tax
29 revenue distributed under this subsection to a fire department,
30 volunteer fire department, or emergency medical services provider
31 shall be distributed before the remainder of the tax revenue is
32 distributed under subsection (f).**

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

37 (1) A police and law enforcement system to preserve public peace
38 and order.

39 (2) A firefighting and fire prevention system.

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

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

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- 1 (5) Emergency action (as defined in IC 13-11-2-65).
- 2 (6) A probation department of a court.
- 3 (7) Confinement, supervision, services under a community
- 4 corrections program (as defined in IC 35-38-2.6-2), or other
- 5 correctional services for a person who has been:
- 6 (A) diverted before a final hearing or trial under an agreement
- 7 that is between the county prosecuting attorney and the person
- 8 or the person's custodian, guardian, or parent and that provides
- 9 for confinement, supervision, community corrections services,
- 10 or other correctional services instead of a final action
- 11 described in clause (B) or (C);
- 12 (B) convicted of a crime; or
- 13 (C) adjudicated as a delinquent child or a child in need of
- 14 services.
- 15 (8) A juvenile detention facility under IC 31-31-8.
- 16 (9) A juvenile detention center under IC 31-31-9.
- 17 (10) A county jail.
- 18 (11) A communications system (as defined in IC 36-8-15-3) or an
- 19 enhanced emergency telephone system (as defined in
- 20 IC 36-8-16-2).
- 21 (12) Medical and health expenses for jail inmates and other
- 22 confined persons.
- 23 (13) Pension payments for any of the following:
- 24 (A) A member of the fire department (as defined in
- 25 IC 36-8-1-8) or any other employee of a fire department.
- 26 (B) A member of the police department (as defined in
- 27 IC 36-8-1-9), a police chief hired under a waiver under
- 28 IC 36-8-4-6.5, or any other employee hired by a police
- 29 department.
- 30 (C) A county sheriff or any other member of the office of the
- 31 county sheriff.
- 32 (D) Other personnel employed to provide a service described
- 33 in this section.
- 34 (b) The county income tax council may adopt an ordinance to
- 35 impose an additional tax rate under this section to provide funding for
- 36 public safety if:
- 37 (1) the county income tax council has imposed a tax rate under
- 38 section 30 of this chapter, in the case of a county containing a
- 39 consolidated city; or
- 40 (2) the county income tax council has imposed a tax rate of at
- 41 least twenty-five hundredths of one percent (0.25%) under section
- 42 30 of this chapter, a tax rate of at least twenty-five hundredths of

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1 one percent (0.25%) under section 32 of this chapter, or a total
2 combined tax rate of at least twenty-five hundredths of one
3 percent (0.25%) under sections 30 and 32 of this chapter, in the
4 case of a county other than a county containing a consolidated
5 city.

- 6 (c) A tax rate under this section may not exceed the following:
7 (1) Five-tenths of one percent (0.5%), in the case of a county
8 containing a consolidated city.
9 (2) Twenty-five hundredths of one percent (0.25%), in the case of
10 a county other than a county containing a consolidated city.

11 (d) If a county income tax council adopts an ordinance to impose a
12 tax rate under this section, the county auditor shall send a certified
13 copy of the ordinance to the department and the department of local
14 government finance by certified mail.

15 (e) A tax rate under this section is in addition to any other tax rates
16 imposed under this chapter and does not affect the purposes for which
17 other tax revenue under this chapter may be used.

18 (f) Except as provided in ~~subsection~~ **subsections (l) and (m)**, the
19 county auditor shall distribute the portion of the certified distribution
20 that is attributable to a tax rate under this section to the county and to
21 each municipality in the county **that is carrying out or providing at**
22 **least one (1) of the public safety purposes described in subsection**
23 **(a)**. The amount that shall be distributed to the county or municipality
24 is equal to the result of:

- 25 (1) the portion of the certified distribution that is attributable to a
26 tax rate under this section; multiplied by
27 (2) a fraction equal to:
28 (A) the total property taxes being collected in the county by
29 the county or municipality for the calendar year; divided by
30 (B) the sum of the total property taxes being collected in the
31 county by the county and each municipality in the county **that**
32 **is entitled to a distribution under this section** for the
33 calendar year.

34 The county auditor shall make the distributions required by this
35 subsection not more than thirty (30) days after receiving the portion of
36 the certified distribution that is attributable to a tax rate under this
37 section. Tax revenue distributed to a county or municipality under this
38 subsection must be deposited into a separate account or fund and may
39 be appropriated by the county or municipality only for public safety
40 purposes.

41 (g) The department of local government finance may not require a
42 county or municipality receiving tax revenue under this section to

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1 reduce the county's or municipality's property tax levy for a particular
 2 year on account of the county's or municipality's receipt of the tax
 3 revenue.

4 (h) The tax rate under this section and the tax revenue attributable
 5 to the tax rate under this section shall not be considered for purposes
 6 of computing:

7 (1) the maximum income tax rate that may be imposed in a county
 8 under section 8 or 9 of this chapter or any other provision of this
 9 chapter;

10 (2) the maximum permissible property tax levy under STEP
 11 EIGHT of IC 6-1.1-18.5-3(b);

12 (3) the total county tax levy under IC 6-1.1-21-2(g)(3),
 13 IC 6-1.1-21-2(g)(4), or IC 6-1.1-21-2(g)(5) (before the repeal of
 14 IC 6-1.1-21); or

15 (4) the credit under IC 6-1.1-20.6.

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

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

22 (k) Notwithstanding any other provision, in Lake County the county
 23 council (and not the county income tax council) is the entity authorized
 24 to take actions concerning the additional tax rate under this section.

25 (l) Two (2) or more political subdivisions that are entitled to receive
 26 a distribution under this section may adopt resolutions providing that
 27 some part or all of those distributions shall instead be paid to one (1)
 28 political subdivision in the county to carry out specific public safety
 29 purposes specified in the resolutions.

30 **(m) A fire department, volunteer fire department, or emergency
 31 medical services provider that:**

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

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

37 **may before July 1 of a year apply to the county income tax council
 38 for a distribution of tax revenue under this section during the
 39 following calendar year. The county income tax council shall
 40 review an application submitted under this subsection and may
 41 before September 1 of a year adopt a resolution requiring that one
 42 (1) or more of the applicants shall receive a specified amount of the**

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1 tax revenue to be distributed under this section during the
2 following calendar year. A resolution approved under this
3 subsection providing for a distribution to one (1) or more fire
4 departments, volunteer fire departments, or emergency services
5 providers applies only to distributions in the following calendar
6 year. Any amount of tax revenue distributed under this subsection
7 to a fire department, volunteer fire department, or emergency
8 medical services provider shall be distributed before the remainder
9 of the tax revenue is distributed under subsection (f).

10 SECTION 3. [EFFECTIVE JULY 1, 2011] (a) IC 6-3.5-1.1-25 and
11 IC 6-3.5-6-31, both as amended by this act, apply to distributions
12 of tax revenue made under those sections after December 31, 2011.

13 (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.

SENATE MOTION

Madam President: I move that Senate Bill 440 be amended to read as follows:

Page 4, line 18, after "may" insert "**before July 1 of a year**".

Page 4, line 19, after "section" delete "." and insert "**during the following calendar year**".

Page 4, line 20, after "may" insert "**before September 1 of a year**".

Page 4, line 23, after "section" delete "." and insert "**during the following calendar year. A resolution approved under this subsection providing for a distribution to one (1) or more fire departments, volunteer fire departments, or emergency services providers applies only to distributions in the following calendar year**".

Page 7, line 32, after "may" insert "**before July 1 of a year**".

Page 7, line 33, after "section" delete "." and insert "**during the following calendar year**".

Page 7, line 34, after "may" insert "**before September 1 of a year**".



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Page 7, line 37, after "section" delete "." and insert "**during the following calendar year. A resolution approved under this subsection providing for a distribution to one (1) or more fire departments, volunteer fire departments, or emergency services providers applies only to distributions in the following calendar year.**".

(Reference is to SB 440 as printed January 26, 2011.)

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