Reprinted
February 28, 2012

ENGROSSED
SENATE BILL No. 98

DIGEST OF SB 98 (Updated February 27, 2012 5:50 pm - DI 113)

Citations Affected: IC 8-18; IC 36-4.

Synopsis: County highway maintenance funding. Provides that a county may use property taxes and miscellaneous revenue deposited in the county general fund for the maintenance of county highways. (Current law permits property taxes to be used for highway maintenance only in an emergency and by unanimous vote of the county fiscal body, and the county general fund to be used only for county highway department employees' personal services.) Allows a city department, officer, or employee to obligate the city beyond the amount of money appropriated for that department, officer, or employee if: (1) the obligation is made under a multi-year interlocal cooperation agreement entered into by the city and one or more political subdivisions or governmental entities; and (2) the agreement is approved by the city fiscal body.

Effective: July 1, 2012.

Kenley, Charbonneau, Hume
(HOUSE SPONSORS — ESPICH, CRAWFORD)

January 4, 2012, read first time and referred to Committee on Appropriations.
January 19, 2012, amended, reported favorably — Do Pass.
January 23, 2012, read second time, ordered engrossed.
January 24, 2012, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION
January 31, 2012, read first time and referred to Committee on Ways and Means.
February 20, 2012, amended, reported — Do Pass.
February 27, 2012, read second time, amended, ordered engrossed.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-18-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. ~~(a) Except as provided in subsection (c),~~ All expenses incurred in the maintenance of county highways shall **first** be paid out of funds from the gasoline tax, special fuel tax, and the motor vehicle registration fees that are paid to the counties by the state. ~~and from~~ **In addition, a county may use** funds derived from the:

(1) county motor vehicle excise surtax;
(2) county wheel tax;
(3) county adjusted gross income tax;
(4) county option income tax;
(5) riverboat admission tax (IC 4-33-12); ~~or~~
(6) riverboat wagering tax (IC 4-33-13); **or**
(7) property taxes and miscellaneous revenue deposited in the county general fund.

~~(b) Except as provided in subsection (c), no ad valorem property tax may be levied by any county for the maintenance of county highways,~~

~~except in an emergency and by unanimous vote of the county fiscal body.~~

~~(c) The county fiscal body may appropriate money from the county general fund to the county highway department to pay for employees' personal services.~~

SECTION 2. IC 36-4-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) This section does not prohibit:

(1) the city works board from making long term contracts for utility services under IC 36-9; or

(2) a department from issuing bonds or other obligations authorized by law.

(b) **Except as provided in subsection (c),** a city department, officer, or employee may not obligate the city to any extent beyond the amount of money appropriated for that department, officer, or employee. An obligation made in violation of this section is void.

(c) A city department, officer, or employee may obligate the city beyond the amount of money appropriated for that department, officer, or employee if:

(1) the obligation is made under a multi-year interlocal cooperation agreement entered into by the city and one (1) or more political subdivisions or governmental entities under IC 36-1-7; and

(2) the agreement described in subdivision (1) is approved by the fiscal body of the city.

(d) An obligation described in subsection (c) may be terminated:

(1) if the city provides notice of the termination of the obligation at least one (1) year before the termination of the obligation; or

(2) the city and the political subdivisions or governmental entities that have entered into the interlocal cooperation agreement otherwise agree to the termination.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 98, 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 2, after line 5, begin a new paragraph and insert:

"SECTION 2. IC 36-4-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) This section does not prohibit:

(1) the city works board from making long term contracts for utility services under IC 36-9; or

(2) a department from issuing bonds or other obligations authorized by law.

(b) **Except as provided in subsection (c),** a city department, officer, or employee may not obligate the city to any extent beyond the amount of money appropriated for that department, officer, or employee. An obligation made in violation of this section is void.

(c) A city department, officer, or employee may obligate the city beyond the amount of money appropriated for that department, officer, or employee if the obligation is made under an interlocal cooperation agreement entered into by the city and one (1) or more political subdivisions or governmental entities under IC 36-1-7. An obligation described in this subsection may be terminated:

(1) if the city provides notice of the termination of the obligation at least one (1) year before the termination of the obligation; or

(2) the city and the political subdivisions or governmental entities that have entered into the interlocal cooperation agreement otherwise agree to the termination.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 98 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 10, Nays 0.

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 98, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 1. As used in this chapter:

"Adopting entity" means either the county council or the county income tax council established by IC 6-3.5-6-2 for the county.

"Branch office" means a branch office of the bureau of motor vehicles.

"County council" includes the city-county council of a county that contains a consolidated city of the first class.

"Motor vehicle" means a vehicle which is subject to the annual license excise tax imposed under IC 6-6-5.

"Net annual license excise tax" means the tax due under IC 6-6-5 after the application of the adjustments and credits provided by that chapter.

"Surtax" means the annual license excise surtax imposed by ~~a county council~~ **an adopting entity** under this chapter.

SECTION 2. IC 6-3.5-4-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: **Sec. 1.1. (a) For purposes of acting as the adopting entity under this chapter, a county income tax council is comprised of the same members as the county income tax council that is established by IC 6-3.5-6-2 for the county (regardless of the income tax that may be in effect in the county).**

(b) The county income tax council shall use the same procedures that apply under IC 6-3.5-6 when acting as an adopting entity under this chapter.

(c) An ordinance adopted by the county income tax council may not be repealed, rescinded, or amended by the county council. Nor may the county income tax council repeal, rescind, or amend an ordinance adopted by the county council.

(d) The taxes imposed under this chapter through any combination of ordinances adopted by the county council and the county income tax council may not exceed the amounts permitted by section 2 of this chapter.

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SECTION 3. IC 6-3.5-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 2. (a) ~~The county council~~ **An adopting entity** of any county may, subject to the limitation imposed by subsection (c), adopt an ordinance to impose an annual license excise surtax at the same rate or amount on each motor vehicle listed in subsection (b) that is registered in the county. The ~~county council~~ **adopting entity** may impose the surtax either:

(1) at a rate of not less than two percent (2%) nor more than ten percent (10%); or

(2) at a specific amount of at least seven dollars and fifty cents ($7.50) and not more than twenty-five dollars ($25).

However, the surtax on a vehicle may not be less than seven dollars and fifty cents ($7.50). The ~~county council~~ **adopting entity** shall state the surtax rate or amount in the ordinance which imposes the tax.

(b) The license excise surtax applies to the following vehicles:

(1) Passenger vehicles.

(2) Motorcycles.

(3) Trucks with a declared gross weight that does not exceed eleven thousand (11,000) pounds.

(c) The ~~county council~~ **adopting entity** may not adopt an ordinance to impose the surtax unless it concurrently adopts an ordinance under IC 6-3.5-5 to impose the wheel tax.

(d) Notwithstanding any other provision of this chapter or IC 6-3.5-5, ordinances adopted by a county council before ~~June 1, 1983,~~ **May 1, 2012,** to impose or change the annual license excise surtax and the annual wheel tax in the county remain in effect until the ordinances are amended or repealed under this chapter or IC 6-3.5-5.

SECTION 4. IC 6-3.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 3. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the surtax after December 31 but before July 1 of the following year, a motor vehicle is subject to the tax if it is registered in the county after December 31 of the year in which the ordinance is adopted. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the surtax after June 30 but before the following January 1, a motor vehicle is subject to the tax if it is registered in the county after December 31 of the year following the year in which the ordinance is adopted. However, in the first year the surtax is effective, the surtax does not apply to the registration of a motor vehicle for the registration year that commenced in the calendar year preceding the year the surtax is first effective.

SECTION 5. IC 6-3.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 4. (a) After January 1

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but before July 1 of any year, the ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to rescind the surtax. If the ~~county council~~ **adopting entity** adopts such an ordinance, the surtax does not apply to a motor vehicle registered after December 31 of the year the ordinance is adopted.

(b) The ~~county council~~ **adopting entity** may not adopt an ordinance to rescind the surtax unless it concurrently adopts an ordinance under IC 6-3.5-5 to rescind the wheel tax. In addition, the ~~county council~~ **adopting entity** may not adopt an ordinance to rescind the surtax if:

(1) any portion of a loan obtained by the county under IC 8-14-8 is unpaid; or ~~if~~

(2) any bonds issued by the county under:

(A) IC 8-14-9; **or**

(B) IC 8-18-22;

are outstanding.

SECTION 6. IC 6-3.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 5. (a) The ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to increase or decrease the surtax rate or amount. The new surtax rate or amount must be within the range of rates or amounts prescribed by section 2 of this chapter. A new rate or amount that is established by an ordinance that is adopted after December 31 but before July 1 of the following year applies to motor vehicles registered after December 31 of the year in which the ordinance to change the rate or amount is adopted. A new rate or amount that is established by an ordinance that is adopted after June 30 but before January 1 of the following year applies to motor vehicles registered after December 31 of the year following the year in which the ordinance is adopted.

(b) The ~~county council~~ **adopting entity** may not adopt an ordinance to decrease the surtax rate or amount under this section if:

(1) any portion of a loan obtained by the county under IC 8-14-8 is unpaid; or ~~if~~

(2) any bonds issued by the county under:

(A) IC 8-14-9; **or**

(B) IC 8-18-22;

are outstanding.

SECTION 7. IC 6-3.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 6. If ~~a county council~~ **an adopting entity** adopts an ordinance to impose, rescind, or change the rate or amount of the surtax, the ~~county council~~ **adopting entity** shall send a copy of the ordinance to the commissioner of the bureau

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of motor vehicles.

SECTION 8. IC 6-3.5-5-1, AS AMENDED BY P.L.211-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 1. As used in this chapter:

"Adopting entity" means either the county council or the county income tax council established by IC 6-3.5-6-2 for the county.

"Branch office" means a branch office of the bureau of motor vehicles.

"Bus" has the meaning set forth in IC 9-13-2-17(a).

"Commercial motor vehicle" has the meaning set forth in IC 6-6-5.5-1(c).

"County council" includes the city-county council of a county that contains a consolidated city of the first class.

"In-state miles" has the meaning set forth in IC 6-6-5.5-1(i).

"Political subdivision" has the meaning set forth in IC 34-6-2-110.

"Recreational vehicle" has the meaning set forth in IC 9-13-2-150.

"Semitrailer" has the meaning set forth in IC 9-13-2-164(a).

"State agency" has the meaning set forth in IC 34-6-2-141.

"Tractor" has the meaning set forth in IC 9-13-2-180.

"Trailer" has the meaning set forth in IC 9-13-2-184(a).

"Truck" has the meaning set forth in IC 9-13-2-188(a).

"Wheel tax" means the tax imposed under this chapter.

SECTION 9. IC 6-3.5-5-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: **Sec. 1.1. (a) For purposes of acting as the adopting entity under this chapter, a county income tax council is comprised of the same members as the county income tax council that is established by IC 6-3.5-6-2 for the county (regardless of the income tax that may be in effect in the county).**

(b) The county income tax council shall use the same procedures that apply under IC 6-3.5-6 when acting as an adopting entity under this chapter.

(c) An ordinance adopted by the county income tax council may not be repealed, rescinded, or amended by the county council. Nor may the county income tax council repeal, rescind, or amend an ordinance adopted by the county council.

(d) The taxes imposed under this chapter through any combination of ordinances adopted by the county council and the county income tax council may not exceed the amounts permitted by section 2 of this chapter.

SECTION 10. IC 6-3.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 2. (a) The ~~county~~

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~~council~~ **adopting entity** of any county may, subject to the limitation imposed by subsection (b), adopt an ordinance to impose an annual wheel tax on each vehicle which:

(1) is included in one (1) of the classes of vehicles listed in section 3 of this chapter;

(2) is not exempt from the wheel tax under section 4 of this chapter; and

(3) is registered in the county.

(b) The ~~county council~~ **adopting entity** of a county may not adopt an ordinance to impose the wheel tax unless it concurrently adopts an ordinance under IC 6-3.5-4 to impose the annual license excise surtax.

(c) The ~~county council~~ **adopting entity** may impose the wheel tax at a different rate for each of the classes of vehicles listed in section 3 of this chapter. In addition, the ~~county council~~ **adopting entity** may establish different rates within the classes of buses, semitrailers, trailers, tractors, and trucks based on weight classifications of those vehicles that are established by the bureau of motor vehicles for use throughout Indiana. However, the wheel tax rate for a particular class or weight classification of vehicles may not be less than five dollars ($5) and may not exceed forty dollars ($40). The ~~county council~~ **adopting entity** shall state the initial wheel tax rates in the ordinance that imposes the tax.

SECTION 11. IC 6-3.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 5. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the wheel tax after December 31 but before July 1 of the following year, a vehicle described in section 2(a) of this chapter is subject to the tax if it is registered in the county after December 31 of the year in which the ordinance is adopted. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the wheel tax after June 30 but before the following January 1, a vehicle described in section 2(a) of this chapter is subject to the tax if it is registered in the county after December 31 of the year following the year in which the ordinance is adopted. However, in the first year the tax is effective, the tax does not apply to the registration of a motor vehicle for the registration year that commenced in the calendar year preceding the year the tax is first effective.

SECTION 12. IC 6-3.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 6. (a) After January 1 but before July 1 of any year, the ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to rescind the wheel tax. If the ~~county council~~ **adopting**

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entity adopts such an ordinance, the wheel tax does not apply to a vehicle registered after December 31 of the year the ordinance is adopted.

(b) The ~~county council~~ **adopting entity** may not adopt an ordinance to rescind the wheel tax unless it concurrently adopts an ordinance under IC 6-3.5-4 to rescind the annual license excise surtax. In addition, the ~~county council~~ **adopting entity** may not adopt an ordinance to rescind the wheel tax if:

(1) any portion of a loan obtained by the county under IC 8-14-8 is unpaid; or ~~if~~

(2) any bonds issued by the county under:

(A) IC 8-14-9; **or**

(B) IC 8-18-22;

are outstanding.

SECTION 13. IC 6-3.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 7. (a) The ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to increase or decrease the wheel tax rates. The new wheel tax rates must be within the range of rates prescribed by section 2 of this chapter. New rates that are established by an ordinance that is adopted after December 31 but before July 1 of the following year apply to vehicles registered after December 31 of the year in which the ordinance to change the rates is adopted. New rates that are established by an ordinance that is adopted after June 30 but before July 1 of the following year apply to motor vehicles registered after December 31 of the year following the year in which the ordinance is adopted.

(b) The ~~county council~~ **adopting entity** may not adopt an ordinance to decrease the wheel tax rate under this section if:

(1) any portion of a loan obtained by the county under IC 8-14-8 is unpaid; or ~~if~~

(2) any bonds issued by the county under:

(A) IC 8-14-9; **or**

(B) IC 8-18-22;

are outstanding.

SECTION 14. IC 6-3.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 2012]: Sec. 8. If ~~a county council~~ **an adopting entity** adopts an ordinance to impose, rescind, or change the rates of the wheel tax, the ~~county council~~ **adopting entity** shall send a copy of the ordinance to the commissioner of the bureau of motor vehicles.".

Page 2, delete lines 17 through 28, begin a new paragraph and

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insert:

"**(c) A city department, officer, or employee may obligate the city beyond the amount of money appropriated for that department, officer, or employee if:**

(1) the obligation is made under a multi-year interlocal cooperation agreement entered into by the city and one (1) or more political subdivisions or governmental entities under IC 36-1-7; and

(2) the agreement described in subdivision (1) is approved by the fiscal body of the city.

(d) An obligation described in subsection (c) may be terminated:

(1) if the city provides notice of the termination of the obligation at least one (1) year before the termination of the obligation; or

(2) the city and the political subdivisions or governmental entities that have entered into the interlocal cooperation agreement otherwise agree to the termination.

SECTION 16. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 98 as printed January 20, 2012.)

ESPICH, Chair

Committee Vote: yeas 14, nays 9.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 98 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 6.

Page 7, delete lines 1 through 17.

Page 8, delete line 25.

Renumber all SECTIONS consecutively.

(Reference is to ESB 98 as printed February 21, 2012.)

ESPICH

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