



January 27, 2012

---

---

## HOUSE BILL No. 1376

---

DIGEST OF HB 1376 (Updated January 25, 2012 12:02 pm - DI 92)

**Citations Affected:** IC 4-10; IC 34-13; noncode.

**Synopsis:** State fiscal matters. Provides for an automatic refundable tax credit to Indiana residents when the state has excess reserves of at least \$20,000,000. Increases the maximum amount that may be paid for injury or death in a tort claim against a governmental entity or public employee for death or injury occurring as the result of an accident at the state fair from \$5,000,000 to \$10,000,000. Provides procedures for the settlement of claims. Permits augmentation of the appropriation for full-day kindergarten. Changes the amount distributed per child.

**Effective:** Upon passage; January 1, 2012 (retroactive).

---

---

### Espich

---

---

January 17, 2012, read first time and referred to Committee on Rules and Legislative Procedures.

January 18, 2012, reassigned to Committee on Ways and Means.

January 26, 2012, amended, reported — Do Pass.

---

---

C  
o  
p  
y

HB 1376—LS 6436/DI 44+



January 27, 2012

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.

C  
O  
P  
Y

## HOUSE BILL No. 1376

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

1 SECTION 1. IC 4-10-22-3, AS ADDED BY P.L.229-2011,  
2 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2012 (RETROACTIVE)]: Sec. 3. **(a) Subject to**  
4 **subsection (b)**, after completing the presentation to the state budget  
5 committee described in section 2 of this chapter, the governor shall:  
6 **(1) transfer fifty percent (50%) of any excess reserves to the**  
7 **pension stabilization fund established by IC 5-10.4-2-5 for the**  
8 **purposes of the pension stabilization fund; and**  
9 **(2) (1) use fifty percent (50%) of any excess reserves for the**  
10 **purposes of providing an automatic refundable taxpayer refund**  
11 **credit under section 4 of this chapter; and**  
12 **(2) transfer the excess reserves not needed for an automatic**  
13 **refundable taxpayer credit under section 4 of this chapter to**  
14 **the pension stabilization fund established by IC 5-10.4-2-5.**  
15 **(b) If the excess reserves on June 30 of any year are less than**  
16 **twenty million dollars (\$20,000,000), the governor shall carry over**  
17 **the excess reserves to each subsequent year until the total excess**

HB 1376—LS 6436/DI 44+



1 reserves, including any carryover amount, equal at least twenty  
 2 million dollars (\$20,000,000). In the year that total excess reserves  
 3 equal at least twenty million dollars (\$20,000,000), the excess  
 4 reserves shall be used as provided in subsection (a).

5 SECTION 2. IC 4-10-22-4, AS ADDED BY P.L.229-2011,  
 6 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JANUARY 1, 2012 (RETROACTIVE)]: Sec. 4. The following apply  
 8 if sufficient excess state reserves are available to provide an automatic  
 9 taxpayer refund to each taxpayer eligible for a refund:

10 (1) To qualify for a refund, a taxpayer:

11 (A) must have filed an Indiana resident individual adjusted  
 12 gross income tax return for the preceding two (2) taxable  
 13 years; and

14 (B) must have paid individual adjusted gross income tax to the  
 15 state for the preceding taxable year:

16 Individuals who file a tax return but do not pay any individual  
 17 adjusted gross income tax to the state are not entitled to a refund.

18 (2) The amount of the refund is determined for each qualifying  
 19 taxpayer on a pro rata basis, based on the qualifying taxpayer's  
 20 portion of the total individual adjusted gross income tax liability  
 21 paid by all qualifying taxpayers in the preceding taxable year.

22 (3) The refund shall be applied as a credit against adjusted gross  
 23 income tax liability in the taxpayer's taxable year in which a  
 24 refund is provided. The credit may not be carried forward.

25 (a) An individual is entitled to a refundable tax credit against  
 26 the individual's adjusted gross income tax liability in a taxable year  
 27 if:

28 (1) the office of management and budget determines that the  
 29 state possessed excess state reserves on June 30 in the  
 30 taxpayer's current taxable year of at least twenty million  
 31 dollars (\$20,000,000);

32 (2) the individual is an Indiana resident who filed an Indiana  
 33 resident individual adjusted gross income tax return for the  
 34 immediately preceding year, not later than the due date for  
 35 the return, determined after applying any extension granted  
 36 for the return; and

37 (3) the individual continues to be an Indiana resident who files  
 38 an Indiana resident individual adjusted gross income tax  
 39 return for the current taxable year not later than the due date  
 40 for the return, determined after applying any extension  
 41 granted for the return.

42 (b) The refundable tax credit under this section shall be applied

C  
O  
P  
Y



1 to a taxpayer's adjusted gross income tax liability after applying all  
 2 other tax credits to which the taxpayer is otherwise eligible. The  
 3 amount of the refundable tax credit under this section is  
 4 determined on a per return basis. The refundable tax credit is  
 5 equal to:

6 (1) the credit amount determined under subsection (c) or (d),  
 7 if the individual files a single Indiana resident individual  
 8 adjusted gross income tax return for the current taxable year;

9 or

10 (2) the result of the credit amount determined under  
 11 subsection (c) or (d) multiplied by two (2), if the individual  
 12 files a joint Indiana resident individual adjusted gross income  
 13 tax return with the individual's spouse for the current taxable  
 14 year.

15 (c) Except as provided in subsection (d), the credit amount is the  
 16 amount determined under STEP THREE of the following formula:

17 STEP ONE: Determine the result of:

18 (1) the amount of the state excess reserves determined for  
 19 June 30 in the taxable year; divided by

20 (2) the number of resident individuals filing a single or  
 21 joint Indiana resident individual adjusted gross income tax  
 22 return for the immediately preceding year, not later than  
 23 the due date for the return, determined after applying any  
 24 extension granted for the return.

25 STEP TWO: Round the STEP ONE result to the nearest one  
 26 dollar (\$1).

27 STEP THREE: Determine the lesser of:

28 (1) the STEP TWO result; or

29 (2) fifty dollars (\$50).

30 (d) This subsection applies only when the result determined in  
 31 subsection (c), STEP TWO is greater than one hundred dollars  
 32 (\$100). For a state fiscal year subject to this subsection, the credit  
 33 amount is the amount determined under STEP FIVE of the  
 34 following formula:

35 STEP ONE: Determine the result of:

36 (1) the result determined under subsection (c), STEP  
 37 TWO; minus

38 (2) one hundred dollars (\$100).

39 STEP TWO: Round the STEP ONE result to the nearest one  
 40 dollar (\$1).

41 STEP THREE: Determine the result of

42 (1) the STEP TWO result; divided by

C  
O  
P  
Y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

- (2) two (2).**
- STEP FOUR: Round the STEP THREE result to the nearest one dollar (\$1).**
- STEP FIVE: Determine the sum of:**
  - (1) the STEP FOUR result; plus**
  - (2) fifty dollars (\$50).**

SECTION 3. IC 34-13-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. **(a)** Except as provided in section 20 of this chapter, the governor may compromise or settle a claim or suit brought against the state or its employees.

- (b) The following definitions apply throughout subsection (c):**
  - (1) "Eligible person" refers to a person or the estate of a person that properly filed a claim with the state, in the form prescribed by the attorney general, before December 31, 2011, for physical injury or death resulting from an occurrence.**
  - (2) "Occurrence" refers to one (1) or more acts or omissions by the state or employees of the state in connection with a single event occurring after July 31, 2011, and before September 1, 2011, that resulted in the death of seven (7) or more persons.**

**(c) Notwithstanding section 4(a)(2) of this chapter, the attorney general shall attempt to resolve all claims and suits brought against the state or its employees for an occurrence for an amount that, in the aggregate, does not exceed ten million dollars (\$10,000,000). Notwithstanding sections 6 and 9 of this chapter, only an eligible person is eligible to receive compensation under this subsection. The attorney general shall attempt to resolve claims or suits for an occurrence as follows:**

- (1) The estate of an eligible person whose death resulted from an occurrence shall receive seven hundred thousand dollars (\$700,000).**
- (2) Except as provided in subdivision (3), each other eligible person who was physically injured as a result of an occurrence shall be compensated for the physical injury in an amount that does not exceed the least of the following:**
  - (A) The amount of the eligible person's losses.**
  - (B) The amount claimed by the eligible person in relation to the claim filed before December 31, 2011.**
  - (C) Seven hundred thousand dollars (\$700,000).**
- (3) Eligible persons who suffered physical injuries involving permanent paralysis or trauma or requiring major and ongoing long-term care may be compensated under**

C  
o  
p  
y



1 subdivision (2) in an amount that exceeds the medical expense  
 2 amounts claimed by the person in relation to the claim  
 3 according to a formula determined by the attorney general.  
 4 The formula used by the attorney general for compensating  
 5 eligible persons must be substantially similar to the formula  
 6 used by the attorney general for payments made before  
 7 January 1, 2012, in relation to the occurrence.

8 To receive a distribution under this subsection for an occurrence,  
 9 an eligible person must have already released all governmental  
 10 entities and public employees from any liability for loss resulting  
 11 from the occurrence. The release must be in a form that is  
 12 satisfactory to the attorney general. The amount payable after  
 13 December 31, 2011, shall be reduced by any amount that was paid  
 14 under this chapter for the death or physical injury before January  
 15 1, 2012. If the aggregate losses incurred by all eligible persons  
 16 exceed ten million dollars (\$10,000,000), the attorney general shall  
 17 make the payments required under subdivision (1) and use the  
 18 remaining amount available under ten million dollars  
 19 (\$10,000,000) by proportionately reducing the amount distributed  
 20 to eligible persons under subdivision (2) according to a formula  
 21 determined by the attorney general.

22 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) The definitions  
 23 in P.L.229-2011, SECTION 1 apply throughout this SECTION.

24 (b) The following definitions apply throughout this SECTION:

25 (1) "2012-2013 school year" means the school year (as defined  
 26 in IC 20-18-2-17) beginning July 1, 2012, and ending June 30,  
 27 2013.

28 (2) "Charter school" has the meaning set forth in  
 29 IC 20-24-1-4.

30 (3) "Current ADM" has the meaning set forth in  
 31 IC 20-43-1-10.

32 (4) "Eligible pupil" has the meaning set forth in  
 33 IC 20-43-1-11.

34 (5) "School corporation" has the meaning set forth in  
 35 IC 20-18-2-16.

36 (c) Augmentation is allowed for the appropriation in  
 37 P.L.229-2011, SECTION 9 to the department of education for  
 38 full-day kindergarten, beginning July 1, 2012, and ending June 30,  
 39 2013.

40 (d) Notwithstanding P.L.229-2011, SECTION 9, each school  
 41 corporation and charter school that applies to the department of  
 42 education for a grant for full-day kindergarten is entitled to receive

C  
o  
p  
y



1 a distribution in the 2012-2013 school year from the amount  
 2 appropriated in P.L.229-2011, SECTION 9 for full-day  
 3 kindergarten for the state fiscal year beginning July 1, 2012, and  
 4 ending June 30, 2013, as augmented under this SECTION. The  
 5 total amount to be distributed to a school corporation or charter  
 6 school for the 2012-2013 school year equals the result of:  
 7 (1) two thousand four hundred dollars (\$2,400); multiplied by  
 8 (2) the number of eligible pupils who are:  
 9 (A) counted in the current ADM of the school corporation  
 10 in the initial count of ADM in the 2012-2013 school year;  
 11 and  
 12 (B) enrolled in and attending full-day kindergarten on the  
 13 count date on which the current ADM is determined.  
 14 (e) A school corporation or charter school that applies for a  
 15 grant for full-day kindergarten may not charge a fee for enrolling  
 16 in or attending full-day kindergarten in the school year beginning  
 17 July 1, 2012, and ending June 30, 2013.  
 18 (f) This SECTION expires July 1, 2013.  
 19 SECTION 5. An emergency is declared for this act.

C  
O  
P  
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1376, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1376 as introduced.)

ESPICH, Chair

Committee Vote: yeas 20, nays 0.

C  
O  
P  
Y

