
HOUSE BILL No. 1303

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 6-3.5-10; IC 6-8.1-1-1; IC 36-7-4-1318.

Synopsis: Nonresident income tax for Gary. Authorizes the Gary city council to impose a municipal employment opportunity tax upon nonresident individuals who work in Gary. Provides that the tax may not exceed 1% of the individual's adjusted gross income derived from the covered individual's principal place of business or employment. Provides that the tax revenue must be used for infrastructure repair and improvements or public safety expenditures, or both. Permits the tax revenue to be pledged to repay bonds or lease rentals related to infrastructure or public safety. Permits the municipal employment opportunity tax to be used to pay outstanding indebtedness if the city of Gary fails to make required payments. Permits the state to intercept the taxes for noncompliance with certain data requirements.

Effective: July 1, 2012.

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January 11, 2012, read first time and referred to Committee on Ways and Means.

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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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HOUSE BILL No. 1303



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

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

1 SECTION 1. IC 6-1.1-20.6-10, AS AMENDED BY P.L.172-2011,
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 10. (a) As used in this section, "debt service
4 obligations of a political subdivision" refers to:
5 (1) the principal and interest payable during a calendar year on
6 bonds; and
7 (2) lease rental payments payable during a calendar year on
8 leases;
9 of a political subdivision payable from ad valorem property taxes.
10 (b) Political subdivisions are required by law to fully fund the
11 payment of their debt obligations in an amount sufficient to pay any
12 debt service or lease rentals on outstanding obligations, regardless of
13 any reduction in property tax collections due to the application of tax
14 credits granted under this chapter. If the amount deposited in a fund
15 from which debt service obligations of the political subdivision are
16 paid is reduced as a result of the application of a credit granted under
17 this chapter below the amount needed to meet the debt service



1 obligations of a political subdivision as the obligations come due, the
 2 political subdivision may transfer funds from one (1) or more of the
 3 other funds of the political subdivision.

4 (c) Upon the failure of a political subdivision to pay any of the
 5 political subdivision's debt service obligations during a calendar year
 6 when due, the treasurer of state, upon being notified of the failure by
 7 a claimant, shall pay the unpaid debt service obligations that are due
 8 from money in the possession of the state that would otherwise be
 9 available for distribution to the political subdivision under any other
 10 law, deducting the payment from the amount distributed. A deduction
 11 under this subsection must be made:

12 (1) first from distributions of county adjusted gross income tax
 13 distributions under IC 6-3.5-1.1, county option income tax
 14 distributions under IC 6-3.5-6, ~~or~~ county economic development
 15 income tax distributions under IC 6-3.5-7, **or municipal**
 16 **employment opportunity tax distributions under IC 6-3.5-10**,
 17 that would otherwise be distributed to the county under the
 18 schedule in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1, IC 6-3.5-6-16,
 19 IC 6-3.5-6-17.3, IC 6-3.5-7-17, ~~and~~ IC 6-3.5-7-17.3,
 20 **IC 6-3.5-10-24, and IC 6-3.5-10-25**; and

21 (2) second from any other undistributed funds of the political
 22 subdivision in the possession of the state.

23 (d) This section shall be interpreted liberally so that the state shall
 24 to the extent legally valid ensure that the debt service obligations of
 25 each political subdivision are paid when due. However, this section
 26 does not create a debt of the state.

27 SECTION 2. IC 6-1.1-30-17, AS ADDED BY P.L.146-2008,
 28 SECTION 268, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) Except as provided in
 30 subsection (c) and subject to subsection (d), the department of state
 31 revenue and the auditor of state shall, when requested by the
 32 department of local government finance, withhold a percentage of the
 33 distributions of county adjusted gross income tax distributions under
 34 IC 6-3.5-1.1, county option income tax distributions under IC 6-3.5-6,
 35 ~~or~~ county economic development income tax distributions under
 36 IC 6-3.5-7, **or municipal employment opportunity tax distributions**
 37 **under IC 6-3.5-10**, that would otherwise be distributed to the county
 38 under the schedules in IC 6-3.5-1.1-10, IC 6-3.5-1.1-21.1,
 39 IC 6-3.5-6-17, IC 6-3.5-6-17.3, IC 6-3.5-7-16, ~~and~~ IC 6-3.5-7-17.3,
 40 **IC 6-3.5-10-24, and IC 6-3.5-10-25**, if:

41 (1) local assessing officials have not provided information to the
 42 department of local government finance in a timely manner under

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- 1 IC 4-10-13-5(b);
- 2 (2) the county assessor has not transmitted to the department of
- 3 local government finance by October 1 of the year in which the
- 4 distribution is scheduled to be made the data for all townships in
- 5 the county required to be transmitted under IC 6-1.1-4-25;
- 6 (3) the county auditor has not paid a bill for services under
- 7 IC 6-1.1-4-31.5 to the department of local government finance in
- 8 a timely manner;
- 9 (4) the county assessor has not forwarded to the department of
- 10 local government finance in a timely manner sales disclosure
- 11 form data under IC 6-1.1-5.5-3;
- 12 (5) the county auditor has not forwarded to the department of
- 13 local government finance the duplicate copies of all approved
- 14 exemption applications required to be forwarded by that date
- 15 under IC 6-1.1-11-8(a);
- 16 (6) by the date the distribution is scheduled to be made, the
- 17 county auditor has not sent a certified statement required to be
- 18 sent by that date under IC 6-1.1-17-1 to the department of local
- 19 government finance;
- 20 (7) the county does not maintain a certified computer system that
- 21 meets the requirements of IC 6-1.1-31.5-3.5;
- 22 (8) the county auditor has not transmitted the data described in
- 23 IC 36-2-9-20 to the department of local government finance in the
- 24 form and on the schedule specified by IC 36-2-9-20;
- 25 (9) the county has not established a parcel index numbering
- 26 system under 50 IAC 23-8-1 in a timely manner; or
- 27 (10) a county official has not provided other information to the
- 28 department of local government finance in a timely manner as
- 29 required by the department of local government finance.

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30 The percentage to be withheld is the percentage determined by the
31 department of local government finance.

32 (b) Except as provided in subsection (e), money not distributed for
33 the reasons stated in subsection (a) shall be distributed to the county
34 when the department of local government finance determines that the
35 failure to:

- 36 (1) provide information; or
- 37 (2) pay a bill for services;
- 38 has been corrected.

39 (c) The restrictions on distributions under subsection (a) do not
40 apply if the department of local government finance determines that the
41 failure to:

- 42 (1) provide information; or



1 (2) pay a bill for services;
2 in a timely manner is justified by unusual circumstances.

3 (d) The department of local government finance shall give the
4 county auditor at least thirty (30) days notice in writing before the
5 department of state revenue or the auditor of state withholds a
6 distribution under subsection (a).

7 (e) Money not distributed for the reason stated in subsection (a)(3)
8 may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money
9 deposited under this subsection is not subject to distribution under
10 subsection (b).

11 (f) This subsection applies to a county that will not receive a
12 distribution under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7. At the request
13 of the department of local government finance, an amount permitted to
14 be withheld under subsection (a) may be withheld from any state
15 revenues that would otherwise be distributed to the county or one (1)
16 or more taxing units in the county.

17 SECTION 3. IC 6-3.5-10 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2012]:

20 **Chapter 10. Municipal Employment Opportunity Tax for Gary,**
21 **Indiana**

22 **Sec. 1. This chapter applies only to the city of Gary.**

23 **Sec. 2. The general assembly makes the following findings:**

24 (1) After December 31, 2006, the capacity of taxing units in
25 Lake County to raise sufficient revenue from property taxes
26 to fund public safety expenditures and infrastructure
27 maintenance and improvements was limited by the enactment
28 of a mandatory circuit breaker credit initially under
29 IC 6-1.1-20.6-6.5 (repealed) and subsequently, with revisions,
30 under IC 6-1.1-20.6-7 and IC 6-1.1-20.6-7.5.

31 (2) The capacity of taxing units in Lake County to raise
32 sufficient revenue from property taxes to fund public safety
33 expenditures and infrastructure maintenance and
34 improvements was further limited after 2007 by the
35 enactment of an amendment to IC 6-1.1-18.5-2 that froze the
36 maximum ad valorem property tax levy limit of taxing units
37 in Lake County because Lake County is the only county that
38 had not imposed a county adjusted gross income tax under
39 IC 6-3.5-1.1 or a county option income tax under IC 6-3.5-6.

40 (3) The city of Gary was particularly affected and was
41 required to take extraordinary measures to balance its
42 budget. These measures included reducing its annual budget

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- 1 by sixty-one percent (61%), furloughing public employees,
- 2 and petitioning the distressed unit appeal board
- 3 (IC 6-1.1-20.3-4) for a waiver of the circuit breaker credit law.
- 4 (4) The city of Gary is the only municipality granted a waiver
- 5 of the circuit breaker law.
- 6 (5) As a result of an amendment to the Constitution of the
- 7 State of Indiana, the waiver process is no longer available.
- 8 (6) The major source of additional revenues in other counties,
- 9 the local adoption of a countywide income tax such as the
- 10 county adjusted gross income tax, county option income tax,
- 11 or county economic development income tax, is not available
- 12 in Lake County and has repeatedly failed to obtain the
- 13 necessary support to be adopted in Lake County.
- 14 (7) Enactment of a law to grant the city of Gary the authority
- 15 to adopt a citywide income tax on residents is likely to be an
- 16 ineffective solution because of the high rates of unemployment
- 17 among residents of the city of Gary. Therefore, an alternative
- 18 source of additional revenue is needed.
- 19 (8) The city of Gary is a regional business center that provides
- 20 employment for a large number of individuals who reside
- 21 outside the city of Gary and commute each day to a job in the
- 22 city of Gary. More than fifty percent (50%) of the employees
- 23 of some of the largest employers in the city of Gary reside
- 24 outside the city of Gary.
- 25 (9) A tax on the income of nonresidents who earn their living
- 26 in the city of Gary would fairly apportion the costs of
- 27 maintaining and improving government services to a group of
- 28 individuals who benefit from these services, particularly if use
- 29 of the revenues from the tax were restricted to the types of
- 30 expenditures that benefit nonresident employees most, such as
- 31 infrastructure repair and improvement and public safety
- 32 activities.
- 33 (10) Without additional infrastructure repairs and increased
- 34 public safety expenditures, the city of Gary will not have the
- 35 capacity to adequately serve and support the many businesses
- 36 that are located in the city of Gary.

37 **Sec. 3.** As used in this chapter, "adjusted gross income" means
 38 adjusted gross income (as defined in IC 6-3-1-3.5(a)) that is derived
 39 from the covered individual's principal place of business or
 40 employment.

41 **Sec. 4.** As used in this chapter, "covered individual" refers to an
 42 individual:

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1 (1) who is not a resident of the municipality in which the
 2 individual's principal place of business or employment is
 3 located on the date determined under section 17 of this
 4 chapter; and

5 (2) whose principal place of business or employment on the
 6 date determined under section 17 of this chapter is located in
 7 a municipality that has imposed the municipal employment
 8 opportunity tax under this chapter.

9 Sec. 5. As used in this chapter, "department" refers to the
 10 department of state revenue.

11 Sec. 6. As used in this chapter, "fiscal body" refers to the Gary
 12 common council.

13 Sec. 7. As used in this chapter, "infrastructure" means capital
 14 improvements that:

15 (1) comprise:

16 (A) a sanitary sewer system or wastewater treatment
 17 facility;

18 (B) a park or recreational facility;

19 (C) a road or bridge;

20 (D) a drainage or flood control facility; or

21 (E) a water treatment, water storage, or water distribution
 22 facility; and

23 (2) are:

24 (A) owned solely for a public purpose by:

25 (i) a municipality; or

26 (ii) a corporation created by a municipality; or

27 (B) leased by a municipality solely for a public purpose.

28 Sec. 8. As used in this chapter, "municipality" refers to the city
 29 of Gary.

30 Sec. 9. As used in this chapter, "public safety" has the meaning
 31 set forth in IC 6-3.5-6-31.

32 Sec. 10. (a) A fiscal body may:

33 (1) impose or increase; or

34 (2) subject to section 11 of this chapter, decrease or rescind;
 35 a municipal employment opportunity tax on the adjusted gross
 36 income of covered individuals.

37 (b) A municipal employment opportunity tax adopted under this
 38 chapter may not exceed one percent (1%).

39 Sec. 11. (a) If bonds are outstanding that have been issued under
 40 section 27 of this chapter or leases are in effect under section 28 of
 41 this chapter, the fiscal body may not reduce the rate of the
 42 municipal employment opportunity tax below a rate that would

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1 produce one and twenty-five hundredths (1.25) times the total of
 2 the highest annual debt service on the bonds to their final maturity,
 3 plus the highest annual lease payments.

4 (b) For purposes of subsection (a), the determination of a tax
 5 rate sufficient to produce one and twenty-five hundredths (1.25)
 6 times the total of the highest annual debt service plus the highest
 7 annual lease payments must be based on an average of the
 8 immediately preceding three (3) years tax collections, if the tax has
 9 been imposed for the last preceding three (3) years. If the tax has
 10 not been imposed for the last preceding three (3) years, the fiscal
 11 body may not reduce the rate below a rate that would produce one
 12 and twenty-five hundredths (1.25) times the total of the highest
 13 annual debt service, plus the highest annual lease payments, based
 14 upon a study by a qualified public accountant or financial adviser.

15 Sec. 12. (a) To impose, increase, decrease, or rescind the
 16 municipal employment opportunity tax, the fiscal body must,
 17 before November 1 of a year, adopt an ordinance.

18 (b) An ordinance to impose the tax must state substantially the
 19 following:

20 "The _____ (insert name of fiscal body) imposes the
 21 municipal employment opportunity tax on the covered
 22 individuals of _____ (insert name of municipality). The
 23 municipal employment opportunity tax is imposed at a rate of
 24 _____ percent (___%) on the adjusted gross income of
 25 the covered individuals of the municipality."

26 (c) An ordinance to increase or decrease the tax must state
 27 substantially the following:

28 "The _____ (insert name of fiscal body)
 29 _____ (insert decreases or increases, as appropriate)
 30 the municipal employment opportunity tax rate from
 31 _____ percent (___%) to _____ percent
 32 (___%)."

33 (d) An ordinance to rescind or repeal the tax must state
 34 substantially the following:

35 "The _____ (insert name of fiscal body) repeals the
 36 municipal employment opportunity tax rate."

37 Sec. 13. (a) Using procedures provided under this chapter, a
 38 fiscal body may pass an ordinance to enter into reciprocity
 39 agreements with the taxing authority of any city, town,
 40 municipality, county, or other similar local governmental entity of
 41 any other state. The reciprocity agreements must provide that the
 42 income of residents of the municipality is exempt from income

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1 taxation by the other local governmental entity to the extent
2 income of the residents of the other local governmental entity is
3 exempt from the municipal employment opportunity tax rate in the
4 municipality.

5 (b) A reciprocity agreement adopted under this section may not
6 become effective until it is also made effective in the other local
7 governmental entity that is a party to the agreement.

8 (c) The form and effective date of any reciprocity agreement
9 described in this section must be approved by the department.

10 Sec. 14. (a) Except as provided in section 13(b) of this chapter
11 and subsection (b), an ordinance authorized by this chapter,
12 including an ordinance that imposes or increases a tax or a tax
13 rate, takes effect as follows:

14 (1) An ordinance adopted after December 31 of the
15 immediately preceding year and before October 1 of the
16 current year takes effect October 1 of the current year.

17 (2) An ordinance adopted after September 30 and before
18 October 16 of the current year takes effect November 1 of the
19 current year.

20 (3) An ordinance adopted after October 15 and before
21 November 1 of the current year takes effect December 1 of the
22 current year.

23 (b) An ordinance authorized by this chapter that decreases or
24 rescinds a tax or a tax rate takes effect as follows:

25 (1) An ordinance adopted after December 31 of the
26 immediately preceding year and before October 1 of the
27 current year takes effect on the later of October 1 of the
28 current year or the first day of the month in the current year
29 as the month in which the last increase in the tax or tax rate
30 occurred.

31 (2) An ordinance adopted after September 30 and before
32 October 16 of the current year takes effect on the later of
33 November 1 of the current year or the first day of the month
34 in the current year as the month in which the last increase in
35 the tax or tax rate occurred.

36 (3) An ordinance adopted after October 15 and before
37 November 1 of the current year takes effect December 1 of the
38 current year.

39 Sec. 15. A tax and tax rate adopted under this chapter remain
40 in effect until the date when a later adopted ordinance increases,
41 decreases, or rescinds the tax or tax rate, or both.

42 Sec. 16. The clerk of a municipality shall record all votes taken

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1 on ordinances presented for a vote under this chapter and shall,
2 not more than ten (10) days after the vote, send:

- 3 (1) a copy of the adopted ordinance to the legislative services
4 agency in an electronic format under IC 5-14-6; and
5 (2) a certified copy of the adopted ordinance to the
6 department of local government finance and the
7 commissioner of the department by certified mail.

8 **Sec. 17.** The principal place of business or employment of an
9 individual is to be determined on January 1 of the calendar year in
10 which the individual's taxable year commences. If an individual
11 changes location of residence or principal place of employment or
12 business to another municipality during a calendar year, the
13 individual's liability for the municipal employment opportunity tax
14 is not affected.

15 **Sec. 18.** If the municipal employment opportunity tax is not in
16 effect during a covered individual's entire taxable year, the amount
17 of municipal employment opportunity tax that the covered
18 individual owes for that taxable year equals the product of:

- 19 (1) the amount of municipal employment opportunity tax the
20 covered individual would owe if the tax had been imposed
21 during the covered individual's entire taxable year; multiplied
22 by
23 (2) a fraction. The numerator of the fraction equals the
24 number of days during the covered individual's taxable year
25 during which the municipal employment opportunity tax was
26 in effect. The denominator of the fraction equals three
27 hundred sixty-five (365).

28 **Sec. 19. (a)** If, for a taxable year, a covered individual is (or a
29 covered individual and a covered individual's spouse who file a
30 joint return are) allowed a credit for the elderly or individuals with
31 a total disability under Section 22 of the Internal Revenue Code,
32 the covered individual is (or the covered individual and the covered
33 individual's spouse are) entitled to a credit against the covered
34 individual's (or the covered individual's and the covered
35 individual's spouse's) municipal employment opportunity tax
36 liability for that same taxable year. The amount of the credit
37 equals the lesser of the following:

- 38 (1) The product of:
39 (A) the covered individual's (or the covered individual's
40 and the covered individual's spouse's) credit for the elderly
41 or individuals with a total disability for that same taxable
42 year; multiplied by

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1 (B) a fraction. The numerator of the fraction is the rate of
2 the municipal employment opportunity tax imposed
3 against the covered individual (or against the covered
4 individual and the covered individual's spouse). The
5 denominator of the fraction is fifteen-hundredths (0.15).

6 (2) The amount of municipal employment opportunity tax
7 imposed on the covered individual (or the covered individual
8 and the covered individual's spouse).

9 (b) If a covered individual and the covered individual's spouse
10 file a joint return and are subject to different municipal
11 employment opportunity tax rates for the same taxable year, they
12 shall compute the credit under this section by using the formula
13 provided by subsection (a), except that they shall use the average
14 of the two (2) municipal employment opportunity tax rates
15 imposed against them as the numerator referred to in subsection
16 (a)(1)(B).

17 Sec. 20. (a) Except as otherwise provided in this chapter, all
18 provisions of the adjusted gross income tax law (IC 6-3)
19 concerning:

- 20 (1) definitions;
- 21 (2) declarations of estimated tax;
- 22 (3) filing of returns;
- 23 (4) remittances;
- 24 (5) incorporation of the provisions of the Internal Revenue
25 Code;
- 26 (6) penalties and interest;
- 27 (7) exclusion of military pay credits for withholding; and
- 28 (8) exemptions and deductions;

29 apply to the imposition, collection, and administration of an
30 employment opportunity tax adopted under this chapter.

31 (b) IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, and IC 6-3-5-1 do
32 not apply to the municipal employment opportunity tax adopted
33 under this chapter.

34 (c) Notwithstanding subsections (a) and (b), each employer shall
35 report to the department the amount of withholdings attributable
36 to each municipality. This report shall be submitted to the
37 department:

- 38 (1) each time the employer remits to the department the tax
39 that is withheld; and
- 40 (2) annually along with the employer's annual withholding
41 report.

42 Sec. 21. (a) A special account within the state general fund shall

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1 be established for each municipality adopting the municipal
2 employment opportunity tax. Any revenue derived from the
3 imposition of the municipal employment opportunity tax by a
4 municipality shall be credited to that municipality's account in the
5 state general fund. Money in the special account is appropriated to
6 make the distributions required by this chapter.

7 (b) Any income earned on money credited to an account under
8 subsection (a) becomes a part of that account.

9 (c) Any revenue credited to an account established under
10 subsection (a) at the end of a fiscal year does not revert to any
11 other account in the state general fund and may not be credited to
12 any other account in the state general fund.

13 Sec. 22. (a) Before August 2 of each calendar year, the budget
14 agency shall certify to the clerk of each adopting municipality the
15 amount of municipal employment opportunity tax revenue that the
16 budget agency determines has been:

17 (1) received from covered individuals of that municipality for
18 a taxable year ending before the calendar year in which the
19 determination is made; and

20 (2) reported on an annual return or amended return
21 processed by the department in the state fiscal year ending
22 before July 1 of the calendar year in which the determination
23 is made;

24 as adjusted for refunds of municipal employment opportunity taxes
25 made in the state fiscal year plus the amount of interest in the
26 municipality's account that has been accrued and has not been
27 included in a certification made in a preceding year. The amount
28 certified is the municipality's certified distribution for the
29 following calendar year.

30 (b) The amount certified under subsection (a) shall be adjusted
31 under subsections (c), (d), and (e). The budget agency shall provide
32 each municipality's fiscal body with an informative summary of the
33 calculations used to determine the certified distribution. The
34 summary of calculations must include:

35 (1) the amount reported on individual income tax returns
36 processed by the department during the previous fiscal year;

37 (2) adjustments for over distributions in prior years;

38 (3) adjustments for clerical or mathematical errors in prior
39 years;

40 (4) adjustments for tax rate changes; and

41 (5) the amount of excess account balances to be distributed
42 under section 25 of this chapter.

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1 (c) The budget agency shall certify an amount less than the
2 amount determined under subsection (a) if the budget agency
3 determines that the reduced distribution is necessary to offset
4 overpayments made in a calendar year before the calendar year of
5 the distribution. The budget agency may reduce the amount of the
6 certified distribution over several calendar years so that any
7 overpayments are offset over several years rather than in one (1)
8 lump sum.

9 (d) The budget agency shall adjust the certified distribution of
10 a municipality to correct for any clerical or mathematical errors
11 made in any previous certification under this section. The budget
12 agency may reduce the amount of the certified distribution over
13 several calendar years so that any adjustment under this
14 subsection is offset over several years rather than in one (1) lump
15 sum.

16 (e) This subsection applies to a municipality that:

17 (1) initially imposes the municipal employment opportunity
18 tax; or

19 (2) increases the municipal employment opportunity tax rate;
20 under this chapter in the same calendar year in which the budget
21 agency makes a certification under this section. The budget agency
22 shall adjust the certified distribution of a municipality to provide
23 for a distribution in the immediately following calendar year and
24 in each calendar year thereafter. The budget agency shall provide
25 for a full transition to certification of distributions as provided in
26 subsection (a)(1) through (a)(2).

27 Sec. 23. Revenue derived from the imposition of the municipal
28 employment opportunity tax shall be distributed to the
29 municipality that imposed it in the amounts and in the manner
30 prescribed by this chapter.

31 Sec. 24. (a) One-twelfth (1/12) of each adopting municipality's
32 certified distribution for a calendar year shall be distributed from
33 its account established under section 21 of this chapter to the
34 appropriate municipal treasurer on the first day of each month of
35 that calendar year.

36 (b) All distributions from an account established under section
37 21 of this chapter shall be made by warrants issued by the auditor
38 of state to the treasurer of state ordering the appropriate
39 payments.

40 Sec. 25. (a) If the budget agency determines that the balance in
41 a municipal account exceeds one hundred fifty percent (150%) of
42 the certified distributions to be made to the municipality in the

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1 ensuing year, the budget agency shall make a supplemental
2 distribution to a municipality from the municipality's special
3 account.

4 (b) A supplemental distribution described in subsection (a) must
5 be:

- 6 (1) made in January of the ensuing calendar year; and
- 7 (2) allocated in the same manner as certified distributions for
- 8 deposit in a civil unit's rainy day fund established under
- 9 IC 36-1-8-5.1.

10 (c) A determination under this section must be made before
11 October 2.

12 Sec. 26. (a) The clerk of each municipality in which the
13 municipal employment opportunity tax is imposed shall establish
14 an employment opportunity tax fund. The revenue received by a
15 municipality under this chapter must be deposited in the
16 municipality's employment opportunity tax fund.

17 (b) Revenues from the municipal employment opportunity tax
18 may be used as follows:

- 19 (1) For the repair, maintenance, or improvement of
- 20 infrastructure.
- 21 (2) For public safety expenditures.
- 22 (3) For payment of bonds for which employment opportunity
- 23 tax revenue is pledged under section 27 of this chapter or
- 24 leases for which employment opportunity tax revenue is
- 25 pledged under section 28 of this chapter, including the costs
- 26 of issuance.
- 27 (4) For refinancing bonds issued and leases described in
- 28 subdivision (3), including the costs of issuance.

29 (c) If there are bonds outstanding that have been issued under
30 section 27 of this chapter or leases in effect under section 28 of this
31 chapter, a municipality may not expend money from its
32 employment opportunity tax fund for a purpose authorized under
33 subsection (b) in a manner that would adversely affect owners of
34 the outstanding bonds or payment of any lease rentals due.

35 Sec. 27. (a) The fiscal body of a municipality may issue bonds
36 payable from the municipal employment opportunity tax. The
37 bonds must be for a capital improvement:

- 38 (1) to infrastructure; or
- 39 (2) for public safety.

40 (b) The fiscal body of a municipality may issue bonds payable
41 from the municipal employment opportunity tax for any capital
42 project for which the fiscal body is authorized to issue general

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1 obligation bonds. The bonds issued under this section may be
 2 payable from the municipal employment opportunity tax.
 3 (c) IC 6-1.1-20 does not apply to the issuance of bonds under this
 4 section.
 5 (d) Bonds issued under this section may be sold at a public sale
 6 in accordance with IC 5-1-11 or may be sold at a negotiated sale.
 7 (e) After a sale of bonds under this section, the clerk of the
 8 municipality shall prepare a debt service schedule for the bonds.
 9 (f) The general assembly covenants that the general assembly
 10 will not repeal or amend this chapter in a manner that would
 11 adversely affect owners of outstanding bonds issued, or payment
 12 of any lease rentals due, under this section.
 13 Sec. 28. (a) A municipality may enter into a lease with a leasing
 14 body (as defined in IC 5-1-1-1) of any property that could be
 15 financed with the proceeds of bonds issued under this chapter with
 16 a lessor for a term not to exceed fifty (50) years, and the lease may
 17 provide for payments from revenues under this chapter, any other
 18 revenue available to the municipality, or any combination of these
 19 sources. A lease must be for a capital improvement:
 20 (1) to infrastructure; or
 21 (2) for public safety.
 22 (b) A lease may provide that payments by the municipality to
 23 the lessor are required only to the extent and only for the period
 24 that the lessor is able to provide the leased facilities in accordance
 25 with the lease. The terms of each lease must be based upon the
 26 value of the facilities leased and may not create a debt of the
 27 municipality for purposes of the Constitution of the State of
 28 Indiana.
 29 (c) A lease may be entered into by the municipal executive only
 30 after a public hearing at which all interested parties are provided
 31 the opportunity to be heard. After the public hearing, the executive
 32 may approve the execution of the lease on behalf of the
 33 municipality if the executive finds that the service to be provided
 34 throughout the term of the lease will serve the public purpose of
 35 the municipality and is in the best interests of its residents. Any
 36 lease approved by the executive must also be approved by an
 37 ordinance of the fiscal body of the municipality.
 38 (d) Upon execution of a lease providing for payments by the
 39 municipality in whole or in part from employment opportunity
 40 taxes imposed under this chapter and upon approval of the lease by
 41 the municipality's fiscal body, the executive of the municipality
 42 shall publish notice of the execution of the lease and its approval in

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accordance with IC 5-3-1.

(e) Except as provided in this section, no approvals of any governmental body or agency are required before the municipality enters into a lease under this section.

(f) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the publication of the notice of the execution and approval of the lease.

(g) If a municipality exercises an option to buy a leased facility from a lessor, the municipality may subsequently sell the leased facility, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the executive of the municipality through auction, appraisal, or arms length negotiation. If the facility is sold at auction, after appraisal, or through arms length negotiation, the municipality shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought not later than fifteen (15) days after the hearing.

SECTION 4. IC 6-8.1-1-1, AS AMENDED BY P.L.182-2009(ss), SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); **the municipal employment opportunity tax (IC 6-3.5-10)**; the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax

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1 (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum
 2 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the
 3 various food and beverage taxes (IC 6-9); the county admissions tax
 4 (IC 6-9-13 and IC 6-9-28); the regional transportation improvement
 5 income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the
 6 emergency and hazardous chemical inventory form fee (IC 6-6-10); the
 7 penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the
 8 fees and penalties assessed for overweight vehicles (IC 9-20-4 and
 9 IC 9-30); the underground storage tank fee (IC 13-23); the solid waste
 10 management fee (IC 13-20-22); and any other tax or fee that the
 11 department is required to collect or administer.

12 SECTION 5. IC 36-7-4-1318 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1318. (a) A unit may
 14 not adopt an impact fee ordinance under section 1311 of this chapter
 15 unless the unit has prepared or substantially updated a zone
 16 improvement plan for each impact zone during the immediately
 17 preceding one (1) year period. A single zone improvement plan may be
 18 used for two (2) or more infrastructure types if the impact zones for the
 19 infrastructure types are congruent.

20 (b) Each zone improvement plan must contain the following
 21 information:

- 22 (1) A description of the nature and location of existing
 23 infrastructure in the impact zone.
- 24 (2) A determination of the current level of service.
- 25 (3) Establishment of a community level of service. A unit may
 26 provide that the unit's current level of service is the unit's
 27 community level of service in the zone improvement plan.
- 28 (4) An estimate of the nature and location of development that is
 29 expected to occur in the impact zone during the following ten (10)
 30 year period.
- 31 (5) An estimate of the nature, location, and cost of infrastructure
 32 that is necessary to provide the community level of service for the
 33 development described in subdivision (4). The plan must indicate
 34 the proposed timing and sequencing of infrastructure installation.
- 35 (6) A general description of the sources and amounts of money
 36 used to pay for infrastructure during the previous five (5) years.

37 (c) If a zone improvement plan provides for raising the current level
 38 of service to a higher community level of service, the plan must:

- 39 (1) provide for completion of the infrastructure that is necessary
 40 to raise the current level of service to the community level of
 41 service within the following ten (10) year period;
- 42 (2) indicate the nature, location, and cost of infrastructure that is

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1 necessary to raise the current level of service to the community
2 level of service; and

3 (3) identify the revenue sources and estimate the amount of the
4 revenue sources that the unit intends to use to raise the current
5 level of service to the community level of service for existing
6 development. Revenue sources include, without limitation, any
7 increase in revenues available from one (1) or more of the
8 following:

9 (A) Adopting or increasing the following:

10 (i) The county adjusted gross income tax.

11 (ii) The county option income tax.

12 (iii) The county economic development income tax.

13 (iv) The annual license excise surtax.

14 (v) The wheel tax.

15 **(vi) The municipal employment opportunity tax.**

16 (B) Imposing the property tax rate per one hundred dollars
17 (\$100) of assessed valuation that the unit may impose to create
18 a cumulative capital ~~improvement~~ **development** fund under
19 IC 36-9-14.5 or IC 36-9-15.5.

20 (C) Transferring and reserving for infrastructure purposes
21 other general revenues that are currently not being used to pay
22 for capital costs of infrastructure.

23 (D) Dedicating and reserving for infrastructure purposes any
24 newly available revenues, whether from federal or state
25 revenue sharing programs or from the adoption of newly
26 authorized taxes.

27 (d) A unit must consult with a qualified engineer licensed to
28 perform engineering services in Indiana when the unit is preparing the
29 portions of the zone improvement plan described in subsections (b)(1),
30 (b)(2), (b)(5), and (c)(2).

31 (e) A zone improvement plan and amendments and modifications
32 to the zone improvement plan become effective after adoption as part
33 of the comprehensive plan under the 500 SERIES of this chapter or
34 adoption as part of the capital improvements program under section
35 503(5) of this chapter. If the unit establishing the impact fee schedule
36 or formula and establishing the zone improvement plan is different
37 from the unit having planning and zoning jurisdiction, the unit having
38 planning and zoning jurisdiction shall incorporate the zone
39 improvement plan as part of the unit's comprehensive plan and capital
40 improvement plan.

41 (f) If a unit's zone improvement plan identifies revenue sources for
42 raising the current level of service to the community level of service,

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1 impact fees may not be assessed or collected by the unit unless:
2 (1) before the effective date of the impact fee ordinance the unit
3 has available or has adopted the revenue sources that the zone
4 improvement plan specifies will be in effect before the impact fee
5 ordinance becomes effective; and
6 (2) after the effective date of the impact fee ordinance the unit
7 continues to provide adequate funds to defray the cost of raising
8 the current level of service to the community level of service,
9 using revenue sources specified in the zone improvement plan or
10 revenue sources other than impact fees.

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