March 15, 2013

ENGROSSED
HOUSE BILL No. 1585

DIGEST OF HB 1585 (Updated March 14, 2013 8:26 am - DI 87)

Citations Affected: IC 6-1.1; IC 12-20.

Synopsis: Distressed political subdivision status. Provides that if a township's township assistance property tax levy for property taxes first due and payable in 2013 is more than ten times the statewide average township assistance property tax levy (as determined by the department of local government finance), then the department of local government finance shall do the following: (1) Remove the township assistance property tax levy from the maximum property tax levy for the township's general fund. (2) Require the township to separate its township assistance property tax levy into two property tax levies (a township assistance benefits property tax levy and a township assistance administration property tax levy). (3) Calculate a separate maximum permissible property tax levy for those two tax levies. Specifies the amount of the initial maximum permissible property tax

(Continued next page)

Effective: July 1, 2013.

Slager, Torr, Candelaria Reardon
(SENATE SPONSORS — HERSHMAN, MILLER PETE)

January 23, 2013, read first time and referred to Committee on Government and Regulatory Reform.
February 7, 2013, amended, reported — Do Pass.
February 11, 2013, read second time, amended, ordered engrossed.
February 12, 2013, engrossed. Read third time, passed. Yeas 66, nays 32.

SENATE ACTION

February 25, 2013, read first time and referred to Committee on Local Government.
March 14, 2013, amended, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.

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Digest Continued

levies for a township with a separate township assistance benefits property tax levy and a separate township assistance administration property tax levy. Provides that if a township's township assistance property tax levy (or the sum of the township's township assistance benefits property tax levy and township assistance administration property tax levy, in the case of a township with such separate tax levies) for property taxes first due and payable in 2016 is more than ten times the statewide average township assistance property tax levy, the distressed unit appeal board may in 2016 designate the township as a distressed political subdivision, effective January 1, 2017, regardless of whether the township has submitted a petition requesting to be designated as a distressed political subdivision.

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March 15, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1585

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

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

SECTION 1. IC 6-1.1-18.5-3, AS AMENDED BY P.L.172-2011, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A civil taxing unit may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Determine the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth (0.0001)), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem

property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount of an excessive levy appeal granted under section 13 of this chapter for the ensuing calendar year.

STEP SEVEN: Determine the greater of STEP FIVE or STEP SIX.

(b) This subsection applies only to property taxes first due and payable after December 31, 2007. This subsection applies only to a civil taxing unit that is located in a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30. Notwithstanding any provision in this section, ~~or~~ any other section of this chapter, **or IC 12-20-21-3.2,** and except as provided in subsection (c), the maximum permissible ad valorem property tax levy calculated under this section for the ensuing calendar year for a civil taxing unit subject to this section is equal to the civil taxing unit's maximum permissible ad valorem property tax levy for the current calendar year.

(c) This subsection applies only to property taxes first due and payable after December 31, 2007. In the case of a civil taxing unit that:

(1) is partially located in a county for which a county adjusted gross income tax rate is first imposed or is increased in a particular year under IC 6-3.5-1.1-24 or a county option income tax rate is first imposed or is increased in a particular year under IC 6-3.5-6-30; and

(2) is partially located in a county that is not described in subdivision (1);

the department of local government finance shall, notwithstanding subsection (b), adjust the portion of the civil taxing unit's maximum permissible ad valorem property tax levy that is attributable (as determined by the department of local government finance) to the county or counties described in subdivision (2). The department of local government finance shall adjust this portion of the civil taxing unit's maximum permissible ad valorem property tax levy so that, notwithstanding subsection (b), this portion is allowed to increase as

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otherwise provided in this section. If the department of local government finance increases the civil taxing unit's maximum permissible ad valorem property tax levy under this subsection, any additional property taxes imposed by the civil taxing unit under the adjustment shall be paid only by the taxpayers in the county or counties described in subdivision (2).

SECTION 2. IC 6-1.1-20.3-2, AS AMENDED BY P.L.145-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. As used in this chapter, "distressed political subdivision" means a political subdivision designated as a distressed political subdivision by the board under section 6.5 **or 6.7** of this chapter.

SECTION 3. IC 6-1.1-20.3-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 6.7. (a) This section applies only to a township for which the township's township assistance property tax levy (or the sum of the township's township assistance benefits property tax levy and township assistance administration property tax levy, in the case of a township subject to IC 12-20-21-3.2) for property taxes first due and payable in 2016 is more than the result of:**

(1) the statewide average township assistance property tax levy (as determined by the department of local government finance) for property taxes first due and payable in 2016; multiplied by

(2) ten (10).

(b) The board may in 2016 designate a township described in subsection (a) as a distressed political subdivision, effective January 1, 2017, regardless of whether the township has submitted a petition requesting to be designated as a distressed political subdivision.

SECTION 4. IC 6-1.1-20.3-7.5, AS ADDED BY P.L.145-2012, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7.5. (a) This section does not apply to a school corporation designated as a distressed political subdivision.

(b) If the board designates a political subdivision as a distressed political subdivision under section 6.5 **or 6.7** of this chapter, the board shall appoint an emergency manager for the distressed political subdivision. An emergency manager serves at the pleasure of the board.

(c) The chairperson of the board shall oversee the activities of an emergency manager.

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(d) The distressed political subdivision shall pay the emergency manager's compensation and reimburse the emergency manager for actual and necessary expenses.

SECTION 5. IC 6-1.1-20.3-8.5, AS ADDED BY P.L.145-2012, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.5. (a) This section does not apply to school corporations.

(b) Notwithstanding any other law, an emergency manager of a distressed political subdivision appointed under section 7.5 of this chapter shall do the following:

(1) Assume and exercise the authority and responsibilities of both the executive and the fiscal body of the political subdivision concerning the adoption, amendment, and enforcement of ordinances and resolutions relating to or affecting the fiscal stability of the political subdivision. However, the emergency manager does not have the power to impose taxes or fees in addition to the taxes or fees authorized by the political subdivision before the political subdivision was designated a distressed political subdivision.

(2) Review the political subdivision's budget.

(3) Review salaries of the political subdivision's employees.

(4) Conduct a financial and compliance audit of the internal operations of the political subdivision.

(5) Develop a written financial plan in consultation with the officials of the political subdivision not later than six (6) months after appointment.

(6) Develop a plan for paying all the political subdivision's outstanding obligations.

(7) Review existing labor contracts.

(8) Adopt a budget for the political subdivision for each calendar or fiscal year, as applicable, that the political subdivision remains a distressed political subdivision.

(9) Review payrolls and other claims against the political subdivision before payment.

(10) Make, approve, or disapprove the following:

(A) A contract.

(B) An expenditure.

(C) A loan.

(D) The creation of any new position.

(E) The filling of any vacant position.

(11) Submit a written report to the board every three (3) months concerning:

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(A) actions taken by the emergency manager;
(B) expenditures made by the distressed political subdivision; and
(C) the work that has been done to remove the distressed political subdivision from distressed status.

(12) Petition the board to terminate a political subdivision's status as a distressed political subdivision when the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision.

(c) An emergency manager of a distressed political subdivision appointed under section 7.5 of this chapter may do the following:

(1) Renegotiate existing labor contracts and act as an agent of the political subdivision in collective bargaining.

(2) Reduce or suspend salaries of the political subdivision's employees.

(3) Enter into agreements with other political subdivisions for the provision of services.

(d) Except as provided in section ~~13(c)~~ **13(d)** of this chapter, an emergency manager of a distressed political subdivision retains the powers and duties described in subsections (b) and (c) until:

(1) the emergency manager resigns or dies;

(2) the board removes the emergency manager; or

(3) the political subdivision's status as a distressed political subdivision is terminated under section 13(b) **or 13(c)** of this chapter.

SECTION 6. IC 6-1.1-20.3-10, AS AMENDED BY P.L.145-2012, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. A distressed political subdivision may petition the tax court for judicial review of a determination of the board under section 6.5 **or 6.7** of this chapter. The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board of tax review. The petition must be filed in the tax court not more than forty-five (45) days after the board enters its final determination.

SECTION 7. IC 6-1.1-20.3-13, AS ADDED BY P.L.145-2012, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) If:

(1) an emergency manager of a distressed political subdivision that is not a school corporation;

(2) the fiscal body and executive of the political subdivision jointly; or

(3) the governing body of a school corporation that:

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(A) employs a new superintendent; or
(B) has a new member elected or appointed to its governing body;
during the time the school corporation is a distressed political subdivision;
files a petition with the board for termination of the political subdivision's status as a distressed political subdivision, the board shall conduct a public hearing on the question of whether to terminate the political subdivision's status as a distressed political subdivision.

(b) **In the case of a political subdivision designated as distressed under section 6.5 of this chapter,** the board shall terminate the political subdivision's status as a distressed political subdivision if the board finds that the conditions found in section 6.5 of this chapter are no longer applicable to the political subdivision.

(c) In the case of a township designated as distressed under section 6.7 of this chapter, the board shall terminate the township's status as a distressed political subdivision if the board finds that the township's township assistance property tax levy (or the sum of the township's township assistance benefits property tax levy and township assistance administration property tax levy, in the case of a township subject to IC 12-20-21-3.2) for the current calendar year is not more than the result of:

(1) the statewide average township assistance property tax levy (as determined by the department of local government finance) for property taxes first due and payable in that year; multiplied by
(2) ten (10).

~~(c)~~ **(d)** Notwithstanding any other section of this chapter, not later than ninety (90) days after taking office, a new executive of a distressed political subdivision may petition the board for suspension of the political subdivision's distressed status. **In the case of a political subdivision designated as distressed under section 6.5 of this chapter,** the executive must include in its petition a written plan to resolve the applicable issues described in section 6.5 of this chapter. **In the case of a township designated as distressed under section 6.7 of this chapter, the executive must include in its petition a written plan to lower the township's township assistance property tax levy (or the sum of the township's township assistance benefits property tax levy and township assistance administration property tax levy, in the case of a township subject to IC 12-20-21-3.2).** If the board approves the executive's written plan, the board may suspend the political subdivision's distressed status for one hundred eighty (180)

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days. Suspension under this chapter terminates automatically upon expiration of the one hundred eighty (180) day period. The board may consider a petition to terminate the political subdivision's distressed status during a period of suspension.

SECTION 8. IC 12-20-21-3, AS AMENDED BY P.L.73-2005, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) **Except as provided in section 3.2 of this chapter,** a township trustee and township board may levy a specific tax for the purpose of providing money for the payment of township assistance expenses in the following year. The tax may be sufficient to meet the entire requirement of the township in the following year or the part that is determined to be proper.

(b) **Except as provided in section 3.2 of this chapter,** if a tax levy is established under subsection (a), all proceeds derived from the tax levy shall be distributed to the township at the same time and in the same manner as proceeds from other property tax levies are distributed to the township. The proceeds of the tax levy shall be held by the township in its township assistance account free and available for the payment of township assistance obligations of the township. The funds are continuing funds and do not revert to any other fund at the end of the year.

SECTION 9. IC 12-20-21-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.2. (a) This section applies to a township if the township's township assistance property tax levy for property taxes first due and payable in 2013 is more than the result of:**

(1) the statewide average township assistance property tax levy (as determined by the department of local government finance) for property taxes first due and payable in 2013; multiplied by

(2) ten (10).

(b) Notwithstanding any other law, beginning with property taxes first due and payable in 2014 the department of local government finance shall do the following in the case of a township subject to this section:

(1) Remove the township assistance property tax levy from the maximum permissible ad valorem property tax levy for the township's general fund.

(2) Require the township to separate its township assistance property tax levy into the following two (2) property tax levies:

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(A) A township assistance benefits property tax levy.

(B) A township assistance administration property tax levy.

(3) Calculate a separate maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for each of the township's property tax levies described in subdivision (2).

(c) The initial maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a township's township assistance administration property tax levy for property taxes first due and payable in 2014 is equal to the amount determined in the following STEPS:

STEP ONE: Determine the result of:

(A) the township's township assistance property tax levy for property taxes first due and payable in 2013; multiplied by

(B) a percentage equal to:

(i) the total amount of township expenditures in Indiana in 2012 for the administration of township assistance (as determined by the department of local government finance); divided by

(ii) the total amount of all township expenditures in Indiana in 2012 for township assistance (as determined by the department of local government finance), including expenditures for the administration of township assistance and expenditures for township assistance benefits.

STEP TWO: Multiply the STEP ONE result by the assessed value growth quotient under IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in 2014.

(d) The initial maximum permissible ad valorem property tax levy under IC 6-1.1-18.5 for a township's township assistance benefits property tax levy for property taxes first due and payable in 2014 is equal to the amount determined in the following STEPS:

STEP ONE: Determine the result of:

(A) the township's township assistance property tax levy for property taxes first due and payable in 2013; minus

(B) the result determined for the township under STEP ONE of subsection (c).

STEP TWO: Multiply the STEP ONE result by the assessed value growth quotient under IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in

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2014.

(e) The maximum permissible ad valorem property tax levy for the township's general fund shall be adjusted as determined in the following STEPS:

STEP ONE: Multiply:

(A) the township's township assistance property tax levy for property taxes first due and payable in 2013; by

(B) the assessed value growth quotient under IC 6-1.1-18.5-2 that is applicable to the township for property taxes first due and payable in 2014.

STEP TWO: Subtract the STEP ONE result from the maximum permissible ad valorem property tax levy that would otherwise apply for the township's general fund.

The adjustment under this subsection applies beginning with property taxes first due and payable in 2014.

(f) The property taxes collected from a township's township assistance administration property tax levy:

(1) shall be deposited into a separate fund;

(2) shall be used only for the administration of township assistance within the township; and

(3) shall not be used to pay township assistance to any person.

(g) The property taxes collected from a township's township assistance benefits property tax levy:

(1) shall be deposited into a separate fund;

(2) shall be used only for the purpose of paying township assistance to eligible recipients; and

(3) shall not be used to pay for the administration of township assistance within the township.

(h) Except as provided in this section, references in the Indiana Code to a township assistance property tax levy shall, in the case of a township subject to this section, be considered a reference to the township's township assistance benefits property tax levy and the township's township assistance administration property tax levy.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1585, 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, delete lines 10 through 16, begin a new line block indented and insert:

"**(1) includes any territory located in a township for which the average of the township assistance property tax rates for the preceding four (4) years is equal to at least:**

(A) the statewide average township assistance property tax rate for the preceding four (4) years (as determined by the department of local government finance); multiplied by

(B) fifteen (15); and".

and when so amended that said bill do pass.

(Reference is to HB 1585 as introduced.)

MAHAN, Chair

Committee Vote: yeas 11, nays 1.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1585 be amended to read as follows:

Page 4, line 2, delete ", section 14 of this chapter applies to the eligible" and insert "**:**

(A) the territory of the eligible municipality may not be transferred under this chapter; and

(B) a subsequent special election under this chapter may not be held in the eligible municipality.".

Page 4, delete line 3.

Page 5, delete lines 34 through 42.

Delete page 6.

Page 7, delete lines 1 through 24.

Page 7, line 25, delete "Sec. 15." and insert "**Sec. 14.**".

(Reference is to HB 1585 as printed February 8, 2013.)

NIEMEYER

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1585, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to HB 1585 as reprinted February 12, 2013.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 1.

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