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FISCAL IMPACT STATEMENT

LS 6995

BILL NUMBER: HB 1544

NOTE PREPARED: Feb 20, 2013

BILL AMENDED: Feb 18, 2013

SUBJECT: Various Tax Matters.

FIRST AUTHOR: Rep. Turner

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Personal Property Tax Deduction:* This bill permits a county, city, or town to authorize a property tax deduction for up to 100% of the assessed value all personal property or, alternatively, to grant a tax credit of up to 100% of property taxes imposed on all personal property in the county, city, or town.

Common Areas: The bill defines the term "common areas" for purposes of the circuit breaker credit law.

Abatements: This bill amends the law regarding economic revitalization areas to:

- 1) Allow a designating body to establish an abatement schedule in all cases (current law allows designating bodies to establish an alternative abatement schedule);
- 2) Provide that an abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits;
- 3) Repeal a statute authorizing enhanced abatements; and
- 4) Remove references to deadline dates that have already passed.

Sales Tax Zapper Penalty: The bill also imposes a Class C felony penalty for sale, purchase, installation, transfer, or possession of an automated sales suppression device ("zapper") or phantom-ware.

Effective Date: Upon passage; March 1, 2011 (retroactive); July 1, 2013.

Explanation of State Expenditures: *Personal Property Tax Deduction:* The Department of Local Government

Finance (DLGF) would have to add a line for the deduction to the personal property tax return. The DLGF updates the return form each year so this provision would not increase state expenses.

Sales Tax Zapper Penalty: A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Sales Tax Zapper Penalty:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Sales Tax Zapper Penalty:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: (Revised) *Personal Property:* The total CY 2014 net tax after credits including circuit breakers is estimated at \$1.0 B. About \$58 M of the \$1.0 B total, is paid to redevelopment commissions as TIF revenue. The adoption of either a deduction or credit would be a local decision. (Please see the table at the end of this document for the estimated personal property net tax by county.)

This proposal would permit counties, cities, and towns to adopt an ordinance that provides either a deduction up to 100% or a credit up to 100% for business personal property. If adopted by the county, the deduction or credit would apply countywide.

If the *deduction* is adopted by September 30th, it would apply beginning with the next assessment date. If adopted after September 30th, the deduction would apply beginning with the second assessment date following adoption. The deduction could apply as early as taxes payable in CY 2015.

If the *credit* is adopted by September 30th, it would apply beginning with taxes payable in the following year. If adopted after September 30th, the credit would apply beginning with taxes due in the second year following adoption. The credit could apply as early as taxes payable in CY 2014.

The deduction for personal property would shift property taxes from personal property to real property owners. Property tax rates would increase and circuit breaker losses would rise. In addition, the levies of rate-controlled funds would be reduced.

The credit for personal property would create a loss of property tax revenue to civil taxing units and school corporations equal to the adopted percentage of net tax on personal property. Tax rates would not be affected and there would be no shift to real property owners. There would be no change in circuit breaker credit losses.

Residential Circuit Breaker: CY 2012 tax bills for apartments and other non-homestead residential property were examined to estimate the fiscal impact of this provision. The application of the 2% cap to the entire property would have reduced net taxes and increased revenue losses due to the circuit breaker in CY 2012 by

a total of about \$17.2 M. Apartment net taxes would be reduced by \$8.3 M while other nonhomestead residential property tax would be reduced by about \$8.9 M. The \$17.2 M for CY 2012 would have to be refunded. Property tax refunds reduce current year property tax revenue for the taxing units that provide services to the property. The estimated annual revenue loss in future years is about the same.

The treatment of common areas as residential property for circuit breaker purposes also makes them eligible for residential property tax credits that counties may optionally provide from LOIT revenues. A fixed total amount of credits is spread among all eligible residential properties in the county. The additional eligible properties would cause a very slight decrease in residential credits for existing residential property.

Background: Under current law, residential property that is not a homestead is subject to the 2% circuit breaker cap. Nonhomestead residential property includes the dwelling, common areas, and land matching the building footprint.

Retroactive to taxes payable in CY 2012, this bill would define common areas to include roads, swimming pools, tennis courts, basketball courts, playgrounds, carports, garages, other parking areas, gazebos, decks, and patios, and all land used in connection with a building or structure. Most of these items currently qualify under the 3% circuit breaker cap but would qualify for the 2% cap under this bill.

Abatements: Currently, designating bodies may use the statutory abatement schedules or they may use an alternative abatement schedule. In the alternative schedule, the percentage of deduction and the length of the abatement, not to exceed 10 years, is set by the designating body based on the following factors:

1. The total amount of the taxpayer's investment;
2. The number of new jobs created and the average wage as compared to minimum wage; and
3. The infrastructure requirements for the taxpayer's investment.

This bill would repeal the statutory schedule and would require designating bodies to establish an abatement schedule for each deduction allowed. Most deductions would be unaffected as the alternative schedules may now be used in most cases.

However, under current law, abatements in residentially distressed areas are limited to 5 years rather than ten years. Also, abatements for eligible vacant buildings are limited to 2 years. Under this provision, the designating body could authorize all abatements for up to 10 years. The terms of each abatement would be a local decision.

Sales Tax Zapper Penalty: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Local Government Finance; Department of Correction.

Local Agencies Affected: Local assessors; County auditors; Local civil taxing units and school corporations; Trial courts, local law enforcement agencies.

Information Sources: LSA parcel-level property tax database.

Fiscal Analyst: Bob Sigalow, 317-232-9859.

Estimated CY 2014 Net Tax on Personal Property

| County | Est. Net Tax | County | Est. Net Tax |
|----------------|---------------------|----------------|----------------------|
| 01 Adams | 4,641,000 | 47 Lawrence | 4,541,000 |
| 02 Allen | 50,137,000 | 48 Madison | 13,360,000 |
| 03 Bartholomew | 16,717,000 | 49 Marion | 165,218,000 |
| 04 Benton | 1,694,000 | 50 Marshall | 6,208,000 |
| 05 Blackford | 2,453,000 | 51 Martin | 1,112,000 |
| 06 Boone | 5,173,000 | 52 Miami | 2,213,000 |
| 07 Brown | 347,000 | 53 Monroe | 9,465,000 |
| 08 Carroll | 1,775,000 | 54 Montgomery | 9,286,000 |
| 09 Cass | 4,706,000 | 55 Morgan | 2,730,000 |
| 10 Clark | 13,111,000 | 56 Newton | 2,203,000 |
| 11 Clay | 1,885,000 | 57 Noble | 8,107,000 |
| 12 Clinton | 4,446,000 | 58 Ohio | 260,000 |
| 13 Crawford | 1,347,000 | 59 Orange | 1,853,000 |
| 14 Daviess | 4,142,000 | 60 Owen | 1,557,000 |
| 15 Dearborn | 7,376,000 | 61 Parke | 1,032,000 |
| 16 Decatur | 4,575,000 | 62 Perry | 2,540,000 |
| 17 DeKalb | 10,756,000 | 63 Pike | 5,318,000 |
| 18 Delaware | 12,901,000 | 64 Porter | 26,028,000 |
| 19 Dubois | 6,233,000 | 65 Posey | 11,841,000 |
| 20 Elkhart | 28,992,000 | 66 Pulaski | 966,000 |
| 21 Fayette | 2,234,000 | 67 Putnam | 4,371,000 |
| 22 Floyd | 8,086,000 | 68 Randolph | 3,385,000 |
| 23 Fountain | 2,002,000 | 69 Ripley | 2,391,000 |
| 24 Franklin | 1,497,000 | 70 Rush | 2,118,000 |
| 25 Fulton | 2,222,000 | 71 St. Joseph | 40,239,000 |
| 26 Gibson | 17,208,000 | 72 Scott | 2,985,000 |
| 27 Grant | 10,349,000 | 73 Shelby | 9,269,000 |
| 28 Greene | 2,391,000 | 74 Spencer | 11,948,000 |
| 29 Hamilton | 27,190,000 | 75 Starke | 1,627,000 |
| 30 Hancock | 7,907,000 | 76 Steuben | 3,167,000 |
| 31 Harrison | 2,121,000 | 77 Sullivan | 6,555,000 |
| 32 Hendricks | 17,909,000 | 78 Switzerland | 562,000 |
| 33 Henry | 4,110,000 | 79 Tippecanoe | 29,414,000 |
| 34 Howard | 33,254,000 | 80 Tipton | 2,150,000 |
| 35 Huntington | 4,941,000 | 81 Union | 529,000 |
| 36 Jackson | 7,438,000 | 82 Vanderburgh | 28,703,000 |
| 37 Jasper | 6,944,000 | 83 Vermillion | 6,053,000 |
| 38 Jay | 4,603,000 | 84 Vigo | 24,540,000 |
| 39 Jefferson | 6,233,000 | 85 Wabash | 3,653,000 |
| 40 Jennings | 3,261,000 | 86 Warren | 710,000 |
| 41 Johnson | 13,617,000 | 87 Warrick | 8,986,000 |
| 42 Knox | 7,328,000 | 88 Washington | 2,417,000 |
| 43 Kosciusko | 10,345,000 | 89 Wayne | 10,683,000 |
| 44 LaGrange | 2,784,000 | 90 Wells | 3,054,000 |
| 45 Lake | 111,684,000 | 91 White | 3,217,000 |
| 46 LaPorte | 13,837,000 | 92 Whitley | 3,651,000 |
| | | Total | 1,007,117,000 |