February 12, 2013

HOUSE BILL No. 1117

DIGEST OF HB 1117 (Updated February 11, 2013 9:38 am - DI 92)

Citations Affected: IC 6-3.5.

Synopsis: County excise surtax and wheel tax. Permits a county income tax council to impose a motor vehicle excise surtax and a wheel tax for a county. (Current law permits only the county council to impose these taxes.) Specifies that the body that initially imposes the excise surtax and wheel tax is the body that is empowered to increase, decrease, or rescind the excise surtax and wheel tax.

Effective: June 1, 2013.

Karickhoff, Thompson, Friend, DeLaney

January 8, 2013, read first time and referred to Committee on Ways and Means.
February 11, 2013, reported — Do Pass.

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February 12, 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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HOUSE BILL No. 1117

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

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

SECTION 1. IC 6-3.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 1. As used in this chapter:

"Adopting entity" means either the county council or the county income tax council established by IC 6-3.5-6-2 for the county, whichever adopts an ordinance to impose a surtax first.

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

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

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

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

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

SECTION 2. IC 6-3.5-4-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: **Sec. 1.1. For purposes of acting as the adopting entity under this chapter, a county income tax council is comprised of the same members as the county income tax council that is established by IC 6-3.5-6-2 for the county (regardless of the income tax that may be in effect in the county). The county income tax council shall use the same procedures that apply under IC 6-3.5-6 when acting as an adopting entity under this chapter.**

SECTION 3. IC 6-3.5-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 2. (a) ~~The county council~~ **An adopting entity** of any county may, subject to the limitation imposed by subsection (c), adopt an ordinance to impose an annual license excise surtax at the same rate or amount on each motor vehicle listed in subsection (b) that is registered in the county. The ~~county council~~ **adopting entity** may impose the surtax either:

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

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

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

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

(1) Passenger vehicles.

(2) Motorcycles.

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

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

(d) Notwithstanding any other provision of this chapter or IC 6-3.5-5, ordinances adopted by a county council before ~~June 1, 1983,~~ **June 1, 2013,** to impose or change the annual license excise surtax and the annual wheel tax in the county remain in effect until the ordinances are amended or repealed under this chapter or IC 6-3.5-5.

SECTION 4. IC 6-3.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 3. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the surtax after December 31 but before July 1 of the following year, a motor vehicle is subject to the tax if it is registered in the county after December 31 of the year in which the ordinance is adopted. If ~~a county council~~ **an**

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adopting entity adopts an ordinance imposing the surtax after June 30 but before the following January 1, a motor vehicle is subject to the tax if it is registered in the county after December 31 of the year following the year in which the ordinance is adopted. However, in the first year the surtax is effective, the surtax does not apply to the registration of a motor vehicle for the registration year that commenced in the calendar year preceding the year the surtax is first effective.

SECTION 5. IC 6-3.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 4. (a) After January 1 but before July 1 of any year, the ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to rescind the surtax. If the ~~county council~~ **adopting entity** adopts such an ordinance, the surtax does not apply to a motor vehicle registered after December 31 of the year the ordinance is adopted.

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

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

(2) any bonds issued by the county under IC 8-14-9 are outstanding.

SECTION 6. IC 6-3.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 5. (a) The ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to increase or decrease the surtax rate or amount. The new surtax rate or amount must be within the range of rates or amounts prescribed by section 2 of this chapter. A new rate or amount that is established by an ordinance that is adopted after December 31 but before July 1 of the following year applies to motor vehicles registered after December 31 of the year in which the ordinance to change the rate or amount is adopted. A new rate or amount that is established by an ordinance that is adopted after June 30 but before January 1 of the following year applies to motor vehicles registered after December 31 of the year following the year in which the ordinance is adopted.

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

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

(2) any bonds issued by the county under IC 8-14-9 are outstanding.

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SECTION 7. IC 6-3.5-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 6. If ~~a county council~~ **an adopting entity** adopts an ordinance to impose, rescind, or change the rate or amount of the surtax, the ~~county council~~ **adopting entity** shall send a copy of the ordinance to the commissioner of the bureau of motor vehicles.

SECTION 8. IC 6-3.5-5-1, AS AMENDED BY P.L.211-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 1. As used in this chapter:

"Adopting entity" means either the county council or the county income tax council established by IC 6-3.5-6-2 for the county, whichever adopts an ordinance to impose a wheel tax first.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. IC 6-3.5-5-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: **Sec. 1.1. For purposes of acting as the adopting entity under this chapter, a county income tax council is comprised of the same members as the county income tax council that is established by IC 6-3.5-6-2 for the county (regardless of the income tax that may be in effect in the county). The county income tax council shall use the same procedures that apply under IC 6-3.5-6 when acting as an adopting entity under this chapter.**

SECTION 10. IC 6-3.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 2. (a) The ~~county council~~ **adopting entity** of any county may, subject to the limitation imposed by subsection (b), adopt an ordinance to impose an annual wheel tax on each vehicle ~~which:~~ **that:**

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

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

(3) is registered in the county.

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

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

SECTION 11. IC 6-3.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 5. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the wheel tax after December 31 but before July 1 of the following year, a vehicle described in section 2(a) of this chapter is subject to the tax if it is registered in the county after December 31 of the year in which the ordinance is adopted. If ~~a county council~~ **an adopting entity** adopts an ordinance imposing the wheel tax after June 30 but before the following January 1, a vehicle described in section 2(a) of this chapter is subject to the tax if it is registered in the county after December 31 of the year following the year in which the ordinance is adopted. However, in the first year the tax is effective, the tax does not apply to the registration of a motor vehicle for the registration year that commenced in the calendar year preceding the year the tax is first effective.

SECTION 12. IC 6-3.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 6. (a) After January 1 but before July 1 of any year, the ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to rescind the wheel tax. If the ~~county council~~ **adopting entity** adopts such an ordinance, the wheel tax does not apply to a vehicle registered after December 31 of the year the ordinance is adopted.

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

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

(2) any bonds issued by the county under IC 8-14-9 are outstanding.

SECTION 13. IC 6-3.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 7. (a) The ~~county council~~ **adopting entity** may, subject to the limitations imposed by subsection (b), adopt an ordinance to increase or decrease the wheel tax rates. The new wheel tax rates must be within the range of rates prescribed by section 2 of this chapter. New rates that are established by an ordinance that is adopted after December 31 but before July 1 of the following year apply to vehicles registered after December 31 of the year in which the ordinance to change the rates is adopted. New rates that are established by an ordinance that is adopted after June 30 but before July 1 of the following year apply to motor vehicles registered after December 31 of the year following the year in which the ordinance is adopted.

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

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

(2) any bonds issued by the county under IC 8-14-9 are outstanding.

SECTION 14. IC 6-3.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2013]: Sec. 8. If ~~a county council~~ **an adopting entity** adopts an ordinance to impose, rescind, or change the rates of the wheel tax, the ~~county council~~ **adopting entity** shall send a copy of the ordinance to the commissioner of the bureau of motor vehicles.

SECTION 15. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN T, Chair

Committee Vote: yeas 15, nays 4.

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