SENATE BILL No. 318

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-9-5; IC 36-1.

Synopsis: Home rule powers of certain units. Gives Indianapolis-Marion County and second class cities (covered units) additional home rule powers. Provides that a covered unit may reject statutory restrictions otherwise applicable to the covered unit and adopt ordinances for governance instead of the rejected statutes. Provides that certain statutes may not be rejected by a covered unit. Allows a covered unit to file for bankruptcy under federal law.

Effective: July 1, 2013.

Delph

January 8, 2013, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

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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SENATE BILL No. 318

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 3-10-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. A local public question may not be placed on the ballot at an election unless the placement of the local public question on the ballot at the election is expressly authorized by statute. **A unit to which IC 36-1-3.1-1 applies may place a local public question on the ballot at an election without any statutory authorization.**

SECTION 2. IC 36-1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner. **However, in the case of a unit to which IC 36-1-3.1 applies, the unit must exercise the power in the manner provided by statute, unless the unit rejects the statute under IC 36-1-3.1.**

(b) If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either:

(1) if the unit is a county or municipality, adopt an ordinance prescribing a specific manner for exercising the power;

(2) if the unit is a township, adopt a resolution prescribing a specific manner for exercising the power; or

(3) comply with a statutory provision permitting a specific manner for exercising the power.

(c) An ordinance under subsection (b)(1) must be adopted as follows:

(1) In a municipality, by the legislative body of the municipality.

(2) In a county subject to IC 36-2-3.5 or IC 36-3-1, by the legislative body of the county.

(3) In any other county, by the executive of the county.

(d) A resolution under subsection (b)(2) must be adopted by the legislative body of the township.

SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.200-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) Subject to subsection (b), a unit does not have the following:

(1) The power to condition or limit its civil liability, except as expressly granted by statute.

(2) The power to prescribe the law governing civil actions between private persons.

(3) The power to impose duties on another political subdivision, except as expressly granted by statute.

(4) **This subdivision does not apply to a consolidated city and county or to a second class city.** The power to impose a tax, except as expressly granted by statute.

(5) The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.

(6) The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.

(7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

(8) The power to prescribe a penalty for conduct constituting a crime or infraction under statute.

(9) The power to prescribe a penalty of imprisonment for an ordinance violation.

(10) The power to prescribe a penalty of a fine as follows:

(A) More than ten thousand dollars ($10,000) for the violation of an ordinance or a regulation concerning air emissions adopted by a county that has received approval to establish an

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air program under IC 13-17-12-6.

(B) For a violation of any other ordinance:

(i) more than two thousand five hundred dollars ($2,500) for a first violation of the ordinance; and

(ii) except as provided in subsection (c), more than seven thousand five hundred dollars ($7,500) for a second or subsequent violation of the ordinance.

(11) **This subdivision does not apply to a consolidated city and county or to a second class city.** The power to invest money, except as expressly granted by statute.

(12) The power to order or conduct an election, except as expressly granted by statute.

(b) A township does not have the following, except as expressly granted by statute:

(1) The power to require a license or impose a license fee.

(2) The power to impose a service charge or user fee.

(3) The power to prescribe a penalty.

(c) Subsection (a)(10)(B)(ii) does not apply to the violation of an ordinance that regulates traffic or parking.

SECTION 4. IC 36-1-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 3.1. Complete Home Rule

Sec. 1. As used in this chapter, "covered unit" means the following:

(1) A consolidated city and county.

(2) A second class city.

Sec. 2. A covered unit shall comply with a statute, unless the covered unit rejects application of the statute by adopting an ordinance that expressly rejects the statute in its entirety. If a statute is rejected, a covered unit may adopt an ordinance that prescribes a specific manner for exercising the power in accordance with IC 36-1-3-6(b).

Sec. 3. This chapter does not prohibit the state from requiring a covered unit to comply with a statute or rule as a condition of receiving a state grant or loan.

Sec. 4. (a) The home rule powers of a covered unit include those set forth in IC 36-1-3 and the supplemental powers to do the following:

(1) Impose a special assessment, an income tax, or an ad valorem property tax. However, a covered unit may not impose a tax on property that is statutorily exempt from

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taxation. Any additional ad valorem property taxes are subject to the covered unit's maximum levy limits under IC 6-1.1-18.5.

(2) Create a special taxing district or special service district.

(3) Establish quotas for the issuance of alcoholic beverage permits in the covered unit.

(4) Establish cumulative funds, capital projects funds, sinking funds, or debt service funds and impose a tax for these funds.

(5) Conduct a local public question.

(b) The omission of a power from the list in subsection (a) does not imply that the covered unit lacks that power under this chapter.

(c) The department of local government finance shall adjust maximum permissible ad valorem property tax levies, tax rates, and budgets of the covered unit as necessary to account for the covered unit's exercise of power under this chapter.

Sec. 5. This chapter constitutes full and complete authority for a covered unit to file for, conduct, and carry out, any bankruptcy procedure enacted by the Congress of the United States for the benefit and relief of municipalities, taxing districts, and political subdivisions.

Sec. 6. (a) Except as provided in subsection (b), a covered unit may transact all business of the covered unit and perform all powers of local legislation and administration that the covered unit considers necessary.

(b) A covered unit does not have the powers listed in IC 36-1-3-8 and may not reject the following under section 2 of this chapter:

(1) This chapter and IC 36-1-3.

(2) Statutes and rules concerning courts.

(3) Statutes prescribing limits on indebtedness.

(4) IC 3 and all other statutes concerning elections, election districts, qualification of candidates, and vacancies. A covered unit may conduct a local public question on any issue without statutory authorization.

(5) IC 36-1-5 and IC 36-1-6 concerning codification and enforcement of ordinances.

(6) Statutes and rules concerning issuing bonds, notes, debentures, or other obligations by the covered unit or the entering into of lease-rental agreements.

(7) Statutes and rules concerning the establishment, licensing, and administration of hospitals and other health care facilities, including:

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(A) IC 16-21 concerning hospitals;
(B) IC 16-22 concerning county hospitals;
(C) IC 16-23 concerning municipal and other types of hospitals; and
(D) IC 16-23.5 concerning medical centers and Indiana University hospitals.

(8) IC 36-7-3 and IC 36-7-4 concerning land use, planning, and zoning.

(9) Statutes and rules concerning:
(A) assessment of real and personal property;
(B) imposition and collection of income, real, and personal property taxes; and
(C) tax appeals.

(10) Statutes and rules concerning local government reorganization, including IC 36-1.5-1 and IC 36-4-2-11.

(11) Statutes concerning annexation and disannexation of territory, including IC 36-3-3 or IC 36-4-3.

(12) Statutes concerning eminent domain.

(13) Statutes regarding access to meetings and records of the covered unit, including IC 5-14-1.5 and IC 5-4-3.

(14) Statutes and rules concerning publication of notice, including IC 5-3-1.

(15) Statutes and rules concerning preservation of public records, including IC 5-15.

(16) Statutes and rules concerning interlocal cooperation agreements, including IC 36-1-7.

(17) Statutes concerning drainage law, including IC 36-9-17.

(18) Statutes and rules concerning accounting for public funds, including IC 5-11-1.

(19) Statutes and rules concerning public safety communications, including IC 36-8-15, IC 36-8-16.7, and IC 36-8-20.

(20) IC 36-8-21.5 concerning severe weather warning sirens.

(21) Statutes and rules concerning establishment, licensing, and administration of county homes.

(22) Statutes concerning the powers, duties, and responsibilities of city and county officers under IC 36-2, IC 36-3, and IC 36-4.

(23) Statutes concerning the classification of municipalities under IC 36-4-1.

(24) Statutes concerning impeachment and removal from office.

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(25) Statutes and rules concerning fire and building safety.
(26) Statutes and rules concerning pensions of public employees.
(27) Statutes and rules imposing criminal and civil liability for acts of a public official or employee of the covered unit.
(28) Statutes and rules concerning public works and public purchasing.

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