SENATE BILL No. 517

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 36-1-8-4.5.

Synopsis: Local government finance. Authorizes the department of local government finance (DLGF) to establish a three year pilot program concerning nonbinding review of budgets, property tax rates, and property tax levies. Provides that for a county to be eligible for designation as a pilot county, the county fiscal body must adopt a resolution and submit an application to the DLGF. Allows the DLGF to designate not more than three counties as pilot counties. Specifies that the following apply in 2014 and thereafter in a pilot county: (1) Each taxing unit in the pilot county must file with the DLGF the taxing unit's proposed budgets, property tax rates, and property tax levies. (2) When formulating the taxing unit's estimated budget, property tax rate, and property tax levy, each taxing unit shall consider estimated consequences of the circuit breaker property tax credits. (3) The DLGF shall prepare an analysis of the proposed budgets, property tax rates, and property tax levies submitted by taxing units in the pilot county and provide the analysis to the county fiscal body and to the fiscal body of each taxing unit in the pilot county. (4) Upon request by the county fiscal body, representatives of the DLGF shall appear before the county fiscal body to review the analysis. (5) The county fiscal body shall review the proposed budgets, property tax rates, and property tax levies of each taxing unit in the pilot county and the total tax rate of each taxing district in the county, and shall issue a nonbinding recommendation to each taxing unit. For all taxing units, provides that the maximum amount allowed for an operating balance for a debt service fund is 25% of the budget estimate for the fund. Specifies, for purposes of protecting debt service funds under the property tax circuit

(Continued next page)

Effective: January 1, 2013 (retroactive); July 1, 2013.

Miller Pete

January 14, 2013, read first time and referred to Committee on Tax and Fiscal Policy.

C o p y

Digest Continued

breaker credit, that the political subdivision may determine the allocation of property tax reductions from the circuit breaker credit to funds receiving only unprotected taxes using only the funds of the political subdivision that incurred the debt and not other political subdivisions. Specifies that the allocation is to be made using only the taxing districts for which there was an impact from granting the circuit breaker credit. Specifies that the revenue for a fund receiving protected taxes is also reduced if the revenue reallocation from funds receiving only unprotected taxes is insufficient to offset the amount of the circuit breaker. Permits a political subdivision to transfer money to meet debt service obligations from any other available source if a fund receiving protected taxes also has to be reduced. Limits the amount of the transfer to the shortfall, and requires that the transfer must be specifically identified as a debt service obligation transfer for each affected fund. Allows a political subdivision to transfer money received as miscellaneous revenue from one fund to one or more other funds of the political subdivision if certain conditions are met.

C o p y

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.

C o p y

SENATE BILL No. 517

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 6-1.1-17-3.5, AS AMENDED BY P.L.137-2012, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3.5. (a) This section does not apply to taxing units located in a county in which a county board of tax adjustment reviews budgets, tax rates, and tax levies. This section does not apply to a taxing unit that has its proposed budget and proposed property tax levy approved under section 20 or 20.3 of this chapter or IC 36-3-6-9.

(b) This section applies to a taxing unit other than a county. **Except as provided in section 3.7 of this chapter,** if a taxing unit will impose property taxes due and payable in the ensuing calendar year, the taxing unit shall file the following information in the manner prescribed by the department of local government finance with the fiscal body of the county in which the taxing unit is located:

(1) A statement of the proposed or estimated tax rate and tax levy for the taxing unit for the ensuing budget year.

(2) In the case of a taxing unit other than a school corporation, a copy of the taxing unit's proposed budget for the ensuing budget year.

(c) In the case of a taxing unit located in more than one (1) county, the taxing unit shall file the information under subsection (b) with the fiscal body of the county in which the greatest part of the taxing unit's net assessed valuation is located.

(d) A taxing unit must file the information under subsection (b) before September 2 of a year.

(e) A county fiscal body shall complete the following in a manner prescribed by the department of local government finance before October 2 of a year:

(1) Review any proposed or estimated tax rate or tax levy filed by a taxing unit with the county fiscal body under this section.

(2) In the case of a taxing unit other than a school corporation, review any proposed or estimated budget filed by a taxing unit with the county fiscal body under this section.

(3) In the case of a taxing unit other than a school corporation, issue a nonbinding recommendation to a taxing unit regarding the taxing unit's proposed or estimated tax rate or tax levy or proposed budget.

(f) The recommendation under subsection (e) must include a comparison of any increase in the taxing unit's budget or tax levy to:

(1) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and

(2) increases in the budgets and tax levies of other taxing units in the county.

(g) The department of local government finance must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and increases in county nonfarm personal income.

(h) If a taxing unit fails to file the information required by subsection (b) with the fiscal body of the county in which the taxing unit is located by the time prescribed in subsection (d), the most recent annual appropriations and annual tax levy of that taxing unit are continued for the ensuing budget year.

(i) If a county fiscal body fails to complete the requirements of subsection (e) before the deadline in subsection (e) for any taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the county are continued for the ensuing budget year.

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SECTION 2. IC 6-1.1-17-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3.7. (a) This section authorizes a three (3) year pilot program to allow county fiscal bodies of designated counties to carry out a more thorough nonbinding review of the proposed budgets, property tax rates, and property tax levies of all taxing units in those counties. The general assembly finds that, because of the enactment of property tax credits under IC 6-1.1-20.6, there is an even greater need for taxing units to cooperate in the adoption of their budgets, property tax rates, and property tax levies.**

(b) The department of local government finance may establish a pilot program concerning nonbinding review of budgets, property tax rates, and property tax levies as provided in this section. The role of the department of local government finance in the pilot program is to develop the framework for the continuation of a more thorough nonbinding review in all counties without the direct involvement of the department of local government finance.

(c) For a county to be eligible for designation as a pilot county participating in the pilot program:

(1) the county fiscal body must adopt a resolution approving the submission of an application to be designated as a pilot county; and

(2) the county fiscal body must submit to the department of local government finance before the date specified by the department:

(A) an application in the form and containing the information prescribed by the department; and

(B) a copy of the resolution adopted under subdivision (1).

(d) After reviewing applications submitted under subsection (c), the department of local government finance may designate not more than three (3) counties that submit an application under subsection (c) as pilot counties under this section. In determining which counties are designated as pilot counties, the department of local government finance shall attempt to achieve diversity among designated counties based on:

(1) the geographical location of the counties;

(2) the population of the counties; and

(3) whether the counties are primarily rural or urban.

(e) The department of local government finance shall notify each taxing unit in a pilot county of:

(1) the designation of the county as a pilot county; and

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(2) the duties of the taxing unit under this section.

(f) The following apply in 2014 and thereafter:

(1) Each taxing unit in a pilot county shall, before September 2 of each year, file with the department of local government finance and with the county fiscal body:

(A) the taxing unit's proposed budgets, property tax rates, and property tax levies for the following calendar year;

(B) a statement of whether:

(i) a petition and remonstrance process has been initiated under IC 6-1.1-20 concerning a controlled project of the taxing unit;

(ii) a public question under IC 6-1.1-20 concerning a controlled project of the taxing unit has been certified and will be on the election ballot;

(iii) a referendum tax levy question under IC 20-46-1 has been certified and will be on the election ballot; or

(iv) the taxing unit anticipates that it will during the following eighteen (18) months either adopt a resolution or ordinance under IC 6-1.1-20 making a preliminary determination to issue bonds or enter into a lease concerning a controlled project of the taxing unit, or adopt a resolution under IC 20-46-1 to place a referendum tax levy question on the election ballot; and

(C) any additional information required by the department to prepare the analysis required under subdivision (4).

A school corporation providing information to the department of local government finance shall provide the information through the department's interactive and searchable Internet web site containing local government information (the Indiana gateway for governmental units). When formulating the taxing unit's estimated budget, property tax rate, and property tax levy under section 3 of this chapter, the proper officers of the taxing unit shall consider the estimated consequences of the property tax credits under IC 6-1.1-20.6 on the property taxes that will be collected by the taxing unit and the calculation of fund balances.

(2) A taxing unit in a pilot county that would otherwise be required to submit its proposed budgets, property tax rates, and property tax levies for nonbinding review under section 3.5 of this chapter is not required to do so, but the taxing unit must instead submit the information required by subdivision

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(1) to the department of local government finance.

(3) A taxing unit that is located in a pilot county and that is subject to binding review and approval of the taxing unit's budgets, property tax rates, and property tax levies under section 20 of this chapter or IC 36-3-6-9:

(A) remains subject to binding review and approval under those statutes and must submit the information required under those statutes to the appropriate fiscal body; and

(B) must also submit the information required by subdivision (1) to the department of local government finance.

(4) The department shall prepare an analysis of the proposed budgets, property tax rates, and property tax levies submitted by taxing units in each pilot county. The department of local government finance may establish appropriate procedures and conduct the appropriate analysis that meets the department's requirements for the review of a unit's budget under this chapter. The analysis prepared by the department must include at least the following:

(A) The estimated total property tax rate for each taxing district in the pilot county.

(B) The estimated total amount of property taxes to be levied in the pilot county.

(C) The estimated consequences of the property tax credits under IC 6-1.1-20.6 on:

(i) the property tax rates of each taxing unit and taxing district in the pilot county;

(ii) the expected total tax rate of each taxing district in the county; and

(iii) the property taxes that will be collected by each taxing unit in the pilot county.

(5) The department of local government finance shall, before October 2 of each year, provide the analysis prepared under subdivision (4) for a pilot county to the county fiscal body of the pilot county and to the fiscal body of each taxing unit in the pilot county. Upon request by the county fiscal body, representatives of the department of local government finance shall appear before the county fiscal body to review the analysis.

(6) The county fiscal body of a pilot county shall, on or before October 15 of each year:

(A) review the proposed budgets, property tax rates, and

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property tax levies of each taxing unit in the pilot county;

(B) review the expected total tax rate of each taxing district in the county; and

(C) issue a nonbinding recommendation to each taxing unit in the pilot county regarding the taxing unit's proposed budgets, property tax rates, and property tax levies.

The review and recommendation required to be carried out under this subdivision may be carried out by the full county fiscal body or by a committee appointed by the county fiscal body for that purpose.

(7) A recommendation by a county fiscal body must include a comparison of any increase in a taxing unit's budgets, property tax rates, and property tax levies to:

(A) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and

(B) increases in the budgets, property tax rates, and property tax levies of other taxing units in the county.

(8) After review under this section, a taxing unit must adopt its budget, property tax rates, and property tax levies by the date required under section 5 of this chapter.

(g) The county fiscal body of a pilot county may, before July 1 of a year, adopt a resolution discontinuing the county's participation in the pilot program. If a county fiscal body adopts such a resolution:

(1) the county fiscal body shall certify a copy of the resolution to the department of local government finance;

(2) the county's participation in the pilot program is terminated; and

(3) the department of local government finance shall attempt to replace the pilot county with another county that has applied to be designated as a pilot county.

(h) The department of local government finance shall, before November 1, 2014, and each year thereafter, report to the commission on state tax and financing policy concerning the pilot program and whether the nonbinding review under the pilot program is fostering cooperation among taxing units in the adoption of their budgets, property tax rates, and property tax levies.

(i) This section expires January 1, 2017.

SECTION 3. IC 6-1.1-17-22 IS ADDED TO THE INDIANA CODE

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AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 22. In determining the amount of the levy for a debt service fund for an ensuing year, the maximum amount allowed for an operating balance in the debt service fund is twenty-five percent (25%) of the budget estimate for the debt service fund for the ensuing year.**

SECTION 4. IC 6-1.1-20.6-9.8, AS AMENDED BY P.L.137-2012, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2013 (RETROACTIVE)]: Sec. 9.8. (a) This section applies to property taxes first due and payable after December 31, 2009.

(b) The following definitions apply throughout this section:

(1) "Debt service obligations of a political subdivision" refers to:

(A) the principal and interest payable during a calendar year on bonds; and

(B) lease rental payments payable during a calendar year on leases;

of a political subdivision payable from ad valorem property taxes.

(2) "Protected taxes" refers to the following:

(A) Property taxes that are exempted from the application of a credit granted under section 7 or 7.5 of this chapter by section 7(b), 7(c), 7.5(b), or 7.5(c) of this chapter or another law.

(B) Property taxes imposed by a political subdivision to pay for debt service obligations of a political subdivision that are not exempted from the application of a credit granted under section 7 or 7.5 of this chapter by section 7(b), 7(c), 7.5(b), or 7.5(c) of this chapter or any other law. Property taxes described in this subsection are subject to the credit granted under section 7 or 7.5 of this chapter by section 7(b), 7(c), 7.5(b), or 7.5(c) **of this chapter** regardless of their designation as protected taxes.

(3) "Unprotected taxes" refers to property taxes that are not protected taxes.

(c) The total amount ~~collected from protected taxes shall be allocated~~ **of revenue to be distributed** to the fund for which the protected taxes were imposed **shall be determined** as if no credit were granted under section 7 or 7.5 of this chapter. The total amount of the loss in revenue resulting from the granting of credits under section 7 or 7.5 of this chapter must reduce only the amount of unprotected ~~property~~ taxes distributed to a fund ~~in proportion to the unprotected rate tax imposed for that fund relative to the total of all unprotected tax rates~~

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~~imposed by the taxing unit.~~ **using the following criteria:**

(1) The reduction may be allocated in the amounts determined by the political subdivision using a combination of unprotected taxes of the political subdivision in those taxing districts in which the credit caused a reduction in protected taxes.

(2) The tax revenue and each fund of any other political subdivisions must not be affected by the reduction.

(d) When:

(1) the revenue that otherwise would be distributed to a fund receiving only unprotected taxes is reduced entirely under subsection (c) and the remaining revenue is insufficient for a fund receiving protected taxes to receive the revenue specified by subsection (c); or

(2) there is not a fund receiving only unprotected taxes from which to distribute revenue;

the revenue distributed to the fund receiving protected taxes must also be reduced. If the revenue distributed to a fund receiving protected taxes is reduced, the political subdivision may transfer money from one (1) or more of the other funds of the political subdivision to offset the loss in revenue to the fund receiving protected taxes. The transfer is limited to the amount necessary for the fund receiving protected taxes to receive the revenue specified under subsection (c). The amount transferred shall be specifically identified as a debt service obligation transfer for each affected fund.

SECTION 5. IC 36-1-8-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 4.5. (a) In addition to the transfer of money under section 4 of this chapter, the fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount of miscellaneous tax revenue, for a prescribed period, from one (1) fund of the political subdivision (transfer fund) to one (1) or more other funds of the political subdivision, if the following conditions are met:**

(1) The miscellaneous tax revenue must not be revenue that is derived from the imposition of a tax or part of a tax rate for which a dedicated purpose is required by the law permitting the imposition of the tax or part of the tax rate.

(2) The miscellaneous tax revenue must be revenue that was allocated to the transfer fund using the property tax levy or revenue for the transfer fund.

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(3) There must be sufficient money on deposit to the credit of the transfer fund to make the transfers.

(4) A receiving fund must be a fund that receives property tax revenue.

(5) The prescribed period must end during the year in which the transfers occur.

(b) The ordinance or resolution must include the following:

(1) A statement that the fiscal body has determined the interest of the political subdivision will be best served if the transfer is permitted, including a brief description of the general purpose of the transfer and the basis for the determination.

(2) The amount of the transfer.

(3) The funds involved.

(4) The dates for each transfer.

(5) A statement that the fiscal officer has certified that the transferred funds are:

(A) not needed for the budget for the transfer fund; and

(B) unobligated and available for transfer.

The ordinance or resolution shall be immediately sent to the department of local government finance and the state board of accounts.

(c) The political subdivision shall hold a hearing to consider the ordinance or resolution and publish a notice of the hearing one (1) time in accordance with IC 5-3-1.

(d) The amount transferred is available for use only after an appropriation of the money transferred under section 5 of this chapter.

SECTION 6. **An emergency is declared for this act.**

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