
HOUSE BILL No. 1390

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-18.5-10.5; IC 36-8-19.

Synopsis: Fire protection territories. Specifies the factors that the department of local government finance (DLGF) shall consider when a civil taxing unit (unit) requests an increase in the unit's maximum property tax levy to meet the unit's obligations to a fire protection territory. Provides that 10 or more taxpayers may file a petition with the DLGF requesting the DLGF to reduce the maximum permissible property tax levy and the actual property tax levy for a unit that is the provider unit of a fire protection territory. Specifies the factors the DLGF shall consider if such a petition is filed. Provides that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is: (1) an employee of an entity that is providing services under a contract with another unit that is or is proposing to be a member of the fire protection territory; or (2) an independent contractor that is providing services under a contract with such a unit. Specifies that if a member of the legislative or fiscal body of a participating unit in a fire protection territory is an employee of another unit that is also a participating unit in the fire protection territory, or if the member is employed by a contractor of such a unit or is an independent contractor contracting with such a unit, the member: (1) may not vote on the proposed budget, property tax levy, or property tax rate of the fire protection territory, or on the salaries or benefits of employees of the fire protection territory; and (2) may not serve on any board or committee established by the participating units for purposes of governing the fire protection territory or otherwise overseeing the fire protection territory. Provides that if a legislative or fiscal body of
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Effective: July 1, 2013.

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January 22, 2013, read first time and referred to Committee on Ways and Means.



Digest Continued

a unit is unable to vote: (1) on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory; or (2) on a proposed budget, property tax levy, or property tax rate of a fire protection territory or on the salaries or benefits of employees of a fire protection territory because a majority of the members of the legislative or fiscal body are prohibited from voting, the county fiscal body of the county in which the greatest percentage of the unit's assessed valuation is located shall vote on the issue for which the legislative or fiscal body is unable to vote. Specifies certain appointments that must be made to any board or committee established by participating units for purposes of governing or overseeing a fire protection territory.

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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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HOUSE BILL No. 1390



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

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

1 SECTION 1. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.113-2010,
 2 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 10.5. (a) The ad valorem property tax levy limits
 4 imposed by section 3 of this chapter do not apply to ad valorem
 5 property taxes imposed by a civil taxing unit for fire protection services
 6 within a fire protection territory under IC 36-8-19, if the civil taxing
 7 unit is a participating unit in a fire protection territory established
 8 before August 1, 2001. For purposes of computing the ad valorem
 9 property tax levy limits imposed on a civil taxing unit by section 3 of
 10 this chapter on a civil taxing unit that is a participating unit in a fire
 11 protection territory, established before August 1, 2001, the civil taxing
 12 unit's ad valorem property tax levy for a particular calendar year does
 13 not include that part of the levy imposed under IC 36-8-19. Any
 14 property taxes imposed by a civil taxing unit that are exempted by this
 15 subsection from the ad valorem property tax levy limits imposed by



1 section 3 of this chapter and first due and payable after December 31,
 2 2008, may not increase annually by a percentage greater than the result
 3 of:

- 4 (1) the assessed value growth quotient determined under section
 5 2 of this chapter; minus
 6 (2) one (1).

7 (b) The department of local government finance may, under this
 8 subsection, increase the maximum permissible ad valorem property tax
 9 levy that would otherwise apply to a civil taxing unit under section 3
 10 of this chapter to meet the civil taxing unit's obligations to a fire
 11 protection territory established under IC 36-8-19. To obtain an increase
 12 in the civil taxing unit's maximum permissible ad valorem property tax
 13 levy, a civil taxing unit shall submit a petition to the department of
 14 local government finance in the year immediately preceding the first
 15 year in which the civil taxing unit levies a tax to support the fire
 16 protection territory. The petition must be filed before the date specified
 17 in section 12(a)(1) of this chapter of that year. The department of local
 18 government finance shall make a final determination of the civil taxing
 19 unit's budget, ad valorem property tax levy, and property tax rate for the
 20 fire protection territory for the ensuing calendar year. In making its
 21 determination under this subsection, the department of local
 22 government finance shall consider:

- 23 (1) the amount that the civil taxing unit is obligated to provide to
 24 meet the expenses of operation and maintenance of the fire
 25 protection services within the territory, including the participating
 26 unit's reasonable share of an operating balance for the fire
 27 protection territory; budgets, ad valorem property tax levies,
 28 and property tax rates adopted or imposed in the area to be
 29 served by the fire protection territory before the creation of
 30 the fire protection territory;
 31 (2) whether the requested increase is reasonable because of a
 32 population increase in the area to be served by the fire
 33 protection territory; and
 34 (3) any other factors determined by the department.

35 The department of local government finance shall determine the entire
 36 amount of the allowable adjustment in the final determination. The
 37 department shall order the adjustment implemented in the amounts and
 38 over the number of years, not exceeding three (3), requested by the
 39 petitioning civil taxing unit. However, the department of local
 40 government finance may not approve under this subsection a property
 41 tax levy greater than zero (0) if the civil taxing unit did not exist as of
 42 the March 1 assessment date for which the tax levy will be imposed.

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1 For purposes of applying this subsection to the civil taxing unit's
 2 maximum permissible ad valorem property tax levy in subsequent
 3 calendar years, the department of local government finance may
 4 determine not to consider part or all of the part of the property tax levy
 5 imposed to establish the operating balance of the fire protection
 6 territory.

7 **(c) Ten (10) or more taxpayers within a civil taxing unit may,**
 8 **before July 1 of a year, file a petition with the department of local**
 9 **government finance requesting that the department reduce the**
 10 **maximum permissible ad valorem property tax levy for the ensuing**
 11 **calendar year for a civil taxing unit that is the provider unit of a**
 12 **fire protection territory. The following apply if a petition is filed as**
 13 **provided in this subsection:**

14 **(1) The department shall consider:**

15 **(A) the population and change in population of each**
 16 **participating unit in the fire protection territory;**

17 **(B) the assessed valuation and change in the assessed**
 18 **valuation of each participating unit in the fire protection**
 19 **territory;**

20 **(C) the cost of providing fire service to each participating**
 21 **unit in the fire protection territory;**

22 **(D) comparisons to other jurisdictions providing similar**
 23 **fire service;**

24 **(E) previous tax rates and levies for fire service;**

25 **(F) future needs and planned or expected expenses for fire**
 26 **service; and**

27 **(G) any other factors determined by the department.**

28 **(2) After considering the factors under subdivision (1), the**
 29 **department may reduce the maximum permissible ad valorem**
 30 **property tax levy and the actual property tax levy for the**
 31 **ensuing calendar year for the civil taxing unit that is the**
 32 **provider unit of a fire protection territory.**

33 SECTION 2. IC 36-8-19-6.3, AS ADDED BY P.L.172-2011,
 34 SECTION 159, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2013]: Sec. 6.3. **(a)** A member of the legislative
 36 body of a unit may not vote on a proposed ordinance or resolution
 37 authorizing the unit to become a party to an agreement to join or
 38 establish a fire protection territory if that member:

39 **(1) is also:**

40 **(A) an employee of:**

41 **(†) (i) another unit that is a participating unit in the fire**
 42 **protection territory; or**

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1 ~~(2)~~ (ii) another unit that is proposing to become a
2 participating unit in the fire protection territory; **or**
3 **(B) an employee of an entity that is providing services**
4 **under a contract with a unit described in clause (A)(i) or**
5 **(A)(ii); or**
6 **(2) is an independent contractor that is providing services**
7 **under a contract with a unit described in subdivision (1)(A)(i)**
8 **or (1)(A)(ii).**
9 **(b) The following apply if a member of the legislative body or**
10 **fiscal body of a participating unit in a fire protection territory is an**
11 **employee of another unit that is also a participating unit in the fire**
12 **protection territory, is an employee of an entity that is providing**
13 **services under a contract with another unit that is also a**
14 **participating unit in the fire protection territory, or is an**
15 **independent contractor that is providing services under a contract**
16 **with another unit that is also a participating unit in the fire**
17 **protection territory:**
18 **(1) The member may not vote on:**
19 **(A) the proposed budget, property tax levy, or property tax**
20 **rate of the fire protection territory; or**
21 **(B) the salaries or benefits of employees of the fire**
22 **protection territory.**
23 **(2) The member may not serve on any board or committee**
24 **established by the participating units in the fire protection**
25 **territory for purposes of governing the fire protection**
26 **territory or otherwise overseeing the fire protection territory.**
27 **(c) If a legislative or fiscal body of a unit is unable to vote:**
28 **(1) on a proposed ordinance or resolution authorizing the unit**
29 **to join or establish a fire protection territory; or**
30 **(2) on a proposed budget, property tax levy, or property tax**
31 **rate of a fire protection territory or on the salaries or benefits**
32 **of employees of a fire protection territory;**
33 **because a majority of the members of the legislative or fiscal body**
34 **are prohibited from voting under subsection (a) or (b), the county**
35 **fiscal body of the county in which the greatest percentage of the**
36 **unit's assessed valuation is located shall vote on the issue on which**
37 **the legislative or fiscal body is unable to vote. The vote of the**
38 **county fiscal body on that issue is considered for purposes of this**
39 **chapter to be the vote of the legislative or fiscal body that is unable**
40 **to vote because of the prohibition under subsection (a) or (b).**
41 SECTION 3. IC 36-8-19-6.4 IS ADDED TO THE INDIANA CODE
42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

COPY



1 1, 2013]: **Sec. 6.4. (a) Any board or committee established by the**
 2 **participating units in a fire protection territory for purposes of**
 3 **governing the fire protection territory or otherwise overseeing the**
 4 **fire protection territory must include members appointed as**
 5 **follows:**

6 (1) **The executive of each participating unit shall appoint an**
 7 **individual who owns property within the participating unit.**

8 (2) **The executive of each participating unit shall appoint an**
 9 **individual who owns:**

10 (A) **a farm; or**

11 (B) **another business;**

12 **located within the participating unit. A member appointed**
 13 **under this subdivision is in addition to a member appointed**
 14 **under subdivision (1).**

15 (b) **In the case of a fire protection territory that includes at least**
 16 **one (1) township and at least one (1) municipality, each of the**
 17 **members appointed under subsection (a)(1) and (a)(2) by the**
 18 **executive of a township must reside in the unincorporated territory**
 19 **of the township.**

20 (c) **The following apply to a member described in subsection**
 21 **(a)(1) or (a)(2) who is serving on a board or committee established**
 22 **to govern or otherwise oversee a fire protection territory:**

23 (1) **The member must have the same voting rights as other**
 24 **members of the board or committee.**

25 (2) **The member may not be:**

26 (A) **an employee of a participating unit in the fire**
 27 **protection territory;**

28 (B) **an employee of an entity that is providing services**
 29 **under a contract with a participating unit in the fire**
 30 **protection territory; or**

31 (C) **an independent contractor that is providing services**
 32 **under a contract with a participating unit in the fire**
 33 **protection territory.**

34 **SECTION 4. [EFFECTIVE JULY 1, 2013] (a) In the case of a**
 35 **board or committee established before July 1, 2013, by the**
 36 **participating units in a fire protection territory for purposes of**
 37 **governing the fire protection territory or otherwise overseeing the**
 38 **fire protection territory, any additional appointments of members**
 39 **of the board or committee that are required to comply with**
 40 **IC 36-8-19-6.4(a), as added by this act, must be made before**
 41 **September 1, 2013.**

42 (b) **This SECTION expires July 1, 2014.**

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