



# Department of Local Government Finance

## 2023 Legislative Overview

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# Disclaimer

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- This presentation and other Department of Local Government Finance materials are not a substitute for the law. The following is not legal advice, just an informative presentation. The Indiana Code always governs.



# Agenda

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- Assessment Legislation
- Deductions, Credits, & Exemptions Legislation
- Local Budgeting Legislation
- Local Income Tax Legislation
- School Funding Legislation
- Fire Funding Legislation
- Miscellaneous Legislative Items



# Assessment Matters



# Land Orders

- House Enrolled Act 1454
  - Amends Ind. Code § 6-1.1-4-13.6
  - Specifies that county assessors must:
    - (1) Submit land orders to the Department as well as the PTABOA;
    - (2) Verify land order process has been implemented.
  - Currently, the land order must only be submitted to the PTABOA.

*SEC. 14 & 16 – Effective July 1, 2023*



# Land Orders

- House Enrolled Act 1454
  - Under current law, if the assessor fails to complete a land order, the PTABOA must complete it. If the PTABOA fails to do so, it falls on the Department.
  - Section 14 amends Ind. Code § 6-1.1-4-4.2 prohibits the Department from approving cyclical reassessment plan before county assessor verifies land order was completed for the previous assessment cycle.

*SEC. 14 – Effective July 1, 2023*



# Business Personal Property – IC 6-1.1-3-9

- House Enrolled Act 1454
  - Taxpayers must completely disclose all information required by the Department related to value, nature, and location of property.
  - In response to *Ingredion Incorporated v. Marion County Assessor*, 20T-TA-00006 (Ind. Tax Ct. 2020). Court ruled that “or” in the statute meant taxpayer only needed to provide information on one of the three aspects of the property.
    - Information on all three (value, nature, and location) must be provided.

SEC. 12 – Effective July 1, 2023



# Mini-Mill Property – IC 6-1.1-3-23.5

- House Enrolled Act 1454
  - Under current law, taxpayers could elect to use the Pool No. 5 depreciation table when determining the true tax value of mini-mill property, subject to a Department determination that doing so will not affect outstanding bond obligations.
    - *This removes the requirement of the Department determination before the election is made.*

*SEC. 13 – Effective Upon Passage*





# Parcel Characteristics – IC 6-1.1-4-4.9 (NEW)

- House Enrolled Act 1454
  - Assessing official must document change to the underlying parcel characteristics from the previous assessment date and the reason for the change.
    - *Reverses law enacted in 2022 repealing this requirement (Section 7 of HEA 1260).*

*SEC. 15 – July 1, 2023*



# Greenhouses – IC 6-1.1-8.1 (NEW)

- House Enrolled Act 1454
  - Applies to “controlled environment agriculture property,” defined as:
    - Land and improvements of an agricultural greenhouse that is used to produce fresh vegetables, fruits, or other agricultural produce grown indoors under climate-controlled conditions, year-round, and for commercial purposes.
  - The land is assessed as agricultural land. The improvements are assessed as an agricultural greenhouse.

*SEC. 20 – Effective January 1, 2023 (Retroactive)*



# Apartment Assessments – IC 6-1.1-4-39

- House Enrolled Act 1454
  - Applies to real property rented for periods of 30 days or more and have more than 4 rental units. Generally, commercial apartments.
  - *Beginning with assessment dates after 2023, rental property must be annually assessed, with the value equal to the lowest AV determined using each of the following three approaches: (1) cost approach; (2) sales comparison approach; and (3) income capitalization approach.*

SEC. 18 – Effective January 1, 2024



# Apartment Assessments – HEA 1454

- The assessing official must determine true tax value of the rental unit without modifiers, adjustments, or other trending factors.
- The assessing official also has the burden of proof on the assessment. The taxpayer may also request an explanation as to how the AV was calculated.



# Apartment Assessments – HEA 1454

- The assessing official must annually report each of the determined values to the taxpayer on a prescribed Department form.
- The Department will issue further guidance on this form in the coming months.



# Apartment Assessments – HEA 1454

- Ind. Code § 6-1.1-4-39(d) specifies that if a taxpayer wishes to have the income capitalization method or the gross rent multiplier method used in the initial formulation of the assessment of the taxpayer's property, the taxpayer must submit the necessary information to the assessor not later than the assessment date.
- As a best practice, the Department would recommend reaching out to these property owners before the assessment date to facilitate the collection of any necessary information needed to complete the income capitalization method or gross rent multiplier calculation.



# Wind Power Devices – IC 6-1.1-8-19.5 (NEW)

- House Enrolled Act 1401
  - When a public utility company that currently owns a wind power device reports on its first annual return after a change in ownership of the device:
    - *The return must report the same valuation that the previous owner included on its last annual report before the change in ownership...*
    - *only if the valuation that the utility company would have reported is lower than what the previous owner reported earlier.*

*SEC. 1 – Effective January 1, 2024*



# Wind Power Devices – HEA 1401

- In other words, when there's been a change in ownership of a wind power device, the public utility company currently owning the device must report the greater of the prior year's valuation (reported by the prior owner) or the value of the device after the acquisition.
- In subsequent years, the new owner must report the value of the device in accordance with Ind. Code 6-1.1-8 and Department public utility assessment rules (50 IAC 5.1).





# Wind Power Devices – HEA 1401

- These valuation provisions will not apply when a public utility owns or operates a wind power device and, before the sale or transfer of the device, has signed or countersigned an economic development agreement (or other financial arrangement):
  - (1) Entered into with the county in which the public utility's wind power device is located; and
  - (2) For the purpose of repowering or upgrading the technology used in the device.



# State Distributable Property

- HEA 1454 – Section 19 (IC 6-1.1-8-27)
  - Moves back the deadline that the Department must certify state distributable AVs to the counties, from June 15 to July 1.
- HEA 1454 – Section 59 (IC 6-1.1-35-9)
  - Specifies that the Department may disclose annual returns filed by utilities to the county assessor and auditor, if the information is required in the performance of the individual’s official duties.

*SEC. 19; 59 – Effective July 1, 2023*



# Appeals – Increase Restrictions (IC 6-1.1-15-1.2)

- House Enrolled Act 1454
  - In informal conferences with the county assessor or in appeals before the PTABOA, the determination of appealed assessed value may be less than or equal to the original assessed value at issue on appeal, but the value may not be increased.
    - *This restriction does not apply to increases in AV attributed to substantial renovations, new improvements, zoning changes, or a change in use.*

SEC. 26 – Effective July 1, 2023



# PTABOA Quorum - IC 6-1.1-28-1

- House Enrolled Act 1454
  - Changes meaning “quorum” for PTABOA meetings so that a Certified Level I or Level II Assessor-Appraiser that is a board member is not required to attend for purposes of a quorum.
  - *Current law specifies that the appointing authority may waive the board member Level 2 or Level 3 certified assessor-appraiser requirement.*

SEC. 47 – Effective July 1, 2023



# Assessment Appeals & Appraisals

- House Enrolled Act 1499
  - Specifies that an appraisal submitted by a taxpayer in an appeal is presumed to be correct if the appraisal:
    - (1) *Follows USPAP.*
    - (2) *Is addressed to the property owner or assessor's office.*
    - (3) *Is commissioned for the purpose of the appeal.*
    - (4) *Is effective as of the assessment date that is the subject of the appeal.*

SEC. 3 – Effective July 1, 2023



# Assessment Appeals & Appraisals

- House Enrolled Act 1499
  - The PTABOA may appeal the appraisal or seek independent appraisal. This does not eliminate the right of the taxpayer to appeal.

*SEC. 3 – Effective July 1, 2023*



# Deductions, Exemptions & Credits



# Homestead Deduction – IC 6-1.1-12-37

- Senate Enrolled Act 325
  - Response to Schiffler v. Marion County Assessor, 21-TA-00014 (Ind. Tax Ct. 2021).
  - Effective January 1, 2024.
  - First applies to January 1, 2024, assessment date.

*SEC. 2 – Effective January 1, 2024*





# Homestead Deduction – “Dwelling”

- Redefines “Dwelling” for residential real property (Ind. Code § 6-1.1-12-37(a)(1)) to include:
  - A single house.
  - A single detached or attached garage.

*SEC. 2 – Effective January 1, 2024*



# Homestead Deduction – “Homestead”

- Modifies what can be considered the “Homestead” property (Ind. Code § 6-1.1-12-37(a)(2)(C)) to include:
  - (1) Dwelling.
  - (2) Up to 1 acre of land immediately surrounding the dwelling.
  - (3) Any number of decks, patios, gazebos, pools.
  - (4) One additional residential yard structure other than a deck, patio, gazebo, or pool.
  - (5) One additional building that is not part of the dwelling if the building is predominantly used for a residential purpose and is not used as an investment property or as a rental property.

*SEC. 2 – Effective January 1, 2024*



# Homestead Deduction

- Removes the eligibility for business entities that were receiving the homestead deduction in 2009-pay-2010 from currently receiving the deduction. (Ind. Code § 6-1.1-12-37(k), (l))
  - LLCs, corporations, partnerships, similar entities.
  - Starting with pay-2025 taxes.
- Entities still eligible to receive homestead deduction.
  - Cooperative housing corporations (defined in 26 U.S.C. 216). (Ind. Code § 6-1.1-12-37(a)(2)(B)(iii))
  - Qualified personal residence trusts (created by U.S. Treas. Reg. 25.2702-5(c)(2)). (Ind. Code § 6-1.1-12-37(a)(2)(B)(iv))



# Appeals on Homestead Deduction – HEA 1454

- Section 25, effective July 1, 2023
- Amends Ind. Code § 6-1.1-15-1.1.
- Bars appeals of errors found on claims whether property was eligible for homestead deduction after 1 year from when the property subject to appeal was assessed.
- 1 year from the assessment date.



# Appeals on Homestead Deduction – IC 6-1.1-15-1.1

- House Enrolled Act 1454
  - Bars appeals of errors found on claims whether property was eligible for homestead deduction after 1 year from when the property subject to appeal was assessed.
    - *Property owners may appeal homestead determinations any time after the official's action, but not later than one (1) year after the date on which the property that is the subject of the appeal was assessed.*

SEC. 25 – Effective July 1, 2023



# Supplemental Homestead Deduction

- House Enrolled Act 1499
  - Increases the percent of the supplemental deduction for pay-2024 and pay-2025.

Tax Year	Homesteads with AV ≤ \$600,000	Homesteads with AV > \$600,000
Pay-2023	35%	25%
Pay-2024	40%	30%
Pay-2025	37.5%	27.5%
After Pay-2025	35%	25%

*SEC. 2 – Effective Upon Passage*



# Property Tax Caps – IC 6-1.1-20.6-2.5; 4

- Senate Enrolled Act 325
  - Redefines “nonresidential real property” and “residential real property” for application of the tax caps.
    - *Residential Real Property* → 2% cap
    - *Nonresidential Real Property* → 3% cap

*SEC. 3-4 – Effective January 1, 2024*



# Property Tax Caps - SEA 325

- “Nonresidential real property” is real property that is not:
  - Receiving the homestead deduction.
  - Residential real property.
  - Long term care property.
  - Agricultural land.
- “Residential real property” is property that is predominantly used for a residential purpose:
  - Land (even if more than 1 acre).
  - Buildings.
  - Residential yard structures that are not part of the homestead.
  - Includes rentals used for a residential purpose.





# Over 65 Deduction & CB Credit – HEA 1499

Sections 1, 12, and 18

- Income thresholds to qualify for Over 65 deduction & credit.
- Starting with pay-2024 taxes, threshold is upwardly adjusted by COLA for social security benefits received in the year before the tax year.



# Over 65 Deduction & CB Credit

- Ind. Code § 6-1.1-12-9(a)(3) & Ind. Code § 6-1.1-20.6-8.5(a)(4), however, state that eligibility is based on income “for the calendar year preceding by two (2) years the calendar year in which the taxes are first due and payable.”
  - For pay-2024, you look at 2022 income.
- It appears that “immediately preceding calendar year” in the amendments are in relation to the assessment year.
  - 2022 immediately precedes 2023, for taxes payable in 2024.



# Over 65 Deduction & CB Credit

- This adjustment is applied annually.
- General information on the COLA can be found at the SSA website at this link: <https://www.ssa.gov/cola/>.
- Section 12 of HEA 1499 also increases the AV threshold for the Over 65 CB Credit from \$200,000 to \$240,000, starting with the January 1, 2023, assessment date.
  - Exception applies to AV increases not attributed to substantial renovation or new improvements occurred after 2019.



# County Option Homestead Property Tax Relief

- House Enrolled Act 1499
  - A county fiscal body may adopt an ordinance allowing property tax relief for taxpayers who qualified for a homestead deduction for pay-2023 taxes.
    - *Relief can be given in the form of a: (1) rebate check; (2) credit against November 2023 installment; or (3) credit against property taxes payable in 2024.*

*SEC. 13 – Effective Upon Passage*



# County Option Homestead Property Tax Relief

- Ordinance must state the amount of relief given, either
  - a definite number, equal for all qualified individuals, or
  - Proportionate to each qualified individual's share of pay-2023 homestead property tax liability.
- Before adopting ordinance, county fiscal body must conduct a hearing and give notice in compliance with Ind. Code 5-3-1.
- Upon adoption, the ordinance must be given to:
  - The county auditor.
  - The Department
  - The fiscal officer of each taxing unit in the county.



# County Option Homestead Property Tax Relief

- The Department must provide technical assistance and may adopt emergency rules.
- Effective upon passage.
- Will not be available after pay-2024 taxes.



# County Option Circuit Breaker Credit

- Senate Enrolled Act 46
  - A county fiscal body may create a neighborhood enhancement district by ordinance.
    - *Qualified individuals who reside within this district are eligible for the county adopted circuit breaker credit.*

*SEC. 1 – July 1, 2023*



# County Option Circuit Breaker Credit

- A qualified individual:
  - Has received the homestead deduction on property in the district in the last 2 calendar years.
  - Has lived in that property for at least 10 years as of December 31 of the immediately preceding year.
  - Is at least 55 years of age on or before December of the immediately preceding year.
  - Has an AGI that does not exceed the limit set by ordinance (if any limit is set).





# County Option Circuit Breaker Credit

- Mechanically, the credit functions like the Over 65 CB Credit.
- A qualified taxpayer's homestead tax liability cannot increase above the percentage set by the county fiscal body from the prior year.
  - May only be set between 2% and 5%.
  - In other words, compared to the prior year, the homestead tax liability cannot exceed 102% to 105%, as set by the county fiscal body.



# County Option Circuit Breaker Credit

- Ordinance must specify:
  - Boundaries of district.
  - Income thresholds, if any.
  - Percent increase that triggers credit, between 2% and 5%.
  - Credit is only available through 2027.
  - Any other requirements.
- Requirements must be the same across all districts in a county.



# County Option Circuit Breaker Credit

- To claim the credit, the taxpayer must file a form prescribed by the Department.
  - Pending.
  - Taxpayer does not need to refile if remaining eligible in subsequent years.
- Only 1 credit can be claimed per homestead by an individual.
- A taxpayer who receives this credit cannot also receive the Over 65 CB credit.
- Credit cannot be applied on any portion of the homestead used for trade or business purposes in connection with production of income



# County Option Circuit Breaker Credit

- County auditor shall apply the credit to every qualified individual unless:
  - The individual no longer qualifies.
  - The county fiscal body rescinds or repeals the ordinance.
- Taxpayer must file a certifies statement with the county auditor of a change in ownership or residence that disqualifies taxpayer from receiving credit.
  - Failure to file within 60 days results in collection of back taxes plus a 10% civil penalty.



# Cemetery Property – HEA 1454 (Sec. 21)

- Cemetery property owned by a non-profit, a church, or religious society is eligible for an exemption under Ind. Code § 6-1.1-10-27.
- Adds crematories and funeral homes to definition of “cemetery property” for purposes of this exemption.
- Property must be dedicated or platted for cemetery, crematory, or funeral home purpose, or a variance for the same has been granted. The plat or variance must be recorded in the county.
- Must be exclusively used for cemetery, burial, crematory, or funeral purposes.
- Effective retroactive to January 1, 2023, first applies to taxes due and payable in 2024.



# Geothermal Deduction – HEA 1454 (Sec. 22)

- A geothermal heating and cooling device that has been certified by IDEM remains certified for purposes of the deduction even as ownership changes.
- No new certification required by the new owner.
- Effective July 1, 2023. Will affect taxes payable in 2024.



# Sales Disclosure Form – HEA 1454 (Sec. 23-24)

- A county auditor may not reject a sales disclosure form for purposes of the homestead deduction because the applicant does not have a valid driver's license or state ID that shows the address of the homestead property.
- Effective January 1, 2024. Will first affect taxes payable in 2025.



# Local Budgeting Matters





# Certified Net Assessed Values – IC 6-1.1-17-1

- House Enrolled Act 1454
  - County auditors must exclude from the CNAV the amount of AV for property under appeal, i.e., exclude the increase or decrease amount under appeal.
    - *County auditor may request the Department include the AV under appeal. The request must be submitted before August 1. The Department may ask for supporting information.*

SEC. 27 – Effective July 1, 2023



# Max Levy Increase for Municipalities – HEA 1454

- Section 32, amends Ind. Code § 6-1.1-18.5-25
- Municipalities already are able to add to the MLGQ of a given year up to 6%, if
  - CNAV over last year grew by more than twice the MLGQ.
  - Population increased by at least 150% over the last two decennial censuses.
- Provides formula to clarify what “by at least 150%” means.



# Max Levy Increase for Municipalities – HEA 1454

## STEP ONE

Determine the municipality's population as tabulated following the first decennial census.

## STEP TWO

Determine the municipality's population as tabulated following the second decennial census.

## STEP THREE

Multiply the amount determined under STEP ONE by a factor of two and five-tenths (2.5).

## STEP FOUR

Determine whether the population determined under STEP TWO is greater than or equal to the STEP THREE product.



# MLGQ Limit – HEA 1499

Section 5, amends Ind. Code § 6-1.1-18.5-2.

- For pay-2024 and pay-2025, only.
- Limits the MLGQ for civil taxing units and school corporation.
- Five-step formula, essentially limits the MLGQ to the lesser of 1.04 or 80% of the MLGQ as normally calculated.



# MLGQ Limit – HEA 1499

- In other words, absent other levy adjustments, maximum levies for all units will not be able to grow by more than 1.04 or 80% of the MLGQ, whichever is less.
- This defines what the MLGQ will be for the next two years. This means:
  - This will limit school corporation operations fund max levies, even for those school corporations that could grow their levies by more than the MLGQ under Ind. Code § 6-1.1-18.5-2.
  - For municipalities that could grow their levies under Ind. Code § 6-1.1-18.5-25, one of the qualifiers is the unit's CNAV grew by twice the MLGQ. This also serves as the percentage that is added to the MLGQ.
    - A lower MLGQ means there will be a lower threshold to qualify and how much a municipality could add to the MLGQ.



# Residential TIF Part I – HEA 1005

Section 7, amends Ind. Code § 36-7-14-53.

- For all counties except Marion (see next slide), removes requirement that units receive a Department certification of eligibility to establish a residential TIF (the 1% rule).
- Extends duration of residential TIF district from 20 years to 25 years.
  - Effective upon passage.



# Residential TIF Part II – HEA 1157

Amends Ind. Code § 36-7-15.1.

- Gives Indianapolis-Marion County the ability to establish a residential TIF district.
- Requires consolidated city-county receive the Department certification of eligibility to establish a residential TIF (the 1% rule).



# Residential TIF Part III – HEA 1454

## NONCODE Section 182

- Changes made to the process of establishing residential TIFs under HEA 1005 expire on June 30, 2027.
- As of July 1, 2027, the establishment criteria removed in Ind. Code § 36-7-14-53 are reinstated.
  - The 1% rule.





# RDC Annual Reporting – HEA 1454

Section 172, adds Ind. Code § 36-7-14-12.7

- RDCs must submit a spending plan for the upcoming calendar year to the Department.
- No later than December 1.
- Submissions will be done through TIF Management. Future guidance to follow.
- This a separate report from the April 15 reporting under Ind. Code §§ 36-7-14-13 and 36-7-14.5-9.



# Controlled Projects Thresholds – HEA 1499

## Sections 6 through 8

- Controlled project procedures under Ind. Code 6-1.1-20 will apply if the unit's total debt service tax rate is at a certain amount.
  - Petition and remonstrance: Over \$0.40 and less than \$0.80
  - Referendum: Over \$0.80
- Does not apply to school projects for which a public hearing to issue bonds or enter into a lease was conducted before July 1, 2023.
- If a project is subject to a referendum because of the total debt service tax rate, a taxpayer petition to hold a referendum, and associated procedures, are not required.



# Controlled Projects Exceptions – HEA 1499

- When Controlled Project Procedures Do Not Apply:
- Section 6, amending Ind. Code § 6-1.1-20-1.1: The project is in response to a court order holding that federal law has been violated.
- Section 11, adding Ind. Code § 6-1.1-20-4.5: The project is meant to address “maintenance emergencies.”
  - Defines “maintenance emergencies.”
    - Boiler or chiller repair.
    - Roof repair.
    - Storm damage repair.
    - Any other repair the Department determines is warranted.
  - The unit must request the Department to make a determination that the maintenance emergency is sufficient to waive the procedures.



# County Abstracts – HEA 1001

## Sections 89 & 105

- Beginning with submissions due on March 15, 2024, county auditors must submit their abstract reports to the Department. Currently, this is submitted to Auditor of State's Office.
- The Department must assist adopting bodies and county auditors in calculating PTRC percentages and amounts.
- The Department will issue further guidance in the coming months on the transition.



# Local Income Tax Legislation



# LIT Change Notices – HEA 1454

## Section 75 to 78

- Whenever a county adopting body makes any fiscal decision that has a financial impact on an underlying local taxing unit, the decision and notice to affected local taxing units must happen by August 1.
- Whenever an ordinance changes a LIT rate or allocation is adopted, it does not go into effect unless the adopting body:
  - (1) Provides notice to affected local taxing units within 15 days of adoption;  
and
  - (2) Confirms to the Department and DOR that notice was given.



# LIT Change Notices – HEA 1454

- If this notice is not provided, the county adopting body must readopt a subsequent ordinance. The subsequent ordinance is subject to the applicable statutory deadlines as of the date it is adopted.
- If an ordinance is not readopted, distributions will be the lesser of what is calculated for the upcoming calendar year or the current calendar year.



# Levy Freeze Supplemental Distributions – HEA 1499

- Section 15, amends Ind. Code § 6-3.6-9-15. Effective July 1, 2023.
  - County may adopt an ordinance to require that a supplemental distribution is first used to lower the levy freeze LIT rate.
  - Remaining distribution revenue would then be distributed to taxing units.
  - This will only affect the 11 counties that currently have a levy freeze.





# Jail LIT – HEA 1454

- Section 79, amends Ind. Code § 6-3.6-6-2.7. Effective July 1, 2023.
  - Increases maximum rate for jail LIT from 0.2% to 0.3%, only if there are outstanding bonds or lease obligations as of July 1, 2023, for which the jail LIT revenue has been pledged.
  - If a county does not have outstanding bond or lease obligations being paid out of the jail LIT, the max rate remains at 0.2%.
  - Changes operating expense limitation.
    - Currently, up to 20% of revenue can be used for operating expenses for county jail facilities.
    - Now, amount drawn from up to 0.2% of the jail LIT rate can be used for operating expenses.



# EMS LIT – HEA 1454

- Section 80, amends Ind. Code § 6-3.6-6-2.8. Effective July 1, 2023.
- Removes requirement that a county provide 100% of EMS for all units in the county to be eligible to adopt an EMS LIT.



# Judicial LIT – SEA 417

- Section 2, adds Ind. Code § 6-3.6-6-2.9. Effective July 1, 2023.
  - County fiscal body may adopt an ordinance to impose a tax rate for county staff expenses of the judicial system.
  - Rate must be in increments of 0.01% and may not exceed 0.2%.
  - May not be in effect for more than 25 years.



# Judicial LIT – SEA 417

- Revenue generated by this LIT is distributed directly to the county before the remainder of the expenditure rate is distributed.
  - Along with jail LIT, PSAP, EMS LIT.
- County must create and maintain a separate judicial LIT fund. Judicial LIT revenue budgeted and spent may not comprise more than 50% of the county's total budgeted operational staffing expenses for the judicial system in any given year.



# Judicial LIT – SEA 417

- If a county imposes a judicial LIT, it must report to the justice reinvestment advisory council various staffing and expense information for the prior year.
  - Due May 1.
- Justice reinvestment advisory council must then compile and report statewide information to the legislative council by July 1.



# School Funding



# Distribution of Referendum Levies – SEA 391

- A charter school may opt-in to receiving a share of a property tax levy imposed after a voter-approved referendum.
- Excludes adult high schools and virtual charters.
- Effective upon passage. Will first affect referenda held on November 7, 2023, elections.



# Distribution of Referendum Levies – SEA 391

- Only affects school corporations in Lake, Marion, St. Joseph, and Vanderburgh Counties.
- Only for referendums for which a resolution was adopted after **May 10, 2023**.
- Only applies to referenda for operating expenses (Ind. Code § 20-46-1) and safety expenses (Ind. Code § 20-46-1). Not controlled projects.





# Distribution of Referendum Levies – SEA 391

- Timeline:
  - 60 days before resolution → School corporation must get student count from DOE.
  - 45 days before resolution → School corporation must contact each charter school and ask if they want to participate in referendum.
  - 30 days before resolution → School corporation and each participating charter must post a referendum disclosure statement on their respective websites.
  - After resolution, the Department has 10 days to review public question.



# Distribution of Referendum Levies – SEA 391

- Timeline:
  - For November elections, public questions are certified by August 1.
  - Therefore, assuming 10 days are given for the Department to review of public question:
    - Receiving student count from DOE → by May 23, 2023.
    - Ask if charter schools want to join → by June 7, 2023.
    - Posting referendum disclosure statement → by June 22, 2023.



# Distribution of Referendum Levies – SEA 391

- Resolution must:
  - Specify the portion of proceeds the proposed referendum levy will be distributed to participating charters.
  - Include a projection of how much each charter will receive. The school board must consider this projection when developing its revenue spending plan.
  - Include for each participating school
    - the estimated revenue;
    - purposes for the levy; and
    - estimated expenses for each purpose.



# Distribution of Referendum Levies – SEA 391

- If a charter school participates, it must contribute to offset the cost to conduct the referendum, proportionate to the total ADM of the school corporation and the participating charter schools.
- If a charter school chooses to participate and the referendum succeeds, the charter school is entitled to receive a distribution of the referendum levy proceeds based on the ADM of the charter and the number of students with legal settlement in the school corporation.
- County auditor of the county where the school corporation is located shall make the distribution to school corporations and participating charter.



# Distribution of Referendum Levies – SEA 391

- Referendum disclosure statement must contain:
  - (1) The salaries of all employees employed by the school corporation or charter school, listed from highest salary to lowest salary.
  - (2) An acknowledgement that the school corporation or charter school is not committing any crime described in Ind. Code 35-44.1-1 (bribery, profiteering, ghost employment, conflicts of interest, official misconduct).
  - (3) A link to SBOA's website of the school corporation's or charter school's most recent audit by SBOA.
  - (4) The current enrollment of the school corporation or charter school disaggregated by student group and race.
  - (5) The school corporation's or charter school's high school graduation rate.
  - (6) The school corporation's or charter school's annual retention rate for teachers for the previous five (5) years.



# Distribution of Referendum Levies – SEA 391

- Modification to ballot question:
  - Changes reference to “school corporation” to “schools.”
  - Meant to reflect distribution of referendum levies to charter schools.
  - Ballot question to extend an existing operating or safety referendum levy has not changed. However, distribution to charter schools could apply to those, as well.
  - Applies to school corporations in all 92 counties.



# Distributing Operations Fund Levies – HEA 1001

- Only applies to Lake, Marion, St. Joseph, and Vanderburgh counties.
- Effective July 1, 2024, and will first apply to taxes payable in 2025.
  - What follows is contingent on what the legislature may or may not do in the 2024 session.



# Distributing Operations Fund Levies – HEA 1001

Section 214 of HEA 1001 adds Ind. Code § 20-46-8-11.2.

- A charter school that does not provide more than 50% of virtual instruction to students is eligible to receive a share of a school corporation's operations fund levy.
- DOE shall:
  - Determine the percent share for each eligible charter, in consultation with the Department.
  - Before October 1, provide the school corporation and each charter an estimate of property tax revenue each is expected to receive the upcoming calendar year.





# Distributing Operations Fund Levies – HEA 1001

Before April 1 of the tax year (after Oct. 1), the county auditor shall distribute the amounts to the school corporation and each eligible charter based on the following formula:

- (1) Find the base property tax levy amount. This is the average of the school corporation's operations fund tax levy in 2021, 2022, and 2023.
- (2) Find the incremental property tax levy amount. This is the current year's school corporation operations fund levy minus the base property tax amount.



# Distributing Operations Fund Levies – HEA 1001

- 3) For each charter, divide the charter's fall ADM by the ADM for the school corporation and all charters. Multiply the result by the incremental property tax levy amount.
- 4) For the school corporation, subtract 100% by the combined percents for each charter school, above. Multiply the result by the incremental property tax levy amount.



# Distributing Operations Fund Levies – HEA 1001

- Big question: Is the calculation using pre or post-Circuit Breaker levies?
- HEA 1001 just refers to “the imposed levy” without reference to circuit breakers.
- But is “imposed” what the school corporation originally wanted (pre-CB) or what the taxpayers actually pay (post-CB)?
- Meaning of “levy” will impact how much actually goes to schools.
  - Fiscal note estimates \$7.8M to \$12M to charters over 2 years.
  - What about school corporations where the operations fund levy is completely taken up by circuit breakers?
- Hopefully legislature can clarify this in 2024 session.



# Distributing Operations Fund Levies – HEA 1001

- To receive a distribution, the charter school’s board must adopt a budget for the upcoming school year.
- Must be adopted by the charter board before November 1 at a public meeting.
- After adoption, budget must be:
  - Submitted to the charter authorizer, for review; and
  - Uploaded onto Gateway.
  - No Department review of budget.



# Distributing Operations Fund Levies – HEA 1001

- Section 153 adds Ind. Code § 20-24-7-6.1.
- County auditor must distribute operations fund tax levy revenue to an eligible charter school.
- Sections 185 to 187 of HEA 1001 requires a charter school adopt an operations fund, capital projects plan, and bus replacement plan, if it is receiving revenue from an operations fund tax levy.
  - Similar process for school corporations.
  - No Department review.



# Protected Tax Waivers – HEA 1454

- Extends ability to waive implementation of protected taxes to eligible school corporations through 2026.
- A school corporation is ineligible if it issued debt after July 1, 2023, that will be repaid with a debt service levy, except when:
  - Purpose is to refinance or renew pre-2024 debt and to lower the interest rate.
    - Refers to the coupon rate, not yield rate.
  - Debt is approved by a voter referendum (controlled project, school safety referendum).



# School Levy Limitations – HEA 1499

- The operations fund levy MLGQ is capped at 1.04, for pay-2024 and pay-2025.
  - For a school corporation eligible to receive the “extra MLGQ” under Ind. Code § 6-1.1-18.5-2(c), its overall MLGQ will be capped at 1.04.
- An operating or safety referendum fund tax levy has a temporary MLGQ of 1.03.
  - Referendum tax levy will be allowed to grow by 103% of prior year’s levy, notwithstanding the maximum property tax rate approved by the voters.
  - For pay-2024 taxes, only.
  - Referenda approved in 2023 will not be affected.



# Extensions of Referendum Levies – HEA 1454

## Sections 154 and 156

- Form of ballot question to extend a referendum levy is modified to state the estimated increase of average property tax paid when the levy is extended.
- Calculation for estimated average property tax impact is modified to use current assessed value and tax rate.





# Unreimbursed textbooks – HEA 1001

Section 184, effective July 1, 2023.

- Debt service fund can no longer be used for the repayment of unreimbursed textbooks.
- Follows other provisions in budget bill which makes textbooks state funded.
- Starting with pay-2024, school corporations can no longer impose a debt service levy for unreimbursed textbooks.



# Fire Funding Legislation



# Township Fire & EMS Funding – HEA 1454

## Section 203

- Townships now have the option of having one of two fund structures for fire protection and EMS expenses.
  - Township firefighting and emergency services fund. This will have the same DLGF Fund Number as the current township firefighting fund (1111).
    - A “rebranding” of the fire fund.
    - Levy, max levy unaffected.
  - A separate firefighting fund and EMS fund. Each fund will have its own dedicated number.
    - Two distinct funds, two distinct purposes.



# Township Fire & EMS Funding

- If a township creates separate fire & EMS funds, each fund:
  - is under the township's fire max levy;
  - can only be used for the dedicated purpose of the fund and not for the purpose of the other fund.
- Township's fire max levy is not adjusted based on creation of one or more of these funds.
- Effective January 1, 2024. Will first apply to pay-2024 budgets.



# Fire Territories & TIF Districts I – HEA 1454

Section 179, effective retroactive to January 1, 2023.

- When a unit joins a fire territory after a TIF district was created, the excess proceeds of property taxes attributed to the additional tax rate from the territory is distributed back to the participating unit as an “assessed value pass back.”
  - Not the same as “excess AV pass through.” This contemplates the revenue, not the AV.
  - Difference in revenue generated from TD rate with territory & without territory.
  - In other words, the creation of a fire territory where there is already a TIF district is not intended to cause additional revenue to go to the RDC.
- The RDC, in collaboration with the county auditor, must determine the amount of pass back, to be verified by the Department.
- The RDC can withhold an amount of revenue it determines necessary to meet debt service obligations of the TIF district.
  - AV pass back is not guaranteed. The RDC can still claim the revenue is needed to pay off debt.
  - Limitation is “to debt service obligations with respect to the allocation area.” RDC cannot withhold pass back to pay off debt for another TIF district.



# Fire Territories & TIF Districts II – HEA 1454

Sections 62 & 169, effective retroactive to January 1, 2023.

- Technical correction to a prior law meant to exempt proceeds of property taxes attributable to a fire territory when a TIF district is created.
- Allocation of proceeds to RDC does not apply to a territory created over a TIF district after 2022.



# Fire Territories & TIF Districts 2

- What's the difference between I and II?
- I is intended to send money back to the fire territory units when the tax rate in a TIF district increases.
- II is a blanket exception for fire territories formed after 2022. The tax rate for the fire territory is not included in calculating the incremental revenue coming from the TIF district.



# Fire Territories Reporting – HEA 1454

## Section 210

- Affects territories in existence on or after July 1, 2023.
- Provider unit must provide the Department with the following:
  - Any ordinances and resolutions creating the territory.
  - Any operating agreements or other agreements.
  - Descriptions of planned services that were prepared when territory was established.
  - The ordinance or resolution to change provider unit, if applicable.
- Copies of these documents must be maintained by the provider unit throughout the existence of the territory.
- The Department must be notified of any change in operations or structure of territory within 30 days of effective date of change.





# Fire Territory Establishment in 2023 – HEA 1454

## Section 207

- Affects calendar year 2023, only.
- Extends deadline to adopt resolutions/ordinance to create territory to August 1.
- Changes public hearing & adoption timeline.



# Fire Territory Establishment in 2023 – HEA 1454

	CY 2023	After CY 2023
Last Day to Adopt Ordinance or Resolution	August 1	March 31
First Public Hearing	Twenty-five (25) days before adoption	Thirty (30) days before adoption
Last Public Hearing	Five (5) days before adoption	Ten (10) days before adoption

- After 2023, timeline to create a fire territory reverts to the January – April window.
  - Note: public hearing timetable.



# Countywide Fire Protection Districts – HEA 1454

## Section 198

- Only in counties where a fire protection district covers the entire county.
- County legislative body may create a 9-member governing board. This is an appointed board.
  - 8 appointed by legislative body. Must be member of board of fire trustees (but who also must yield seat upon appointment).
  - 1 must be a county commissioner (but can only be compensated for expenses).



# Countywide Fire Protection Districts – HEA 1454

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- Governing board will have the same duties and powers as the board of fire trustees.
- Board of fire trustees will continue to exist as an advisory body.



# Public Safety LIT Revenue – HEA 1454

## Section 81

- The adopting body of a county for LIT may adopt a resolution to allocate a portion of public safety LIT to:
  - Township fire departments
  - Volunteer fire departments
  - Fire territories
  - Fire districts



# Public Safety LIT Revenue – HEA 1454

- Resolution must include:
  - Information on service area for entities receiving a share of the public safety LIT.
  - Amount of distribution, limited to what is generated by 0.05% of the public safety LIT rate
    - This is not “Rate x 0.05%”; assume 0.05% is the rate.
- Resolution must be given to the Department 15 days after adoption.
- The distribution will only occur the following calendar year.
- The distribution is made after the PSAP allocation but before all other distributions are made.



# Miscellaneous Legislative Items



# Waiver of Interest and Penalties – HEA 1454

## Sections 44-46, and 61

- The county fiscal body may adopt an ordinance to establish a property tax amnesty program to waive interest and penalties added to delinquent taxes before January 1, 2023.
  - Taxpayer must have paid all taxes and special assessment due and payable between December 31, 2022, and November 1, 2023, including all interest and penalties.
- Ordinance must be adopted before November 1, 2023.
- Effective upon passage.





# Restricted Addresses – HEA 1578 & SEA 314

- Amend Ind. Code § 36-1-8.5-2
- Adds to list of individuals who can request that their home addresses be redacted from records in local or state public property databases.
- The list is as follows (new individuals added in bold):



# Restricted Addresses – HEA 1578 & SEA 314

- (1) A judge.
- (2) A law enforcement officer.
- (3) An address confidentiality program participant.
- (4) A public official.
- (5) The surviving spouse of a person described in subdivision (2), if the person was killed in the line of duty.
- (6) An employee of the department of child services.
- (7) A current or former probation officer.
- (8) A current or former community corrections officer.
- (9) A regular, paid firefighter or a volunteer firefighter (as defined in IC 36-8-12-2).
- (10) Any person who resides in the same household as a person described in subdivisions (1) through (9).



# Additional Information?

- Additional information related to the various legislative changes from the 2023 Legislative Session can be found at the Department's website at:
  - <https://www.in.gov/dlgf/memos-and-presentations/memos/>



# Questions?

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