

PROPOSED AMENDMENT

HB 1328 # 37

DIGEST

Local government finance. Makes changes to provisions in the current bill requiring: (1) certain contracts: (A) related to the provision of fire services or emergency medical services; or (B) entered into with another unit or entity that provides fire services or emergency medical services; to be uploaded to the Indiana transparency website; and (2) attestation of the uploading of such a contract as a part of the political subdivision budgeting process. Amends the definition of "public funds". Extends the duration of an entrepreneur and enterprise district (district) to the later of: (1) December 31, 2029 (rather than December 31, 2024); or (2) five years after the date the district is designated. Amends language regarding the use of the department of local government finance's cost schedules in a statute pertaining to the assessment of rental property. Adds SECTION 1 from the Senate passed (February 6, 2024) printing of SB 33 concerning changes to a provision regarding the local income tax rate for local costs of the state judicial system in the county. Changes the effective date from July 1, 2024, to May 1, 2024, in SECTIONS 20 and 21 of the current bill concerning penalty amounts for failure to file a personal property tax return within specified time frames. Repeals a provision that prohibits a local unit from amending the boundaries of an economic improvement district (EID). Instead, allows a local unit to amend the boundaries of an EID only if an owner of real property wishes to include the owner's real property in the EID and voluntarily enters into a written agreement with the legislative body of the local unit in which the owner requests and consents to increasing the boundaries of the EID to include the owner's real property. Specifies that, for real property subject to such a written agreement that is subsequently sold to a new owner, the new owner of that real property may opt out of the prior owner's agreement. Makes changes to the definition of "eligible taxpayer" used in a provision of the current bill limiting the amount of a penalty that may be assessed against an "eligible taxpayer" for the 2022 assessment year to not more than \$50,000. Amends a provision from HEA 1454-2023 (P.L.236-2023) concerning a property tax exemption for certain continuing care retirement communities or licensed health care facilities for taxes first due and payable in 2022, 2023, 2024, and 2025 (rather than 2023, 2024, and 2025).

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- 1 Replace the effective dates in SECTIONS 20 through 21 with
 - 2 "[EFFECTIVE MAY 1, 2024 (RETROACTIVE)]:".
 - 3 Page 2, line 28, delete "A" and insert "**The executive of a**".
 - 4 Page 2, between lines 41 and 42, begin a new paragraph and insert:
 - 5 "**(e) The executive body of a political subdivision may, by**
 - 6 **ordinance or resolution, identify another individual that is**
 - 7 **required to upload contracts under subsection (d) and complete the**
 - 8 **attestation required under IC 6-1.1-17-5.4.**
 - 9 **(f) Any ordinance or resolution adopted by the executive body**
 - 10 **of a political subdivision shall be submitted to the department of**

1 **local government finance not later than five (5) days after the**
 2 **ordinance or resolution is passed."**

3 Page 2, line 42, delete "(e)" and insert "(g)".

4 Page 3, line 17, delete "to construct a public facility." and insert ".".

5 Page 4, between lines 15 and 16, begin a new paragraph and insert:

6 "SECTION 5. IC 5-28-15.5-3, AS AMENDED BY P.L.78-2021,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2024]: Sec. 3. A district expires on the later of the following:

9 (1) Five (5) years after the date on which it is designated as a
 10 district by the executive of the qualified municipality.

11 (2) December 31, ~~2024~~. **2029**.

12 SECTION 6. IC 6-1.1-4-39, AS AMENDED BY P.L.236-2023,
 13 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2024]: Sec. 39. (a) For assessment dates after February 28,
 15 2005, except as provided in subsections (c) and (e), the true tax value
 16 of real property regularly used to rent or otherwise furnish residential
 17 accommodations for periods of thirty (30) days or more and that has
 18 more than four (4) rental units is the lowest valuation determined by
 19 applying each of the following appraisal approaches:

20 (1) Cost approach that includes an estimated reproduction or
 21 replacement cost of buildings and land improvements as of the
 22 date of valuation together with estimates of the losses in value
 23 that have taken place due to wear and tear, design and plan, or
 24 neighborhood influences.

25 (2) Sales comparison approach, using data for generally
 26 comparable property.

27 (3) Income capitalization approach, using an applicable
 28 capitalization method and appropriate capitalization rates that are
 29 developed and used in computations that lead to an indication of
 30 value commensurate with the risks for the subject property use.

31 (b) The gross rent multiplier method is the preferred method of
 32 valuing:

33 (1) real property that has at least one (1) and not more than four
 34 (4) rental units; and

35 (2) mobile homes assessed under IC 6-1.1-7.

36 (c) A township assessor (if any) or the county assessor is not
 37 required to appraise real property referred to in subsection (a) using the
 38 three (3) appraisal approaches listed in subsection (a) if the assessor
 39 and the taxpayer agree before notice of the assessment is given to the
 40 taxpayer under section 22 of this chapter to the determination of the

1 true tax value of the property by the assessor using one (1) of those
2 appraisal approaches.

3 (d) To carry out this section, the department of local government
4 finance may adopt rules for assessors to use in gathering and
5 processing information for the application of the income capitalization
6 method and the gross rent multiplier method. If a taxpayer wishes to
7 have the income capitalization method or the gross rent multiplier
8 method used in the initial formulation of the assessment of the
9 taxpayer's property, the taxpayer must submit the necessary information
10 to the assessor not later than the assessment date. However, the
11 taxpayer is not prejudiced in any way and is not restricted in pursuing
12 an appeal, if the data is not submitted by the assessment date. A
13 taxpayer must verify under penalties for perjury any information
14 provided to the township or county assessor for use in the application
15 of either method. All information related to earnings, income, profits,
16 losses, or expenditures that is provided to the assessor under this
17 section is confidential under IC 6-1.1-35-9 to the same extent as
18 information related to earnings, income, profits, losses, or expenditures
19 of personal property is confidential under IC 6-1.1-35-9.

20 (e) The true tax value of low income rental property (as defined in
21 section 41 of this chapter) is not determined under subsection (a). The
22 assessment method prescribed in section 41 of this chapter is the
23 exclusive method for assessment of that property. This subsection does
24 not impede any rights to appeal an assessment.

25 (f) Notwithstanding IC 6-1.1-4-4.5, for assessment dates beginning
26 after December 31, 2023, the county assessor or township assessor
27 making the assessment shall perform an assessment of property
28 qualifying under subsection (a) annually, and for each assessment year,
29 perform a valuation of the property qualifying under subsection (a)
30 using each of the appraisal approaches in subsection (a)(1) through
31 (a)(3) and annually report to the taxpayer each of the values under
32 those approaches as determined by the assessor on a form as prescribed
33 under subsection (i). The assessor shall use the department cost
34 schedules without **additional** modifiers, adjustments, or other trending
35 factors **beyond those approved by the department for the cost**
36 **schedules used under this section and included within the real**
37 **property assessment guidelines.**

38 (g) The county assessor or township assessor making the assessment
39 of property qualifying under subsection (a) has the burden of proof to
40 establish that the assessment is correct and that the assessed value is

1 the lowest value of those determined using the three (3) appraisal
 2 approaches performed by the county assessor or township assessor
 3 regardless of the percentage change in the assessed value.

4 (h) Upon request of the taxpayer, the county assessor or township
 5 assessor making the assessment shall provide an explanation to the
 6 taxpayer concerning how the assessed value of the property was
 7 calculated.

8 (i) The department shall prescribe a specific form for property
 9 qualifying under subsection (a)."

10 Page 18, line 26, after "year," insert "**the executive of**".

11 Page 18, delete lines 32 through 36, begin a new paragraph and
 12 insert:

13 "**(b) The department of local government finance may not**
 14 **approve the budget of a county, city, town, or township or a**
 15 **supplemental appropriation for a county, city, town, or township**
 16 **until the county, city, town, or township files the attestation under**
 17 **subsection (a)."**

18 Page 38, between lines 35 and 36, begin a new paragraph and insert:

19 "SECTION 24. IC 6-3.6-6-2.9, AS ADDED BY P.L.193-2023,
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 2.9. **(a) For purposes of this section,**
 22 **"courtroom costs" includes staffing costs only for the court**
 23 **reporter, court bailiff, or court administrator.**

24 ~~(a)~~ **(b)** A county fiscal body may adopt an ordinance to impose a tax
 25 rate for:

26 **(1) in the case of a tax rate adopted under this section before**
 27 **January 1, 2024,** county staff expenses of the state judicial
 28 system in the county; **or**

29 **(2) in the case of a tax rate adopted under this section after**
 30 **December 31, 2023,** courtroom costs of the state judicial
 31 system in the county.

32 The tax rate must be in increments of one-hundredth of one percent
 33 (0.01%) and may not exceed two-tenths of one percent (0.2%). The tax
 34 rate may not be in effect for more than twenty-five (25) years.

35 ~~(b)~~ **(c)** The revenue generated by a tax rate imposed under this
 36 section must be distributed directly to the county before the remainder
 37 of the expenditure rate revenue is distributed. The revenue shall be
 38 maintained in a separate dedicated county fund. **The revenue shall be**
 39 **and** used by the county:

40 **(1) in the case of a tax rate adopted under this section before**

1 **January 1, 2024**, only for paying for county staff expenses of the
 2 state judicial system in the county; **and**
 3 **(2) in the case of a tax rate adopted under this section after**
 4 **December 31, 2023, only for paying the courtroom costs of the**
 5 **state judicial system in the county.**

6 ~~(e)~~ **(d) This subsection applies to a tax rate adopted under**
 7 **subsection (b)(1).** The local income tax revenue budgeted and spent
 8 under this section by each county may not comprise more than fifty
 9 percent (50%) of the county's total budgeted operational staffing
 10 expenses related to the state judicial system in any given year.

11 **(e) This subsection applies to a tax rate adopted under**
 12 **subsection (b)(2). The local income tax revenue spent under this**
 13 **section by each county may not comprise more than fifty percent**
 14 **(50%) of the county's total operational staffing expenses related to**
 15 **the courtroom costs of the state judicial system in any given year.**

16 ~~(d)~~ **(f)** Counties that enact an ordinance to impose a tax rate under
 17 this section shall annually report the following information for the prior
 18 calendar year by May 1 to the justice reinvestment advisory council
 19 established by IC 33-38-9.5-2:

20 (1) The types of court positions paid with local income tax
 21 revenue generated by this section.

22 (2) The number of court positions by type paid for with local
 23 income tax revenue generated by this section.

24 (3) The average salary by type of court position paid for with local
 25 income tax revenue generated by this section.

26 (4) The county's total budgeted and actual staffing expenses **or**
 27 **courtroom costs, whichever is applicable**, related to the state
 28 judicial system.

29 (5) The county's portion of local income tax revenue that was
 30 ~~(A)~~ **budgeted for staffing expenses related to the state judicial**
 31 **system; and**

32 ~~(B)~~ **actually spent on staffing expenses or courtroom costs,**
 33 **whichever is applicable, related to the state judicial system.**

34 ~~(e)~~ **(g)** The justice reinvestment advisory council shall annually
 35 compile and report to the legislative council prior to July 1 of each year
 36 the information required in subsection ~~(d)~~ **(f)** for each county. The
 37 report must be in an electronic format under IC 5-14-6."

38 Page 58, after line 42, begin a new paragraph and insert:

39 "SECTION 35. IC 36-7-22-9, AS AMENDED BY P.L.207-2018,
 40 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2024]: Sec. 9. (a) Subject to subsection (b), an ordinance
 2 adopted under section 7 of this chapter may be repealed or amended
 3 only after notice of the proposed repeal or amendment is published and
 4 mailed in the manner provided by section 6 of this chapter.

5 (b) ~~Beginning after June 30, 2018,~~ The legislative body of a unit
 6 may ~~not~~ pass an amending ordinance to increase the boundaries of a
 7 district **only if the following apply:**

8 **(1) An owner of real property wishing to include the owner's**
 9 **real property within the boundaries of the district voluntarily**
 10 **enters into a written agreement with the legislative body of**
 11 **the unit in which the owner requests and consents to**
 12 **increasing the boundaries of the district to include the owner's**
 13 **real property. An agreement entered into under this**
 14 **subdivision must:**

15 **(A) include a legal description of the subject property; and**

16 **(B) be authorized before a notary public.**

17 **(2) An agreement described in subdivision (1) must be entered**
 18 **into prior to the date of the publication of the notice required**
 19 **under subsection (a).**

20 **(c) This subsection applies to real property subject to an**
 21 **agreement entered into under subsection (b)(1) that is subsequently**
 22 **sold to a new owner. The new owner of real property to which this**
 23 **subsection applies may opt out of the prior owner's agreement**
 24 **entered into under subsection (b)(1)."**

25 Page 62, line 24, after "deadline;" insert "**and**".

26 Page 62, delete lines 25 through 26.

27 Page 62, line 27, delete "(3)" and insert "**(2)**".

28 Page 62, line 28, delete "2023; and" and insert "**2023**".

29 Page 62, delete lines 29 through 30.

30 Page 62, between lines 36 and 37, begin a new paragraph and insert:

31 "SECTION 41. P.L.236-2023, SECTION 222, IS AMENDED TO
 32 READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022
 33 (RETROACTIVE)]: SECTION 222. (a) This SECTION applies
 34 notwithstanding IC 6-1.1-10, IC 6-1.1-11, or any other law or
 35 administrative rule or provision.

36 (b) This SECTION applies to taxes first due and payable after
 37 December 31, ~~2022,~~ **2021**, and before January 1, 2026.

38 (c) As used in this SECTION, "eligible property" means any parcel
 39 of tangible property that:

40 (1) is owned by a nonprofit entity;

- 1 (2) is used by a nonprofit entity in the operation of a residential
 2 facility for the aged that is either:
- 3 (A) registered as a continuing care retirement community
 4 under IC 23-2-4; or
- 5 (B) licensed as a health care facility under IC 16-28;
 6 or both;
- 7 (3) has not been determined as holding exempt status for taxes
 8 due and payable in 2023; and
- 9 (4) meets either of the following:
- 10 (A) was purchased by the nonprofit entity in 2019; or
 11 (B) the property held exempt status for purposes of property
 12 taxes first due and payable in 2020.
- 13 (d) As used in this SECTION, "qualified taxpayer" refers to a
 14 nonprofit entity that owns eligible property.
- 15 (e) The following apply for eligible property of a qualified taxpayer:
- 16 (1) The eligible property shall be allowed and granted an
 17 exemption from property taxation by the county assessor and
 18 county auditor in which the eligible property is located for taxes
 19 first due and payable in **2022**, 2023, 2024, and 2025.
- 20 (2) The qualified taxpayer must properly and timely file an
 21 exemption application under IC 6-1.1 for taxes first due and
 22 payable in **2022**, 2023, 2024 and 2025 in order to claim the
 23 exemption under this SECTION. An exemption application for
 24 eligible property under this SECTION that is filed before
 25 September 1, 2023, is considered to be properly and timely filed
 26 for taxes due and payable in 2023.
- 27 (f) To the extent the qualified taxpayer has paid any property taxes,
 28 penalties, or interest with respect to the eligible property for taxes first
 29 due and payable in **2022 and** 2023, and to the extent that the eligible
 30 property is exempt from taxation as provided in this SECTION, the
 31 qualified taxpayer is entitled to a refund of the amounts paid for taxes
 32 first due and payable in **2022 and** 2023. The qualified taxpayer is not
 33 entitled to:
- 34 (1) any interest on the refund under IC 6-1.1 or any other law to
 35 the extent interest has not been paid by or on behalf of the
 36 qualified taxpayer; or
- 37 (2) a refund of any property taxes, penalties, or interest with
 38 respect to the eligible property for taxes first due and payable in
 39 2024 and 2025 and to the extent that the eligible property is
 40 exempt from taxation as provided in this SECTION for taxes first

1 due and payable in 2024 and 2025.
2 Notwithstanding the filing deadlines for a claim under IC 6-1.1-26, any
3 claim for a refund filed by the qualified taxpayer under this SECTION
4 before September 1, 2023, is considered timely filed. The county
5 auditor shall pay the refund due under this SECTION in one (1)
6 installment.
7 **(g) This SECTION expires January 1, 2026."**
8 Renumber all SECTIONS consecutively.
 (Reference is to HB 1328 as reprinted January 30, 2024.)