

HOUSE BILL No. 1020

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-3-9.

Synopsis: Study of economic development incentives. Requires the commission on state tax and financing policy to review, analyze, and evaluate state and local tax incentives that are provided to encourage economic development or to alter, reward, or subsidize a particular action or behavior by a tax incentive recipient. Requires the use of a five year review schedule. Requires the commission to publish a report before November 1 each year on tax incentives reviewed that year.

Effective: July 1, 2014.

Koch

January 7, 2014, read first time and referred to Committee on Commerce, Small Business and Economic Development.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1020

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

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

1 SECTION 1. IC 2-5-3-9 IS ADDED TO THE INDIANA CODE AS
2 A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2014]: **Sec. 9. (a) As used in this section, "tax incentive" means a**
4 **benefit provided through a state or local tax that is intended to**
5 **alter, reward, or subsidize a particular action or behavior by the**
6 **tax incentive recipient, including a benefit intended to encourage**
7 **economic development. The term includes the following:**
8 (1) **An exemption, deduction, credit, preferential rate, or other**
9 **tax benefit that:**
10 (A) **reduces the amount of a tax that would otherwise be**
11 **due to the state;**
12 (B) **results in a tax refund in excess of any tax due; or**
13 (C) **reduces the amount of property taxes that would**
14 **otherwise be due to a political subdivision of the state.**
15 (2) **The dedication of revenue by a political subdivision to**
16 **provide improvements or to retire bonds issued to pay for**



1 improvements in an economic or sports development area, a
 2 community revitalization area, an enterprise zone, or a tax
 3 increment financing district.

4 (b) The general assembly intends that each tax incentive
 5 effectuate the purposes for which it was enacted and that the cost
 6 of tax incentives should be included more readily in the biennial
 7 budgeting process. To provide the general assembly with the
 8 information it needs to make informed policy choices about the
 9 efficacy of each tax incentive, the commission shall conduct a
 10 regular review, analysis, and evaluation of all tax incentives
 11 according to a schedule developed by the commission.

12 (c) The legislative services agency, under the direction of the
 13 commission, shall conduct a systematic and comprehensive review,
 14 analysis, and evaluation of each tax incentive scheduled for review
 15 by the commission. The review, analysis, and evaluation must
 16 include at least the following for each tax incentive:

17 (1) The basic attributes and policy goals of the tax incentive,
 18 including the statutory and programmatic goals of the tax
 19 incentive, the economic parameters of the tax incentive, the
 20 original scope and purpose of the tax incentive, and how the
 21 scope or purpose has changed over time.

22 (2) The tax incentive's equity, simplicity, competitiveness,
 23 public purpose, adequacy, and extent of conformance with the
 24 original purposes of the legislation enacting the tax incentive.

25 (3) The types of activities on which the tax incentive is based
 26 and how effective the tax incentive has been in promoting
 27 these targeted activities and in assisting recipients of the tax
 28 incentive.

29 (4) The count of the following:

30 (A) Applicants for the tax incentive.

31 (B) Applicants that qualify for the tax incentive.

32 (C) Qualified applicants that, if applicable, are approved
 33 to receive the tax incentive.

34 (D) Taxpayers that actually claim the tax incentive.

35 (E) Taxpayers that actually receive the tax incentive.

36 (5) The dollar amount of the tax incentive benefits that has
 37 been actually claimed by all taxpayers over time, including
 38 the following:

39 (A) The dollar amount of the tax incentive, listed by the
 40 North American Industrial Classification System (NAICS)
 41 Code associated with the tax incentive recipients, if an
 42 NAICS Code is available.



- 1 **(B) The dollar amount of income tax credits that can be**
2 **carried forward for the next five (5) state fiscal years.**
3 **(6) The audit findings of the recipients for the tax incentive**
4 **and whether there has been any misuse of the tax incentive.**
5 **(7) An estimate of the economic impact of the tax incentive,**
6 **including the following:**
7 **(A) A return on investment calculation for the tax**
8 **incentive. For purposes of this clause, "return on**
9 **investment calculation" means analyzing the cost to the**
10 **state or political subdivision of providing the tax incentive,**
11 **analyzing the benefits realized by the state or political**
12 **subdivision from providing the tax incentive, and reaching**
13 **a conclusion as to whether the benefits of the tax incentive**
14 **are worth the cost to the state or political subdivision to**
15 **provide the tax incentive.**
16 **(B) A cost benefit comparison of the state and local**
17 **revenue foregone and property taxes shifted to other**
18 **taxpayers as a result of allowing the tax incentive,**
19 **compared to tax revenue generated by the taxpayer**
20 **receiving the incentive, including direct taxes applied to**
21 **the taxpayer and taxes applied to the taxpayer's**
22 **employees.**
23 **(C) An estimate of the number of jobs that were the direct**
24 **result of the tax incentive.**
25 **(D) For any tax incentive that is reviewed or approved by**
26 **the Indiana economic development corporation, a**
27 **statement by the chief executive officer of the Indiana**
28 **economic development corporation as to whether the**
29 **statutory and programmatic goals of the tax incentive are**
30 **being met, with obstacles to these goals identified, if**
31 **possible.**
32 **(8) The methodology and assumptions used in carrying out**
33 **the reviews, analyses, and evaluations required under this**
34 **subsection.**
35 **(9) The estimated cost to the state to administer the tax**
36 **incentive.**
37 **(10) An estimate of the extent to which benefits of the tax**
38 **incentive remained in Indiana or flowed outside Indiana.**
39 **(11) Whether the effectiveness of the tax incentive could be**
40 **determined more definitively if the general assembly were to**
41 **clarify or modify the tax incentive's goals and intended**
42 **purpose.**



1 (12) Whether measuring the economic impact is significantly
2 limited due to data constraints and whether any changes in
3 statute would facilitate data collection in a way that would
4 allow for better review, analysis, or evaluation.

5 (13) Any additional review, analysis, or evaluation the
6 commission considers advisable.

7 The legislative services agency may request a state official or state
8 agency to furnish information necessary to complete the tax
9 incentive review, analysis, and evaluation required by this section.
10 A state official or state agency presented with a request from the
11 legislative services agency under this subsection shall cooperate
12 with the legislative services agency in providing the requested
13 information.

14 (d) The commission shall hold public hearings to receive
15 information concerning tax incentives. On or before November 1,
16 2015, and each year thereafter, the commission shall submit a
17 report to the legislative council, in an electronic format under
18 IC 5-14-6, containing the results of the commission's review,
19 analysis, and evaluation. The report must include at least the
20 following:

21 (1) A detailed description of the review, analysis, and
22 evaluation for each tax incentive reviewed.

23 (2) A recommendation as to whether a tax incentive should be
24 continued, modified, or terminated, the basis for the
25 recommendation, and the expected impact of the
26 recommendation on the state's economy.

27 (3) Recommendations for better aligning a tax incentive with
28 the original intent of the legislation that enacted the tax
29 incentive.

30 (4) Recommendations for the imposition of a limitation on a
31 tax incentive or a limitation on the total amount of all tax
32 incentives.

33 (5) An estimate for each fiscal year of the next biennial budget
34 of the cost of each tax incentive and the total cost of all tax
35 incentives, including those not scheduled for review under this
36 section. The estimates shall be provided to the chairperson
37 and ranking minority member of the house committee on
38 ways and means and the senate committee on appropriations
39 for use in the preparation of the budget and to the general
40 assembly to be used in the budget process.

41 (e) The general assembly shall use the commission's report to
42 determine whether a particular tax incentive:



- 1 **(1) is successful;**
2 **(2) is provided at a cost that can be accommodated by the**
3 **state's biennial budget; and**
4 **(3) should be continued, amended, or repealed.**
5 **(f) The legislative services agency shall establish and maintain**
6 **a system for making available to the public information about the**
7 **amount and effectiveness of tax incentives.**
8 **(g) The commission shall, before November 1, 2014, develop and**
9 **publish on the general assembly's Internet web site a multi-year**
10 **schedule that lists all tax incentives and indicates the year when the**
11 **report will be published for each tax incentive reviewed. The**
12 **commission may revise the schedule as long as the commission**
13 **provides for a systematic review, analysis, and evaluation of all tax**
14 **incentives and that each tax incentive is reviewed at least once**
15 **every five (5) years.**

