



January 17, 2014

HOUSE BILL No. 1020

DIGEST OF HB 1020 (Updated January 15, 2014 5:46 pm - DI 120)

Citations Affected: IC 2-5; IC 6-1.1.

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. Provides that the requirement to produce the annual report on state and local tax incentives expires December 31, 2023. Requires the department of local government finance to conduct an annual audit of every 1% of the statement of benefits submitted by taxpayers who receive property tax abatements.

Effective: July 1, 2014.

Koch, Heuer, Austin

January 7, 2014, read first time and referred to Committee on Commerce, Small Business and Economic Development.
January 16, 2014, amended, reported — Do Pass.

HB 1020—LS 6406/DI 58



January 17, 2014

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**

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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 information about each tax incentive that is necessary to
 17 achieve the goals described in subsection (b), such as any of the
 18 following:

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

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

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

31 (4) The count of the following:

32 (A) Applicants for the tax incentive.

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

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

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

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

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

41 (A) The dollar amount of the tax incentive, listed by the
 42 North American Industrial Classification System (NAICS)



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



1 limited due to data constraints and whether any changes in
 2 statute would facilitate data collection in a way that would
 3 allow for better review, analysis, or evaluation.

4 (13) Any additional review, analysis, or evaluation the
 5 commission considers advisable. Among other things, the
 6 commission and the legislative services agency are encouraged
 7 to include comparisons with tax incentives offered by other
 8 states if those comparisons would add value to the review,
 9 analysis, and evaluation.

10 The legislative services agency may request a state official or state
 11 agency to furnish information necessary to complete the tax
 12 incentive review, analysis, and evaluation required by this section.
 13 A state official or state agency presented with a request from the
 14 legislative services agency under this subsection shall cooperate
 15 with the legislative services agency in providing the requested
 16 information. A state official or a state agency may require that the
 17 legislative services agency adhere to the provider's rules, if any,
 18 that concern the confidential nature of the information.

19 (d) The commission shall hold public hearings to receive
 20 information concerning tax incentives. On or before November 1,
 21 2015, and each year thereafter, the commission shall submit a
 22 report to the legislative council, in an electronic format under
 23 IC 5-14-6, containing the results of the commission's review,
 24 analysis, and evaluation. The report must include at least the
 25 following:

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

28 (2) A recommendation as to whether a tax incentive should be
 29 continued, modified, or terminated, the basis for the
 30 recommendation, and the expected impact of the
 31 recommendation on the state's economy.

32 (3) Recommendations for better aligning a tax incentive with
 33 the original intent of the legislation that enacted the tax
 34 incentive.

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



- 1 **(5) To the extent possible, an estimate of the indirect economic**
 2 **benefit or activity stimulated by the tax incentive.**
 3 **The report required by this subsection must not disclose any**
 4 **proprietary or otherwise confidential taxpayer information.**
 5 **(e) The general assembly shall use the commission's report to**
 6 **determine whether a particular tax incentive:**
 7 **(1) is successful;**
 8 **(2) is provided at a cost that can be accommodated by the**
 9 **state's biennial budget; and**
 10 **(3) should be continued, amended, or repealed.**
 11 **(f) The legislative services agency shall establish and maintain**
 12 **a system for making available to the public information about the**
 13 **amount and effectiveness of tax incentives.**
 14 **(g) The commission shall, before November 1, 2014, develop and**
 15 **publish on the general assembly's Internet web site a multi-year**
 16 **schedule that lists all tax incentives and indicates the year when the**
 17 **report will be published for each tax incentive reviewed. The**
 18 **commission may revise the schedule as long as the commission**
 19 **provides for a systematic review, analysis, and evaluation of all tax**
 20 **incentives and that each tax incentive is reviewed at least once**
 21 **every five (5) years.**
 22 **(h) This section expires December 31, 2023.**
 23 **SECTION 2. IC 6-1.1-12.1-18 IS ADDED TO THE INDIANA**
 24 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 25 **[EFFECTIVE JULY 1, 2014]: Sec. 18. The department of local**
 26 **government finance shall conduct an annual audit of one percent**
 27 **(1%) of the statement of benefits submitted by taxpayers who**
 28 **receive deductions under this chapter. A taxpayer audited under**
 29 **this section shall submit any books, records, or property requested**
 30 **by the department of local government finance for the purposes of**
 31 **verifying the information contained in the taxpayer's statement of**
 32 **benefits. Information submitted under this section is confidential**
 33 **and may not be disclosed to any person or agency that is not**
 34 **involved with the audit of the statement of benefits. The**
 35 **department of local government finance shall return information**
 36 **submitted under this section to the taxpayer not more than thirty**
 37 **(30) days after the audit is completed.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1020, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, delete "at least the following for each tax incentive:" and insert **"information about each tax incentive that is necessary to achieve the goals described in subsection (b), such as any of the following:"**.

Page 3, line 12, delete "incentive, and reaching" and insert **"incentive."**

Page 3, delete lines 13 through 15.

Page 4, line 6, after "advisable." insert **"Among other things, the commission and the legislative services agency are encouraged to include comparisons with tax incentives offered by other states if those comparisons would add value to the review, analysis, and evaluation."**

Page 4, line 13, after "information." insert **"A state official or a state agency may require that the legislative services agency adhere to the provider's rules, if any, that concern the confidential nature of the information."**

Page 4, delete lines 30 through 32.

Page 4, line 33, delete "(5)" and insert **"(4)"**.

Page 4, between lines 40 and 41, begin a new line block indented and insert:

"(5) To the extent possible, an estimate of the indirect economic benefit or activity stimulated by the tax incentive. The report required by this subsection must not disclose any proprietary or otherwise confidential taxpayer information."

Page 5, after line 15, begin a new paragraph and insert:

"(h) This section expires December 31, 2023."

Page 5, after line 15, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-12.1-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. The department of local government finance shall conduct an annual audit of one percent (1%) of the statement of benefits submitted by taxpayers who receive deductions under this chapter. A taxpayer audited under this section shall submit any books, records, or property requested by the department of local government finance for the purposes of



verifying the information contained in the taxpayer's statement of benefits. Information submitted under this section is confidential and may not be disclosed to any person or agency that is not involved with the audit of the statement of benefits. The department of local government finance shall return information submitted under this section to the taxpayer not more than thirty (30) days after the audit is completed."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1020 as introduced.)

MESSMER, Chair

Committee Vote: yeas 13, nays 0.

