

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1246

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-18-29.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 29.5. (a) The executive of a unit serving as the provider unit of a fire protection territory may, upon approval by the provider unit's fiscal body, submit a petition to the department of local government finance for an increase in the fire protection territory's maximum permissible ad valorem property tax levy for its fire protection territory fund under IC 36-8-19-8 for property taxes first due and payable in 2023 or for any year thereafter for which a petition is submitted under this section.**

(b) If a petition is submitted as provided in subsection (a) before August 1, 2022, or April 1 of a year thereafter, the department of local government finance shall increase the fire protection territory's maximum permissible ad valorem property tax levy for the fire protection territory fund under IC 36-8-19-8 for property taxes first due and payable in the immediately succeeding year by using the following formula for purposes of subsection (c)(2):

STEP ONE: Determine the percentage increase in the population, as determined by the provider unit's fiscal body and as may be prescribed by the department of local government finance, that is within the fire protection territory area during the ten (10) year period immediately preceding

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the year in which the petition is submitted under subsection (a). The provider unit's fiscal body may use the most recently available population data issued by the Bureau of the Census during the ten (10) year period immediately preceding the petition.

STEP TWO: Determine the greater of zero (0) or the result of:

- (A) the STEP ONE percentage; minus
- (B) six percent (6%);

expressed as a decimal.

STEP THREE: Determine a rate that is the lesser of:

- (A) fifteen-hundredths (0.15); or
- (B) the STEP TWO result.

STEP FOUR: Reduce the STEP THREE rate by any rate increase in the fire protection territory's property tax rate for its fire protection territory fund within the immediately preceding ten (10) year period that was made based on a petition submitted by the fire protection territory under this section.

(c) The fire protection territory's maximum permissible ad valorem property tax levy for its fire protection territory fund under IC 36-8-19-8 for property taxes first due and payable in a given year, as adjusted under this section, shall be calculated as:

- (1) the amount of the ad valorem property tax levy increase for the fire protection territory fund without regard to this section; plus
- (2) an amount equal to the result of:
 - (A) the rate determined under the formula in subsection (b); multiplied by
 - (B) the net assessed value of the fire protection territory area divided by one hundred (100).

The calculation under this subsection shall be used in the determination of the fire protection territory's maximum permissible ad valorem property tax levy under IC 36-8-19-8 for property taxes first due and payable in the first year of the increase and thereafter.

SECTION 2. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.159-2020, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10.5. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19, if the civil taxing



unit is a participating unit in a fire protection territory established before August 1, 2001. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter on a civil taxing unit that is a participating unit in a fire protection territory, established before August 1, 2001, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19. Any property taxes imposed by a civil taxing unit that are exempted by this subsection from the ad valorem property tax levy limits imposed by section 3 of this chapter and first due and payable after December 31, 2008, may not increase annually by a percentage greater than the result of:

- (1) the maximum levy growth quotient determined under section 2 of this chapter; minus
- (2) one (1).

(b) The department of local government finance may, under this subsection, increase the maximum permissible ad valorem property tax levy that would otherwise apply to a civil taxing unit under section 3 of this chapter to meet the civil taxing unit's obligations to a fire protection territory established under IC 36-8-19. To obtain an increase in the civil taxing unit's maximum permissible ad valorem property tax levy, a civil taxing unit shall submit a petition to the department of local government finance in the year immediately preceding the first year in which the civil taxing unit levies a tax to support the fire protection territory. The petition must be filed before the date specified in section 12(a)(1) of this chapter of that year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for the ensuing calendar year. In making its determination under this subsection, the department of local government finance shall consider the amount that the civil taxing unit is obligated to provide to meet the expenses of operation and maintenance of the fire protection services within the territory, including the participating unit's reasonable share of an operating balance for the fire protection territory. The department of local government finance shall determine the entire amount of the allowable adjustment in the final determination. The department shall order the adjustment implemented in the amounts and over the number of years, not exceeding three (3), requested by the petitioning civil taxing unit. However, the department of local government finance may not approve under this subsection a property tax levy greater than zero (0) if the civil taxing unit did not exist as of the assessment date for which the



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

(c) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after December 31, 2022. Notwithstanding any other law, if a total tax rate levied upon the formation of a fire protection territory established under IC 36-8-19 is to be implemented over a number of years as provided in IC 36-8-19-7(c), the maximum permissible ad valorem property tax levy that would otherwise apply to a participating unit under section 3 of this chapter to meet the participating unit's obligations to a fire protection territory does not apply to ad valorem property taxes imposed by the participating unit to meet the participating unit's obligations to the fire protection territory over the number of years in which the total tax rate is to be implemented by each participating unit. For purposes of calculating the maximum permissible ad valorem property tax levy imposed by a participating unit for each year for which the participating unit implements a total tax rate to support the fire protection territory, the participating unit's maximum permissible ad valorem property tax levy for the preceding calendar year under section 3(a) STEP ONE of this chapter is increased each year by an amount equal to the difference between:

- (1) the amount the participating unit will have to levy for the ensuing calendar year in order to fund the participating unit's share of the fire protection territory budget for the operating costs as provided in the ordinance or resolution making the unit a participating unit in the fire protection territory; and**
- (2) the participating unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the fire protection territory.**

SECTION 3. IC 6-1.1-39-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]:
Sec. 1. (a) This chapter applies to all counties, cities, and towns (referred to in this chapter as units).

(b) Notwithstanding any other law, for economic development districts established:

- (1) after January 1, 1992, this chapter does not apply to fire**



protection districts established under IC 36-8-11; and
(2) after December 31, 2021, this chapter does not apply to the part of a participating unit's proceeds of property taxes imposed for an assessment date with respect to which the allocation and distribution is made that are attributable to property taxes imposed to meet the participating unit's obligations to a fire protection territory established under IC 36-8-19.

SECTION 4. IC 6-3.6-6-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2.8. (a) As used in this section, "emergency medical services" has the meaning set forth in IC 16-18-2-110.

(b) This section applies only to counties that:

- (1) provide emergency medical services for all local units in the county; and**
- (2) pay one hundred percent (100%) of the costs to provide those services.**

(c) The fiscal body of a county described in subsection (b) may adopt an ordinance to impose a tax rate for emergency medical services in the county. The tax rate must be in increments of one-hundredth of one percent (0.01%) and may not exceed two-tenths of one percent (0.2%). The tax rate may not be in effect for more than twenty-five (25) years. If a county fiscal body adopts an ordinance under this section, but subsequently ceases to meet the applicability provision under subsection (b), the tax rate imposed under the ordinance shall expire on December 31 of the year in which the county ceases to be eligible to enact the ordinance.

(d) The revenue generated by a tax rate imposed under this section must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed. The revenue shall be maintained in a separate dedicated county fund and used by the county only for paying for operating costs incurred by the county for emergency medical services that are provided throughout the county.

SECTION 5. IC 6-3.6-6-3, AS AMENDED BY P.L.184-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3. (a) Revenue raised from a tax imposed under this chapter shall be treated as follows:

(1) To make the following distributions:

- (A) If an ordinance described in section 2.5 of this chapter is in effect in a county, to make a distribution to the county equal**



to the amount of revenue generated by the rate imposed under section 2.5 of this chapter.

(B) If an ordinance described in section 2.7 of this chapter is in effect in a county, to make a distribution to the county equal to the amount of revenue generated by the rate imposed under section 2.7 of this chapter.

(C) If an ordinance described in section 2.8 of this chapter is in effect in a county, to make a distribution to the county equal to the amount of revenue generated by the rate imposed under section 2.8 of this chapter.

(2) After making the distributions described in subdivision (1), if any, to make distributions to school corporations and civil taxing units in counties that formerly imposed a tax under IC 6-3.5-1.1 (repealed). The revenue categorized from the next twenty-five hundredths percent (0.25%) of the rate for a former tax adopted under IC 6-3.5-1.1 (repealed) shall be allocated to school corporations and civil taxing units. The amount of the allocation to a school corporation or civil taxing unit shall be determined using the allocation amounts for civil taxing units and school corporations in the county.

(3) After making the distributions described in subdivisions (1) and (2), the remaining revenue shall be treated as additional revenue (referred to as "additional revenue" in this chapter). Additional revenue may not be considered by the department of local government finance in determining:

(A) any taxing unit's maximum permissible property tax levy limit under IC 6-1.1-18.5; or

(B) the approved property tax rate for any fund.

(b) In the case of a civil taxing unit that has pledged the tax from additional revenue for the payment of bonds, leases, or other obligations as reported by the civil taxing unit under IC 5-1-18, the adopting body may not, under section 4 of this chapter, reduce the proportional allocation of the additional revenue that was allocated in the preceding year if the reduction for that year would result in an amount less than the amount necessary for the payment of bonds, leases, or other obligations payable or required to be deposited in a sinking fund or other reserve in that year for the bonds, leases, or other obligations for which the tax from additional revenue has been pledged. To inform an adopting body with regard to allocations that affect the payment of bonds, leases, or other obligations, a taxing unit may provide the adopting body with information regarding any outstanding bonds, leases, or other obligations that are secured by additional



revenue. The information must be provided before the date of the public hearing at which the adopting body may change the allocation of additional revenue under section 4 of this chapter.

SECTION 6. IC 36-7-14-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2022 (RETROACTIVE)]: **Sec. 1.7. Notwithstanding any other law, for:**

- (1) areas needing redevelopment;**
- (2) redevelopment project areas;**
- (3) urban renewal project areas; or**
- (4) economic development areas;**

established after December 31, 2021, this chapter does not apply to the part of a participating unit's proceeds of property taxes imposed for an assessment date with respect to which the allocation and distribution is made that are attributable to property taxes imposed to meet the participating unit's obligations to a fire protection territory established under IC 36-8-19.

SECTION 7. IC 36-8-19-6, AS AMENDED BY P.L.14-2021, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) To establish or expand a fire protection territory, the legislative bodies of each unit or fire protection district:

- (1) desiring to establish a fire protection territory; or
- (2) desiring to expand an existing fire protection territory by:
 - (A) becoming a participating unit in; or
 - (B) approving the addition of a participating unit in;

an existing fire protection territory; must adopt an ordinance (in the case of a county or municipality) or a resolution (in the case of a township or a fire protection district).

(b) The ordinance or resolution must meet the following requirements:

- (1) The ordinance or resolution is identical to the ordinances and resolutions adopted by the other units or fire protection districts desiring to establish or expand the proposed territory.
- (2) The ordinance or resolution is adopted after January 1 but before April 1.
- (3) The ordinance or resolution authorizes the unit or fire protection district to become a party to an agreement for the establishment of a fire protection territory or the expansion of an existing fire protection territory.
- (4) An ordinance or resolution is adopted after the legislative body holds at least three (3) public hearings to receive public comment on the proposed ordinance or resolution as follows:



(A) At least one (1) public hearing must be held at least thirty (30) days before the legislative body votes on the adoption of the ordinance or resolution. At the hearing, the legislative body shall make available to the public the information required by subsection (c) concerning the fiscal impact of the proposed fire protection territory.

(B) At least two (2) public hearings must be held after the public hearing in clause (A), with the last public hearing held not later than ten (10) days before the legislative body votes on the adoption of the ordinance or resolution.

The legislative body must give notice of the hearings under IC 5-3-1.

(c) The legislative body must make available to the public the following information:

(1) The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the proposed territory for each of the units or fire protection districts that would participate in the proposed territory. **If a property tax rate is to be implemented over a number of years as provided in section 7(c) of this chapter, the information under this subdivision must include the amount of the intended property tax rate after having been fully implemented.**

(2) The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units or fire protection districts that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.

(3) The estimated effect of the proposed reorganization on other units in the county in the following years and on local option income taxes, excise taxes, and property tax circuit breaker credits.

(4) A description of the planned services and staffing levels to be provided in the proposed territory.

(5) A description of any capital improvements to be provided in the proposed territory.

(d) The notice required for a hearing under subsection (b)(4) shall include all of the following:

(1) A list of the provider unit and all participating units in the proposed territory.

(2) The date, time, and location of the hearing.

(3) The location where the public can inspect the proposed ordinance or resolution.



- (4) A statement as to whether the proposed ordinance or resolution requires uniform tax rates or different tax rates within the territory.
- (5) The name and telephone number of a representative of the unit or fire protection district who may be contacted for further information.
- (6) The proposed levies and tax rates for each participating unit, **and whether a tax rate will be implemented over a number of years under section 7(c) of this chapter.**
- (e) The ordinance or resolution adopted under this section shall include at least the following:
 - (1) The boundaries of the proposed territory.
 - (2) The identity of the provider unit and all other participating units desiring to be included within the territory.
 - (3) An agreement to impose:
 - (A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or
 - (B) different tax rates for fire protection services for the units or fire protection districts desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's or fire protection district's taxable property within the territory.
 - (4) An agreement as to how the property that is held by the territory will be disposed of if:
 - (A) a participating unit withdraws from the territory; or
 - (B) the territory is dissolved.
 - (5) The contents of the agreement to establish the territory.
- (f) An ordinance or a resolution adopted under this section takes effect July 1 of the year the ordinance or resolution is adopted.

SECTION 8. IC 36-8-19-7, AS AMENDED BY P.L.255-2017, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) A tax levied under this chapter may be levied at:

- (1) a uniform rate upon all taxable property within the territory; or
- (2) different rates for the participating units included within the territory, so long as a tax rate applies uniformly to all of a unit's or fire protection district's taxable property within the territory.
- (b) If a uniform tax rate is levied upon all taxable property within a territory upon the formation of the territory, different tax rates may be levied for the participating units included within the territory in subsequent years.

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(c) This subsection applies to a territory established by an ordinance or a resolution adopted under this chapter after December 31, 2022. A total tax rate levied under this chapter upon taxable property within a territory upon the formation of the territory may be implemented over a number of years, not exceeding five (5), and in a manner subject to review and approval by the department of local government finance.

SECTION 9. IC 36-8-19-8, AS AMENDED BY P.L.183-2014, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) Upon the adoption of identical ordinances or resolutions, or both, by the participating units under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund, and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

- (1) All receipts from the tax imposed under this section.
- (2) Any money transferred to the fund by the provider unit as authorized under subsection (d).
- (3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.
- (4) Any money transferred to the fund by a participating unit under section 8.6 of this chapter.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory. The provider unit may maintain a reasonable balance, not to exceed one hundred twenty percent (120%) of the budgeted expenses. Except as provided in IC 6-1.1-18.5-10.5, **and subject to section 7(c) of this chapter**, after estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. **Subject to IC 6-1.1-18.5-10.5(c)**, the amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the



territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

- (1) the levy in the following year shall be increased by the amount required to be transferred; and
- (2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. Each participating unit must agree to the amount to be transferred by adopting an ordinance (if the unit is a county or municipality) or a resolution (if the unit is a township) that specifies an identical amount to be transferred.

(f) The tax under this section is subject to the tax levy limitations imposed under IC 6-1.1-18.5-10.5.

SECTION 10. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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