



February 21, 2018

**ENGROSSED
HOUSE BILL No. 1263**

DIGEST OF HB 1263 (Updated February 20, 2018 11:19 am - DI 73)

Citations Affected: IC 6-3.6; IC 11-12; IC 35-38; IC 36-1.

Synopsis: County jail issues. Authorizes the county council of Jennings County to impose a local income tax special purpose rate for the following purposes: (1) To finance, construct, acquire, improve, renovate, and equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs. (2) To repay bonds issued or leases entered into for those purposes. (3) To operate and maintain those facilities. Provides that the tax rate may not exceed 0.65%. Provides that the local income tax special rate imposed in Randolph County may be used by the county to finance, construct, acquire, improve, renovate, equip, and operate the county jail, public safety improvements, and other county facilities. (Under current law, the special rate may be used only for the Randolph County courthouse, for financing and renovating the former county hospital, and for a volunteer fire department.) Provides that the Tipton County local income tax special purpose rate for: (1) the construction, acquisition, and equipping of the county jail (and related buildings and parking facilities); and (2) the improvement, renovation, remodeling,
(Continued next page)

Effective: Upon passage; July 1, 2018.

Brown T

(SENATE SPONSOR — SANDLIN)

January 11, 2018, read first time and referred to Committee on Ways and Means.

January 29, 2018, reported — Do Pass.

January 31, 2018, read second time, ordered engrossed. Engrossed.

February 1, 2018, read third time, passed. Yeas 91, nays 1.

SENATE ACTION

February 6, 2018, read first time and referred to Committee on Local Government.

February 15, 2018, reassigned to Committee on Tax and Fiscal Policy pursuant to Rule 68(b).

February 20, 2018, amended, reported favorably — Do Pass.

EH 1263—LS 6323/DI 73



Digest Continued

repair, and equipping of the courthouse; may also be used to operate and maintain those facilities. Provides that the local income tax special purpose rate imposed in Union County may be used by the county to finance, construct, acquire, improve, renovate, equip, or operate the county jail or other county criminal justice facilities. (Under current law, the special rate may be used only for the Union County courthouse.) Provides that a county may not begin the construction or reconstruction of a county jail or submit final plans and specifications for the construction or reconstruction of a county jail to the department of correction, unless the county fiscal body first: (1) prepares a feasibility study of possible alternatives to the construction or reconstruction of the county jail; and (2) holds a public hearing on the feasibility study. Specifies certain items that must be included in the feasibility study. Specifies that the executive of a county may enter into an interlocal agreement with one or more other local or state entities for the construction, maintenance, or operation of a regional jail. Provides that in the case of a county, the county executive may not enter into a regional jail agreement unless the regional jail agreement is first approved by both the county fiscal body and the county sheriff. Specifies certain terms that must be included in the regional agreement (in addition to those terms required under all interlocal agreements). Provides that per diem and medical expense reimbursements received by a county for the cost of incarcerating persons convicted of felonies: (1) shall be deposited in the county general fund; and (2) upon appropriation by the county fiscal body, shall be used by the county sheriff only for the purposes of paying the costs of incarcerating persons convicted of felonies. Requires the county auditor to semiannually provide to the county fiscal body and the county sheriff an itemized record of such per diem and medical expense reimbursements received by the county. Requires the department of correction to collaborate with county sheriffs to create a standard process to provide for the payment of the per diem and medical expense reimbursements. Specifies certain requirements concerning the payment process.

EH 1263—LS 6323/DI 73



February 21, 2018

Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1263

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 6-3.6-7-12.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2018]: **Sec. 12.5. (a) This section applies to**
4 **Jennings County.**
5 **(b) The county council may, by ordinance, determine that**
6 **additional local income tax revenue is needed in the county to do**
7 **the following:**
8 **(1) Finance, construct, acquire, improve, renovate, and equip**
9 **the county jail and related buildings and parking facilities,**
10 **including costs related to the demolition of existing buildings,**
11 **the acquisition of land, and any other reasonably related**
12 **costs.**
13 **(2) Repay bonds issued or leases entered into for the purposes**
14 **described in subdivision (1).**
15 **(3) Operate and maintain the facilities described in**
16 **subdivision (1).**
17 **(c) If the county council makes the determination set forth in**

EH 1263—LS 6323/DI 73



1 subsection (b), the county council may adopt an ordinance to
2 impose a local income tax rate of:

- 3 (1) fifteen-hundredths percent (0.15%);
4 (2) two-tenths percent (0.2%);
5 (3) twenty-five hundredths percent (0.25%);
6 (4) three-tenths percent (0.3%);
7 (5) thirty-five hundredths percent (0.35%);
8 (6) four-tenths percent (0.4%);
9 (7) forty-five hundredths percent (0.45%);
10 (8) five-tenths percent (0.5%);
11 (9) fifty-five hundredths percent (0.55%);
12 (10) six-tenths percent (0.6%); or
13 (11) sixty-five hundredths percent (0.65%).

14 The tax rate may not be greater than the rate necessary to pay for
15 the purposes described in subsection (b).

16 (d) The tax rate used to pay for the purposes described in
17 subsection (b)(1) and (b)(2) may be imposed only until the latest of
18 the following dates:

- 19 (1) The date on which the financing, construction, acquisition,
20 improvement, renovation, and equipping of the facilities as
21 described in subsection (b) are completed.
22 (2) The date on which the last of any bonds issued (including
23 refunding bonds) or leases entered into to finance the
24 construction, acquisition, improvement, renovation, and
25 equipping of the facilities described in subsection (b) are fully
26 paid.
27 (3) The date on which an ordinance adopted under subsection
28 (c) is rescinded.

29 (e) The tax rate under this section may be imposed beginning on
30 the effective date of the ordinance as provided in IC 6-3.6-3-3 and
31 until the date on which the ordinance adopted under this section is
32 rescinded.

33 (f) The term of a bond issued (including any refunding bond) or
34 a lease entered into under subsection (b) may not exceed
35 twenty-five (25) years.

36 (g) The county treasurer shall establish a county jail revenue
37 fund to be used only for the purposes described in this section.
38 Local income tax revenues derived from the tax rate imposed
39 under this section shall be deposited in the county jail revenue
40 fund.

41 (h) Local income tax revenues derived from the tax rate
42 imposed under this section:



1 (1) may be used only for the purposes described in this
2 section;

3 (2) may not be considered by the department of local
4 government finance in determining the county's maximum
5 permissible property tax levy limit under IC 6-1.1-18.5; and

6 (3) may be pledged to the repayment of bonds issued or leases
7 entered into for the purposes described in subsection (b).

8 (i) The use of local income tax revenues as provided in this
9 section is necessary for the county to provide adequate jail capacity
10 in the county and to maintain low property tax rates essential to
11 economic development. The use of local income tax revenues as
12 provided in this section to pay any bonds issued or leases entered
13 into to finance the construction, acquisition, improvement,
14 renovation, and equipping of the facilities described in subsection
15 (b), rather than the use of property taxes, promotes those purposes.

16 (j) Money accumulated from the local income tax rate imposed
17 under this section after the termination of the tax under this
18 section shall be transferred to the county rainy day fund under
19 IC 36-1-8-5.1.

20 SECTION 2. IC 6-3.6-7-19, AS ADDED BY P.L.243-2015,
21 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 19. (a) This section applies only to Randolph
23 County.

24 (b) Randolph County possesses:

25 (1) unique fiscal challenges to finance the operations of county
26 government due to the county's ongoing obligation to repay
27 amounts received by the county due to an overpayment of the
28 county's certified distribution under IC 6-3.5-1.1-9 (before its
29 repeal) for a prior year; and

30 (2) unique capital financing needs related to the purposes
31 described in this section.

32 (c) The county fiscal body may impose a tax on the adjusted gross
33 income of local taxpayers at a tax rate that does not exceed the lesser
34 of the following:

35 (1) Twenty-five hundredths percent (0.25%).

36 (2) The rate necessary to carry out the purposes described in this
37 section.

38 (d) Revenues from a tax under this section may be used only for the
39 following purposes:

40 (1) Financing, constructing, acquiring, renovating, ~~and~~ equipping,
41 **and operating** the county courthouse, **the county jail, public**
42 **safety improvements, and other county facilities**, and financing



1 and renovating the former county hospital for additional office
 2 space, educational facilities, nonsecure juvenile facilities, and
 3 other county functions, including the repayment of bonds issued,
 4 or leases entered into, for constructing, acquiring, renovating, and
 5 equipping the county courthouse, **the county jail, public safety**
 6 **improvements, and other county facilities** and for renovating
 7 the former county hospital for additional office space, educational
 8 facilities, nonsecure juvenile facilities, and other county
 9 functions.

10 (2) Financing, constructing, acquiring, renovating, and equipping
 11 buildings for a volunteer fire department (as defined in
 12 IC 36-8-12-2) that provides services in any part of the county.

13 (3) Financing, constructing, acquiring, and renovating firefighting
 14 apparatus or other related equipment for a volunteer fire
 15 department (as defined in IC 36-8-12-2) that provides services in
 16 any part of the county.

17 SECTION 3. IC 6-3.6-7-21.5, AS ADDED BY P.L.197-2016,
 18 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2018]: Sec. 21.5. (a) This section applies only to Tipton
 20 County.

21 (b) The county council may, by ordinance, determine that additional
 22 local income tax revenue is needed in the county to:

23 (1) finance the:

24 (A) construction, acquisition, and equipping of the county jail
 25 and related buildings and parking facilities, including costs
 26 related to the demolition of existing buildings, the acquisition
 27 of land, and any other reasonably related costs; and

28 (B) improvement, renovation, remodeling, repair, and
 29 equipping of the courthouse to address security concerns and
 30 mitigate excess moisture in the courthouse; ~~and~~

31 (2) repay bonds issued or leases entered into for the purposes
 32 described in subdivision (1); **and**

33 **(3) operate and maintain facilities described in subdivision (1).**

34 (c) If the county council makes the determination set forth in
 35 subsection (b), the county council may adopt an ordinance to impose
 36 a local income tax rate of:

37 (1) fifteen-hundredths percent (0.15%);

38 (2) two-tenths percent (0.2%);

39 (3) twenty-five hundredths percent (0.25%);

40 (4) three-tenths percent (0.3%);

41 (5) thirty-five hundredths percent (0.35%); or

42 (6) four-tenths percent (0.4%).



1 The tax rate may not be imposed at a rate greater than is necessary to
2 pay for the purposes described in subsection (b).

3 (d) The tax imposed under this section may be imposed only until
4 the ~~later of the date on which:~~ **latest of the following dates:**

5 (1) **The date on which** the financing for constructing, acquisition,
6 improvement, renovation, remodeling, and equipping described
7 in subsection (b) is completed. ~~or~~

8 (2) The last of any bonds issued or leases entered into to finance
9 the construction, acquisition, improvement, renovation,
10 remodeling, and equipping described in subsection (b) are fully
11 paid.

12 **(3) The date on which an ordinance adopted under subsection**
13 **(c) is rescinded.**

14 The term of the bonds issued (including any refunding bonds) or a
15 lease entered into under subsection (b)(2) may not exceed twenty (20)
16 years.

17 (e) The county treasurer shall establish a county facilities revenue
18 fund to be used only for the purposes described in this section. Local
19 income tax revenues derived from the tax rate imposed under this
20 section shall be deposited in the county facilities revenue fund.

21 (f) Local income tax revenues derived from the tax rate imposed
22 under this section:

23 (1) may be used only for the purposes described in this section;

24 (2) may not be considered by the department of local government
25 finance in determining the county's maximum permissible ad
26 valorem property tax levy limit under IC 6-1.1-18.5; and

27 (3) may be pledged to the repayment of bonds issued or leases
28 entered into for the purposes described in subsection (b).

29 (g) Tipton County possesses unique governmental and economic
30 development challenges and opportunities due to:

31 (1) the county's heavy agricultural base;

32 (2) deficiencies in the current county jail, including:

33 (A) overcrowding;

34 (B) lack of program and support space for efficient jail
35 operations;

36 (C) inadequate line of sight supervision of inmates, due to
37 current jail configuration;

38 (D) lack of adequate housing for an increasing female inmate
39 population and inmates with special needs;

40 (E) lack of adequate administrative space; and

41 (F) increasing maintenance demands and costs resulting from
42 having aging facilities;



1 (3) the presence of a large industrial employer that offers the
2 opportunity to expand the income tax base; and

3 (4) the presence of the historic Tipton County jail and sheriff's
4 home, listed on the National Register of Historic Places.

5 The use of local income tax revenue as provided in this section is
6 necessary for the county to provide adequate jail facilities in the county
7 and to maintain low property tax rates essential to economic
8 development. The use of local income tax revenues as provided in this
9 section to pay any bonds issued or leases entered into to finance the
10 construction, acquisition, improvement, renovation, remodeling, and
11 equipping described in subsection (b), rather than the use of property
12 taxes, promotes those purposes.

13 (h) Money accumulated from the local income tax rate imposed
14 under this section after:

15 (1) the redemption of bonds issued; or

16 (2) the final payment of lease rentals due under a lease entered
17 into under this section; and

18 **(3) the termination of the tax under this section;**

19 shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

20 SECTION 4. IC 6-3.6-7-22, AS ADDED BY P.L.243-2015,
21 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 22. (a) This section applies only to Union
23 County.

24 (b) Union County possesses unique economic development
25 challenges due to:

26 (1) the county's heavy agricultural base;

27 (2) the presence of a large amount of state owned property in the
28 county that is exempt from property taxation; and

29 (3) recent obligations of the school corporation in the county that
30 have already increased property taxes in the county and imposed
31 additional property tax burdens on the county's agricultural base.

32 Maintaining low property tax rates is essential to economic
33 development. The use of a tax under this section for the purposes
34 described in this section, rather than the use of property taxes,
35 promotes these purposes.

36 (c) The county fiscal body may impose a tax on the adjusted gross
37 income of local taxpayers at a tax rate that does not exceed the lesser
38 of the following:

39 (1) Twenty-five hundredths percent (0.25%).

40 (2) The rate necessary to carry out the purposes described in this
41 section.

42 (d) Revenue raised from a tax under this section may be used only



- 1 for the following purposes:
- 2 (1) To finance, construct, acquire, improve, renovate, ~~or~~ equip, **or**
- 3 **operate:**
- 4 (A) the county courthouse;
- 5 (B) **the county jail; or**
- 6 (C) **other county criminal justice facilities.**
- 7 (2) To repay bonds issued, or leases entered into, for constructing,
- 8 acquiring, improving, renovating, and equipping:
- 9 (A) the county courthouse;
- 10 (B) **the county jail; or**
- 11 (C) **other county criminal justice facilities.**
- 12 (e) The tax imposed under this section may be imposed only until
- 13 the last of the following dates:
- 14 (1) The date on which **both of the following have occurred:**
- 15 (A) The purposes described in subsection (d)(1) are
- 16 completed.
- 17 (B) **The county fiscal body adopts an ordinance to repeal**
- 18 **the tax imposed on the adjusted gross income of local**
- 19 **taxpayers under subsection (c).**
- 20 (2) The date on which the last of any bonds issued (including any
- 21 refunding bonds) or leases described in subsection (d)(2) are fully
- 22 paid.
- 23 The term of the bonds issued (including any refunding bonds) or a
- 24 lease entered into under subsection (d)(2) may not exceed twenty-two
- 25 (22) years.
- 26 (f) Funds accumulated from a tax under this section after:
- 27 (1) the redemption of the bonds issued; ~~or~~
- 28 (2) the final payment of lease rentals due under a lease entered
- 29 into under this section; **or**
- 30 (3) **the adoption of an ordinance to repeal the tax imposed**
- 31 **under this section;**
- 32 shall be transferred to the county ~~highway fund to be used for~~
- 33 ~~construction, resurfacing, restoration, and rehabilitation of county~~
- 34 ~~highways, roads, and bridges.~~ **rainy day fund established under**
- 35 **IC 36-1-8-5.1.**
- 36 SECTION 5. IC 11-12-4-5 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. In addition to the
- 38 approval required from the agencies listed under IC 36-1-12-10, all
- 39 final plans and specifications for the construction of a county jail are
- 40 subject to review by the department. Before construction may begin on
- 41 a county jail:
- 42 (1) the board of county commissioners shall submit the plans and



1 specifications to the department; **and**

2 **(2) the county fiscal body must prepare the feasibility study**
 3 **and hold the public hearing required by IC 36-1-8-19.**

4 SECTION 6. IC 11-12-5.5 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2018]:

7 **Chapter 5.5. Regional Jails**

8 **Sec. 1. As used in this chapter, "regional jail agreement" means**
 9 **an agreement described in section 2(a) of this chapter.**

10 **Sec. 2. (a) Subject to the requirements of this chapter, the**
 11 **executive of a county may enter into an agreement under IC 36-1-7**
 12 **with one (1) or more entities described in IC 36-1-7-1 for the**
 13 **construction, maintenance, or operation of a regional jail.**

14 **(b) In the case of a county, the county executive may not enter**
 15 **into a regional jail agreement under this chapter unless the**
 16 **regional jail agreement is first approved by both the county fiscal**
 17 **body and the county sheriff.**

18 **Sec. 3. In addition to the provisions required under IC 36-1-7-3,**
 19 **a regional jail agreement must include terms concerning the**
 20 **following:**

21 **(1) The location of the regional jail.**

22 **(2) The acquisition, construction, leasing, maintenance,**
 23 **repair, operation, termination of operations, and**
 24 **administration of the regional jail.**

25 **(3) The manner in which each participating entity's**
 26 **proportionate share of the funding for the regional jail will be**
 27 **determined.**

28 **(4) The manner in which any:**

29 **(A) per diem paid by the state; or**

30 **(B) other reimbursement paid by the state;**

31 **for the costs of incarcerating individuals in a county jail or**
 32 **the costs of medical care expenses incurred for individuals in**
 33 **a county jail will be used by the participating entities.**

34 **(5) Any pledge of local revenue that will be required to carry**
 35 **out the regional agreement or to pay bonds issued or leases**
 36 **entered into by a participating entity to carry out the regional**
 37 **jail agreement.**

38 **(6) The standards that will apply to the regional jail.**

39 **(7) The method of determining the inmate programs,**
 40 **activities, and services that will be provided at the regional**
 41 **jail.**

42 **(8) The method of resolving disputes among the participating**



- 1 entities concerning the regional jail agreement, if any such
 2 disputes arise.
- 3 **Sec. 4. If the participating entities determine that the regional**
 4 **jail agreement entered into under this chapter shall be**
 5 **administered by a separate legal entity as authorized by**
 6 **IC 36-1-7-3(a)(5)(A) or by a joint board as authorized by**
 7 **IC 36-1-7-3(a)(5)(B), the county sheriff of each county**
 8 **participating in the agreement (or the county sheriff's designee)**
 9 **must be included as a member on the governing board of the**
 10 **separate legal entity or as a member of the joint board.**
- 11 **Sec. 5. This chapter supplements and does not limit the**
 12 **authority of any entity to enter into an agreement under IC 36-1-7**
 13 **concerning regional or multicounty jails.**
- 14 SECTION 7. IC 35-38-3-3, AS AMENDED BY P.L.7-2017,
 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2018]: Sec. 3. (a) Except as provided by subsection (b), a
 17 person convicted of a misdemeanor may not be committed to the
 18 department of correction.
- 19 (b) Upon a request from the sheriff, the commissioner may agree to
 20 accept custody of a misdemeanor:
- 21 (1) if placement in the county jail:
- 22 (A) places the inmate in danger of serious bodily injury or
 23 death; or
 24 (B) represents a substantial threat to the safety of others;
- 25 (2) for other good cause shown; or
 26 (3) if a person has more than five hundred forty-seven (547) days
 27 remaining before the person's earliest release date as a result of:
- 28 (A) consecutive misdemeanor sentences; or
 29 (B) a sentencing enhancement applied to a misdemeanor
 30 sentence.
- 31 (c) After June 30, 2014, and before January 1, 2016, a court may not
 32 commit a person convicted of a Level 6 felony to the department of
 33 correction if the person's earliest possible release date is less than
 34 ninety-one (91) days from the date of sentencing, unless the
 35 commitment is due to the person violating a condition of probation,
 36 parole, or community corrections by committing a new criminal
 37 offense.
- 38 (d) After December 31, 2015, a court may not commit a person
 39 convicted of a Level 6 felony to the department of correction unless:
- 40 (1) the commitment is due to the revocation of the person's
 41 sentence for violating probation, parole, or community corrections
 42 and the revocation of the person's sentence is due to a new



1 criminal offense; or

2 (2) the person:

3 (A) is convicted of a Level 6 felony and the sentence for that
4 felony is ordered to be served consecutively to the sentence for
5 another felony;

6 (B) is convicted of a Level 6 felony that is enhanced by an
7 additional fixed term under IC 35-50-2-8 through
8 IC 35-50-2-16; or

9 (C) has received an enhanced sentence under IC 9-30-15.5-2;
10 and the person's earliest possible release date is more than three
11 hundred sixty-five (365) days after the date of sentencing.

12 A person who may not be committed to the department of correction
13 may be placed on probation, committed to the county jail, or placed in
14 community corrections for assignment to an appropriate community
15 corrections program.

16 (e) ~~After June 30, 2014, and before January 1, 2016, a sheriff is~~
17 ~~entitled to a per diem and medical expense reimbursement as described~~
18 ~~in P.L.205-2013, SECTION 4 for the cost of incarcerating a person~~
19 ~~described in subsections (c) and (d) in a county jail. The sheriff is~~
20 ~~entitled to a per diem and medical expense reimbursement only for the~~
21 ~~time that the person described in subsections (c) and (d) is incarcerated~~
22 ~~in the county jail. The reimbursement:~~

23 (1) shall be reviewed by the budget committee; and

24 (2) is subject to approval by the budget agency.

25 (f) (e) Subject to appropriation from the general assembly, a sheriff
26 is entitled to a per diem and medical expense reimbursement from the
27 department of correction for the cost of incarcerating a person
28 described in subsections (c) and (d) in a county jail. The sheriff is
29 entitled to a per diem and medical expense reimbursement only for the
30 time that the person described in subsections (c) and (d) is incarcerated
31 in the county jail.

32 (f) **Per diem and medical expense reimbursements received by**
33 **a county under this section or received by a county from the state**
34 **under any other law for the purpose of reimbursing sheriffs for the**
35 **cost of incarcerating in county jails persons convicted of felonies:**

36 (1) shall be deposited in the county general fund; and

37 (2) upon appropriation by the county fiscal body, shall be used
38 by the county sheriff only for the purposes of paying the costs
39 of incarcerating in the county jail persons described in
40 subsections (c) and (d) or other persons convicted of felonies.

41 (g) The county auditor shall semiannually provide to the county
42 fiscal body and the county sheriff an itemized record of the per



1 diem and medical expense reimbursements received by the county
2 under this section or under any other law for the purpose of
3 reimbursing sheriffs for the cost of incarcerating persons convicted
4 of felonies.

5 (h) The following apply to the per diem and medical expense
6 reimbursements paid by the department of correction under this
7 section or under any other law for the purpose of reimbursing
8 county sheriffs for the cost of incarcerating persons convicted of
9 felonies:

10 (1) The department of correction shall collaborate with
11 county sheriffs to create a standard process to provide for the
12 payment of the per diem and medical expense
13 reimbursements.

14 (2) The monthly payment of the per diem and medical expense
15 reimbursements shall be calculated based on information
16 contained in an affidavit submitted by the county sheriff to
17 the department of correction.

18 (3) If a county sheriff submits:
19 (A) a request for the payment of per diem and medical
20 expense reimbursements; and
21 (B) an affidavit containing the information required by the
22 department of correction;

23 not later than the tenth day of a month, the department of
24 correction shall pay the appropriate per diem and medical
25 expense reimbursements to the county not later than the
26 twentieth day of that same month.

27 (4) Per diem and medical expense reimbursements paid by the
28 department of correction under this section or under any
29 other law for the purpose of reimbursing sheriffs for the cost
30 of incarcerating persons convicted of felonies shall be
31 distributed by the department of correction to the county in
32 which the person for whom the per diem and medical expense
33 reimbursements are paid is incarcerated.

34 SECTION 8. IC 36-1-8-19 IS ADDED TO THE INDIANA CODE
35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
36 1, 2018]: Sec. 19. (a) In addition to any other requirements, after
37 June 30, 2018, a county may not begin the construction or
38 reconstruction of a county jail or submit final plans and
39 specifications for the construction or reconstruction of a county jail
40 to the department of correction under IC 11-12-4-5, unless the
41 county fiscal body first:

42 (1) prepares or causes to be prepared a feasibility study of



1 possible alternatives to the construction or reconstruction of
2 the county jail; and
3 (2) holds a public hearing on the feasibility study.
4 (b) The feasibility study required by subsection (a)(1) must
5 include the following information:
6 (1) The feasibility of housing inmates in the county jail of
7 another county or in a multicounty jail established by two (2)
8 or more counties.
9 (2) A projection of the county's future jail needs and an
10 estimate of the number and characteristics of future inmates.
11 (3) An estimate of the costs, tax rates, and debt service
12 amounts that would result from each of the alternatives
13 addressed by the feasibility study.
14 (c) The county fiscal body shall allow the public to testify at the
15 public hearing on the feasibility study required by subsection
16 (a)(1). Notice of the public hearing must be given in accordance
17 with IC 5-3-1. The notice must state that on the given day, time,
18 and place, the county fiscal body will meet to discuss the feasibility
19 study and hear testimony from the public regarding the feasibility
20 study.
21 SECTION 9. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1263, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1263 as introduced.)

BROWN T

Committee Vote: Yeas 16, Nays 0

 REPORT OF THE PRESIDENT
 PRO TEMPORE

Madam President: Pursuant to Senate Rule 68(b), I hereby report that House Bill 1263, currently assigned to the Committee on Local Government, be reassigned to the Committee on Tax and Fiscal Policy.

LONG

 COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1263, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3.6-7-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2018]: **Sec. 12.5. (a) This section applies to Jennings County.**

(b) The county council may, by ordinance, determine that additional local income tax revenue is needed in the county to do the following:

(1) Finance, construct, acquire, improve, renovate, and equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.



(2) Repay bonds issued or leases entered into for the purposes described in subdivision (1).

(3) Operate and maintain the facilities described in subdivision (1).

(c) If the county council makes the determination set forth in subsection (b), the county council may adopt an ordinance to impose a local income tax rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%);
- (8) five-tenths percent (0.5%);
- (9) fifty-five hundredths percent (0.55%);
- (10) six-tenths percent (0.6%); or
- (11) sixty-five hundredths percent (0.65%).

The tax rate may not be greater than the rate necessary to pay for the purposes described in subsection (b).

(d) The tax rate used to pay for the purposes described in subsection (b)(1) and (b)(2) may be imposed only until the latest of the following dates:

- (1) The date on which the financing, construction, acquisition, improvement, renovation, and equipping of the facilities as described in subsection (b) are completed.
- (2) The date on which the last of any bonds issued (including refunding bonds) or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b) are fully paid.
- (3) The date on which an ordinance adopted under subsection (c) is rescinded.

(e) The tax rate under this section may be imposed beginning on the effective date of the ordinance as provided in IC 6-3.6-3-3 and until the date on which the ordinance adopted under this section is rescinded.

(f) The term of a bond issued (including any refunding bond) or a lease entered into under subsection (b) may not exceed twenty-five (25) years.

(g) The county treasurer shall establish a county jail revenue fund to be used only for the purposes described in this section.



Local income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund.

(h) Local income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;**
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and**
- (3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (b).**

(i) The use of local income tax revenues as provided in this section is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of local income tax revenues as provided in this section to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping of the facilities described in subsection (b), rather than the use of property taxes, promotes those purposes.

(j) Money accumulated from the local income tax rate imposed under this section after the termination of the tax under this section shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

SECTION 2. IC 6-3.6-7-19, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This section applies only to Randolph County.

(b) Randolph County possesses:

- (1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 (before its repeal) for a prior year; and
- (2) unique capital financing needs related to the purposes described in this section.

(c) The county fiscal body may impose a tax on the adjusted gross income of local taxpayers at a tax rate that does not exceed the lesser of the following:

- (1) Twenty-five hundredths percent (0.25%).
- (2) The rate necessary to carry out the purposes described in this section.

EH 1263—LS 6323/DI 73



(d) Revenues from a tax under this section may be used only for the following purposes:

(1) Financing, constructing, acquiring, renovating, ~~and~~ equipping, **and operating** the county courthouse, **the county jail, public safety improvements, and other county facilities**, and financing and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into, for constructing, acquiring, renovating, and equipping the county courthouse, **the county jail, public safety improvements, and other county facilities** and for renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions.

(2) Financing, constructing, acquiring, renovating, and equipping buildings for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

(3) Financing, constructing, acquiring, and renovating firefighting apparatus or other related equipment for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

SECTION 3. IC 6-3.6-7-21.5, AS ADDED BY P.L.197-2016, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 21.5. (a) This section applies only to Tipton County.

(b) The county council may, by ordinance, determine that additional local income tax revenue is needed in the county to:

(1) finance the:

(A) construction, acquisition, and equipping of the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and

(B) improvement, renovation, remodeling, repair, and equipping of the courthouse to address security concerns and mitigate excess moisture in the courthouse; ~~and~~

(2) repay bonds issued or leases entered into for the purposes described in subdivision (1); **and**

(3) operate and maintain facilities described in subdivision (1).

(c) If the county council makes the determination set forth in subsection (b), the county council may adopt an ordinance to impose a local income tax rate of:

(1) fifteen-hundredths percent (0.15%);

EH 1263—LS 6323/DI 73



- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%); or
- (6) four-tenths percent (0.4%).

The tax rate may not be imposed at a rate greater than is necessary to pay for the purposes described in subsection (b).

(d) The tax imposed under this section may be imposed only until the ~~later of the date on which:~~ **latest of the following dates:**

- (1) **The date on which** the financing for constructing, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) is completed. ~~or~~
- (2) The last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are fully paid.
- (3) **The date on which an ordinance adopted under subsection (c) is rescinded.**

The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty (20) years.

(e) The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in this section. Local income tax revenues derived from the tax rate imposed under this section shall be deposited in the county facilities revenue fund.

(f) Local income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible ad valorem property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for the purposes described in subsection (b).

(g) Tipton County possesses unique governmental and economic development challenges and opportunities due to:

- (1) the county's heavy agricultural base;
- (2) deficiencies in the current county jail, including:
 - (A) overcrowding;
 - (B) lack of program and support space for efficient jail operations;
 - (C) inadequate line of sight supervision of inmates, due to current jail configuration;



- (D) lack of adequate housing for an increasing female inmate population and inmates with special needs;
- (E) lack of adequate administrative space; and
- (F) increasing maintenance demands and costs resulting from having aging facilities;
- (3) the presence of a large industrial employer that offers the opportunity to expand the income tax base; and
- (4) the presence of the historic Tipton County jail and sheriff's home, listed on the National Register of Historic Places.

The use of local income tax revenue as provided in this section is necessary for the county to provide adequate jail facilities in the county and to maintain low property tax rates essential to economic development. The use of local income tax revenues as provided in this section to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b), rather than the use of property taxes, promotes those purposes.

(h) Money accumulated from the local income tax rate imposed under this section after:

- (1) the redemption of bonds issued; ~~or~~
- (2) the final payment of lease rentals due under a lease entered into under this section; **and**
- (3) the termination of the tax under this section;**

shall be transferred to the county rainy day fund under IC 36-1-8-5.1.

SECTION 4. IC 6-3.6-7-22, AS ADDED BY P.L.243-2015, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) This section applies only to Union County.

(b) Union County possesses unique economic development challenges due to:

- (1) the county's heavy agricultural base;
- (2) the presence of a large amount of state owned property in the county that is exempt from property taxation; and
- (3) recent obligations of the school corporation in the county that have already increased property taxes in the county and imposed additional property tax burdens on the county's agricultural base.

Maintaining low property tax rates is essential to economic development. The use of a tax under this section for the purposes described in this section, rather than the use of property taxes, promotes these purposes.

(c) The county fiscal body may impose a tax on the adjusted gross income of local taxpayers at a tax rate that does not exceed the lesser



of the following:

- (1) Twenty-five hundredths percent (0.25%).
- (2) The rate necessary to carry out the purposes described in this section.

(d) Revenue raised from a tax under this section may be used only for the following purposes:

- (1) To finance, construct, acquire, improve, renovate, ~~or~~ equip, **or operate:**

- (A) the county courthouse;
- (B) **the county jail; or**
- (C) **other county criminal justice facilities.**

- (2) To repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping:

- (A) the county courthouse;
- (B) **the county jail; or**
- (C) **other county criminal justice facilities.**

(e) The tax imposed under this section may be imposed only until the last of the following dates:

- (1) The date on which **both of the following have occurred:**
 - (A) The purposes described in subsection (d)(1) are completed.
 - (B) **The county fiscal body adopts an ordinance to repeal the tax imposed on the adjusted gross income of local taxpayers under subsection (c).**

- (2) The date on which the last of any bonds issued (including any refunding bonds) or leases described in subsection (d)(2) are fully paid.

The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (d)(2) may not exceed twenty-two (22) years.

(f) Funds accumulated from a tax under this section after:

- (1) the redemption of the bonds issued; ~~or~~
- (2) the final payment of lease rentals due under a lease entered into under this section; ~~or~~
- (3) **the adoption of an ordinance to repeal the tax imposed under this section;**

shall be transferred to the county ~~highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.~~ **rainy day fund established under IC 36-1-8-5.1."**

Page 1, between lines 10 and 11, begin a new paragraph and insert:
"SECTION 6. IC 11-12-5.5 IS ADDED TO THE INDIANA CODE



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 5.5. Regional Jails

Sec. 1. As used in this chapter, "regional jail agreement" means an agreement described in section 2(a) of this chapter.

Sec. 2. (a) Subject to the requirements of this chapter, the executive of a county may enter into an agreement under IC 36-1-7 with one (1) or more entities described in IC 36-1-7-1 for the construction, maintenance, or operation of a regional jail.

(b) In the case of a county, the county executive may not enter into a regional jail agreement under this chapter unless the regional jail agreement is first approved by both the county fiscal body and the county sheriff.

Sec. 3. In addition to the provisions required under IC 36-1-7-3, a regional jail agreement must include terms concerning the following:

- (1) The location of the regional jail.
- (2) The acquisition, construction, leasing, maintenance, repair, operation, termination of operations, and administration of the regional jail.
- (3) The manner in which each participating entity's proportionate share of the funding for the regional jail will be determined.
- (4) The manner in which any:
 - (A) per diem paid by the state; or
 - (B) other reimbursement paid by the state;
 for the costs of incarcerating individuals in a county jail or the costs of medical care expenses incurred for individuals in a county jail will be used by the participating entities.
- (5) Any pledge of local revenue that will be required to carry out the regional agreement or to pay bonds issued or leases entered into by a participating entity to carry out the regional jail agreement.
- (6) The standards that will apply to the regional jail.
- (7) The method of determining the inmate programs, activities, and services that will be provided at the regional jail.
- (8) The method of resolving disputes among the participating entities concerning the regional jail agreement, if any such disputes arise.

Sec. 4. If the participating entities determine that the regional jail agreement entered into under this chapter shall be



administered by a separate legal entity as authorized by IC 36-1-7-3(a)(5)(A) or by a joint board as authorized by IC 36-1-7-3(a)(5)(B), the county sheriff of each county participating in the agreement (or the county sheriff's designee) must be included as a member on the governing board of the separate legal entity or as a member of the joint board.

Sec. 5. This chapter supplements and does not limit the authority of any entity to enter into an agreement under IC 36-1-7 concerning regional or multicounty jails.

SECTION 7. IC 35-38-3-3, AS AMENDED BY P.L.7-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Except as provided by subsection (b), a person convicted of a misdemeanor may not be committed to the department of correction.

(b) Upon a request from the sheriff, the commissioner may agree to accept custody of a misdemeanor:

- (1) if placement in the county jail:
 - (A) places the inmate in danger of serious bodily injury or death; or
 - (B) represents a substantial threat to the safety of others;
- (2) for other good cause shown; or
- (3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of:
 - (A) consecutive misdemeanor sentences; or
 - (B) a sentencing enhancement applied to a misdemeanor sentence.

(c) After June 30, 2014, and before January 1, 2016, a court may not commit a person convicted of a Level 6 felony to the department of correction if the person's earliest possible release date is less than ninety-one (91) days from the date of sentencing, unless the commitment is due to the person violating a condition of probation, parole, or community corrections by committing a new criminal offense.

(d) After December 31, 2015, a court may not commit a person convicted of a Level 6 felony to the department of correction unless:

- (1) the commitment is due to the revocation of the person's sentence for violating probation, parole, or community corrections and the revocation of the person's sentence is due to a new criminal offense; or
- (2) the person:
 - (A) is convicted of a Level 6 felony and the sentence for that felony is ordered to be served consecutively to the sentence for



another felony;

(B) is convicted of a Level 6 felony that is enhanced by an additional fixed term under IC 35-50-2-8 through IC 35-50-2-16; or

(C) has received an enhanced sentence under IC 9-30-15.5-2; and the person's earliest possible release date is more than three hundred sixty-five (365) days after the date of sentencing.

A person who may not be committed to the department of correction may be placed on probation, committed to the county jail, or placed in community corrections for assignment to an appropriate community corrections program.

(e) After June 30, 2014, and before January 1, 2016, a sheriff is entitled to a per diem and medical expense reimbursement as described in P.L.205-2013, SECTION 4 for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail. The reimbursement:

(1) shall be reviewed by the budget committee; and

(2) is subject to approval by the budget agency.

(f) (e) Subject to appropriation from the general assembly, a sheriff is entitled to a per diem and medical expense reimbursement from the department of correction for the cost of incarcerating a person described in subsections (c) and (d) in a county jail. The sheriff is entitled to a per diem and medical expense reimbursement only for the time that the person described in subsections (c) and (d) is incarcerated in the county jail.

(f) Per diem and medical expense reimbursements received by a county under this section or received by a county from the state under any other law for the purpose of reimbursing sheriffs for the cost of incarcerating in county jails persons convicted of felonies:

(1) shall be deposited in the county general fund; and

(2) upon appropriation by the county fiscal body, shall be used by the county sheriff only for the purposes of paying the costs of incarcerating in the county jail persons described in subsections (c) and (d) or other persons convicted of felonies.

(g) The county auditor shall semiannually provide to the county fiscal body and the county sheriff an itemized record of the per diem and medical expense reimbursements received by the county under this section or under any other law for the purpose of reimbursing sheriffs for the cost of incarcerating persons convicted of felonies.



(h) The following apply to the per diem and medical expense reimbursements paid by the department of correction under this section or under any other law for the purpose of reimbursing county sheriffs for the cost of incarcerating persons convicted of felonies:

(1) The department of correction shall collaborate with county sheriffs to create a standard process to provide for the payment of the per diem and medical expense reimbursements.

(2) The monthly payment of the per diem and medical expense reimbursements shall be calculated based on information contained in an affidavit submitted by the county sheriff to the department of correction.

(3) If a county sheriff submits:

(A) a request for the payment of per diem and medical expense reimbursements; and

(B) an affidavit containing the information required by the department of correction;

not later than the tenth day of a month, the department of correction shall pay the appropriate per diem and medical expense reimbursements to the county not later than the twentieth day of that same month.

(4) Per diem and medical expense reimbursements paid by the department of correction under this section or under any other law for the purpose of reimbursing sheriffs for the cost of incarcerating persons convicted of felonies shall be distributed by the department of correction to the county in which the person for whom the per diem and medical expense reimbursements are paid is incarcerated."

Page 2, after line 22, begin a new paragraph and insert:

"SECTION 9. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1263 as printed January 29, 2018.)

HOLDMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

EH 1263—LS 6323/DI 73

