



January 28, 2022

SENATE BILL No. 164

DIGEST OF SB 164 (Updated January 27, 2022 11:34 am - DI 87)

Citations Affected: IC 6-1.1.

Synopsis: Coordination among units for tax abatement. Provides with regard to a rehabilitation or redevelopment project in an economic revitalization area within an excluded city, that when the designating body: (1) receives a formal request for a tax abatement or incentive; or (2) issues an offer letter for a tax abatement or incentive; the designating body must provide written notice to the excluded city.

Effective: July 1, 2022.

Young M

January 4, 2022, read first time and referred to Committee on Local Government.
January 27, 2022, amended, reported favorably — Do Pass.

SB 164—LS 6675/DI 134



January 28, 2022

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.

SENATE BILL No. 164

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

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

1 SECTION 1. IC 6-1.1-12.1-1, AS AMENDED BY P.L.288-2013,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 1. For purposes of this chapter:

4 (1) "Economic revitalization area" means an area which is within
5 the corporate limits of a city, town, or county which has become
6 undesirable for, or impossible of, normal development and
7 occupancy because of a lack of development, cessation of growth,
8 deterioration of improvements or character of occupancy, age,
9 obsolescence, substandard buildings, or other factors which have
10 impaired values or prevent a normal development of property or
11 use of property. The term "economic revitalization area" also
12 includes:

13 (A) any area where a facility or a group of facilities that are
14 technologically, economically, or energy obsolete are located
15 and where the obsolescence may lead to a decline in
16 employment and tax revenues; and

17 (B) a residentially distressed area, except as otherwise

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- 1 provided in this chapter.
- 2 (2) "City" means any city in this state, and "town" means any town
3 incorporated under IC 36-5-1.
- 4 (3) "New manufacturing equipment" means tangible personal
5 property that a deduction applicant:
- 6 (A) installs on or before the approval deadline determined
7 under section 9 of this chapter, in an area that is declared an
8 economic revitalization area in which a deduction for tangible
9 personal property is allowed;
- 10 (B) uses in the direct production, manufacture, fabrication,
11 assembly, extraction, mining, processing, refining, or finishing
12 of other tangible personal property, including but not limited
13 to use to dispose of solid waste or hazardous waste by
14 converting the solid waste or hazardous waste into energy or
15 other useful products;
- 16 (C) acquires for use as described in clause (B):
- 17 (i) in an arms length transaction from an entity that is not an
18 affiliate of the deduction applicant, if the tangible personal
19 property has been previously used in Indiana before the
20 installation described in clause (A); or
- 21 (ii) in any manner, if the tangible personal property has
22 never been previously used in Indiana before the installation
23 described in clause (A); and
- 24 (D) has never used for any purpose in Indiana before the
25 installation described in clause (A).
- 26 (4) "Property" means a building or structure, but does not include
27 land.
- 28 (5) "Redevelopment" means the construction of new structures,
29 in economic revitalization areas, either:
- 30 (A) on unimproved real estate; or
- 31 (B) on real estate upon which a prior existing structure is
32 demolished to allow for a new construction.
- 33 (6) "Rehabilitation" means the remodeling, repair, or betterment
34 of property in any manner or any enlargement or extension of
35 property.
- 36 (7) "Designating body" means the following:
- 37 (A) For a county that does not contain a consolidated city, the
38 fiscal body of the county, city, or town.
- 39 (B) For a county containing a consolidated city, the
40 metropolitan development commission. **The jurisdiction of
41 the designating body includes a rehabilitation or
42 redevelopment project under this chapter that falls within**



- 1 **the boundaries of an excluded city, as defined in**
 2 **IC 36-3-1-7.**
- 3 (8) "Deduction application" means:
- 4 (A) the application filed in accordance with section 5 of this
 5 chapter by a property owner who desires to obtain the
 6 deduction provided by section 3 of this chapter;
- 7 (B) the application filed in accordance with section 5.4 of this
 8 chapter by a person who desires to obtain the deduction
 9 provided by section 4.5 of this chapter; or
- 10 (C) the application filed in accordance with section 5.3 of this
 11 chapter by a property owner that desires to obtain the
 12 deduction provided by section 4.8 of this chapter.
- 13 (9) "Designation application" means an application that is filed
 14 with a designating body to assist that body in making a
 15 determination about whether a particular area should be
 16 designated as an economic revitalization area.
- 17 (10) "Hazardous waste" has the meaning set forth in
 18 IC 13-11-2-99(a). The term includes waste determined to be a
 19 hazardous waste under IC 13-22-2-3(b).
- 20 (11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a).
 21 However, the term does not include dead animals or any animal
 22 solid or semisolid wastes.
- 23 (12) "New research and development equipment" means tangible
 24 personal property that:
- 25 (A) a deduction applicant installs on or before the approval
 26 deadline determined under section 9 of this chapter, in an
 27 economic revitalization area in which a deduction for tangible
 28 personal property is allowed;
- 29 (B) consists of:
- 30 (i) laboratory equipment;
- 31 (ii) research and development equipment;
- 32 (iii) computers and computer software;
- 33 (iv) telecommunications equipment; or
- 34 (v) testing equipment;
- 35 (C) the deduction applicant uses in research and development
 36 activities devoted directly and exclusively to experimental or
 37 laboratory research and development for new products, new
 38 uses of existing products, or improving or testing existing
 39 products;
- 40 (D) the deduction applicant acquires for purposes described in
 41 this subdivision:
- 42 (i) in an arms length transaction from an entity that is not an



- 1 affiliate of the deduction applicant, if the tangible personal
 2 property has been previously used in Indiana before the
 3 installation described in clause (A); or
 4 (ii) in any manner, if the tangible personal property has
 5 never been previously used in Indiana before the installation
 6 described in clause (A); and
 7 (E) the deduction applicant has never used for any purpose in
 8 Indiana before the installation described in clause (A).
 9 The term does not include equipment installed in facilities used
 10 for or in connection with efficiency surveys, management studies,
 11 consumer surveys, economic surveys, advertising or promotion,
 12 or research in connection with literacy, history, or similar
 13 projects.
 14 (13) "New logistical distribution equipment" means tangible
 15 personal property that:
 16 (A) a deduction applicant installs on or before the approval
 17 deadline determined under section 9 of this chapter, in an
 18 economic revitalization area in which a deduction for tangible
 19 personal property is allowed;
 20 (B) consists of:
 21 (i) racking equipment;
 22 (ii) scanning or coding equipment;
 23 (iii) separators;
 24 (iv) conveyors;
 25 (v) fork lifts or lifting equipment (including "walk
 26 behinds");
 27 (vi) transitional moving equipment;
 28 (vii) packaging equipment;
 29 (viii) sorting and picking equipment; or
 30 (ix) software for technology used in logistical distribution;
 31 (C) the deduction applicant acquires for the storage or
 32 distribution of goods, services, or information:
 33 (i) in an arms length transaction from an entity that is not an
 34 affiliate of the deduction applicant, if the tangible personal
 35 property has been previously used in Indiana before the
 36 installation described in clause (A); and
 37 (ii) in any manner, if the tangible personal property has
 38 never been previously used in Indiana before the installation
 39 described in clause (A); and
 40 (D) the deduction applicant has never used for any purpose in
 41 Indiana before the installation described in clause (A).
 42 (14) "New information technology equipment" means tangible



- 1 personal property that:
- 2 (A) a deduction applicant installs on or before the approval
- 3 deadline determined under section 9 of this chapter, in an
- 4 economic revitalization area in which a deduction for tangible
- 5 personal property is allowed;
- 6 (B) consists of equipment, including software, used in the
- 7 fields of:
- 8 (i) information processing;
- 9 (ii) office automation;
- 10 (iii) telecommunication facilities and networks;
- 11 (iv) informatics;
- 12 (v) network administration;
- 13 (vi) software development; and
- 14 (vii) fiber optics;
- 15 (C) the deduction applicant acquires in an arms length
- 16 transaction from an entity that is not an affiliate of the
- 17 deduction applicant; and
- 18 (D) the deduction applicant never used for any purpose in
- 19 Indiana before the installation described in clause (A).
- 20 (15) "Deduction applicant" means an owner of tangible personal
- 21 property who makes a deduction application.
- 22 (16) "Affiliate" means an entity that effectively controls or is
- 23 controlled by a deduction applicant or is associated with a
- 24 deduction applicant under common ownership or control, whether
- 25 by shareholdings or other means.
- 26 (17) "Eligible vacant building" means a building that:
- 27 (A) is zoned for commercial or industrial purposes; and
- 28 (B) is unoccupied for at least one (1) year before the owner of
- 29 the building or a tenant of the owner occupies the building, as
- 30 evidenced by a valid certificate of occupancy, paid utility
- 31 receipts, executed lease agreements, or any other evidence of
- 32 occupation that the department of local government finance
- 33 requires.
- 34 SECTION 2. IC 6-1.1-12.1-2.6 IS ADDED TO THE INDIANA
- 35 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 36 **[EFFECTIVE JULY 1, 2022]: Sec. 2.6. (a) This section applies only**
- 37 **to a county having a consolidated city.**
- 38 **(b) As used in this section "excluded city" has the meaning set**
- 39 **forth in IC 36-3-1-7.**
- 40 **(c) A designating body or a contracted entity working on the**
- 41 **designating body's behalf that receives a formal tax abatement or**
- 42 **incentive request for a project located in an excluded city, shall**



1 exercise due diligence by providing written notice to the excluded
2 city of the request and details of the investment and jobs before
3 any formal incentive negotiation proceeding. The notice shall be
4 delivered by certified mail that includes return receipt or any other
5 means of delivery that provides for verification or acknowledgment
6 of receipt.

7 (d) Not more than five (5) business days after the date of receipt
8 of the notice under subsection (c), an excluded city may deliver a
9 written response to the designating body or contracted entity
10 working on the designating body's behalf that states the excluded
11 city's position regarding the abatement or incentive request. If a
12 written response is not received from the excluded city within the
13 time specified, the designating body or contracted entity shall
14 assume that the excluded city is in favor of the request and the
15 designating body may proceed with formal incentive negotiations.

16 (e) When an offer letter is extended to an applicant for a tax
17 abatement or incentive request, the designating body shall notify
18 the legislative body of the excluded city in writing by certified mail
19 that includes return receipt or any other means of delivery that
20 provides for verification or acknowledgment of receipt. The
21 legislative body of the excluded city may adopt a resolution stating
22 the legislative body's position on the recommendation not later
23 than thirty (30) business days after receipt of the notice. The
24 resolution shall serve as official communication of the legislative
25 body of the excluded city to the designating body.



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 164, 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 2, line 40, delete "If" and insert "**The jurisdiction of the designating body includes**".

Page 2, line 41, after "chapter" insert "**that**".

Page 2, line 42, delete "IC 36-3-1-7," and insert "**IC 36-3-1-7**".

Page 3, delete lines 1 through 2.

Page 5, after line 33, begin a new paragraph and insert:

"SECTION 2. IC 6-1.1-12.1-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 2.6. (a) This section applies only to a county having a consolidated city.**

(b) As used in this section "excluded city" has the meaning set forth in IC 36-3-1-7.

(c) A designating body or a contracted entity working on the designating body's behalf that receives a formal tax abatement or incentive request for a project located in an excluded city, shall exercise due diligence by providing written notice to the excluded city of the request and details of the investment and jobs before any formal incentive negotiation proceeding. The notice shall be delivered by certified mail that includes return receipt or any other means of delivery that provides for verification or acknowledgment of receipt.

(d) Not more than five (5) business days after the date of receipt of the notice under subsection (c), an excluded city may deliver a written response to the designating body or contracted entity working on the designating body's behalf that states the excluded city's position regarding the abatement or incentive request. If a written response is not received from the excluded city within the time specified, the designating body or contracted entity shall assume that the excluded city is in favor of the request and the designating body may proceed with formal incentive negotiations.

(e) When an offer letter is extended to an applicant for a tax abatement or incentive request, the designating body shall notify the legislative body of the excluded city in writing by certified mail that includes return receipt or any other means of delivery that provides for verification or acknowledgment of receipt. The legislative body of the excluded city may adopt a resolution stating the legislative body's position on the recommendation not later



than thirty (30) business days after receipt of the notice. The resolution shall serve as official communication of the legislative body of the excluded city to the designating body."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 164 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 9, Nays 0.

