

SENATE BILL No. 237

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-4-31.5; IC 12-19-1-22; IC 14-9-9-8; IC 36-2-7-10.

Synopsis: Appropriations of county funds. Specifies that money in certain county funds may be paid from those funds only upon appropriation by the county fiscal body. (Current law governing those funds allows money to be paid or distributed from the funds without appropriation.)

Effective: July 1, 2015.

Smith J

January 6, 2015, read first time and referred to Committee on Appropriations.



First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 237



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 6-1.1-4-31.5, AS AMENDED BY P.L.112-2012,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 31.5. (a) As used in this section, "department"
4 refers to the department of local government finance.
5 (b) If the department makes a determination and informs local
6 officials under section 31(c) of this chapter, the department may order
7 a state conducted assessment or reassessment in the county subject to
8 the time limitation in that subsection.
9 (c) If the department orders a state conducted assessment or
10 reassessment in a county, the department shall assume the duties of the
11 county assessor. Notwithstanding sections 15 and 17 of this chapter, a
12 county assessor subject to an order issued under this section may not
13 assess property or have property assessed for the assessment or general
14 reassessment under section 4 of this chapter or under a county's
15 reassessment plan prepared under section 4.2 of this chapter. Until the
16 state conducted assessment or reassessment is completed under this



1 section, the assessment or reassessment duties of the county assessor
 2 are limited to providing the department or a contractor of the
 3 department the support and information requested by the department
 4 or the contractor.

5 (d) Before assuming the duties of a county assessor, the department
 6 shall transmit a copy of the department's order requiring a state
 7 conducted assessment or reassessment to the county assessor, the
 8 county fiscal body, the county auditor, and the county treasurer. Notice
 9 of the department's actions must be published one (1) time in a
 10 newspaper of general circulation published in the county. The
 11 department is not required to conduct a public hearing before taking
 12 action under this section.

13 (e) A county assessor subject to an order issued under this section
 14 shall, at the request of the department or the department's contractor,
 15 make available and provide access to all:

- 16 (1) data;
- 17 (2) records;
- 18 (3) maps;
- 19 (4) parcel record cards;
- 20 (5) forms;
- 21 (6) computer software systems;
- 22 (7) computer hardware systems; and
- 23 (8) other information;

24 related to the assessment or reassessment of real property in the county.
 25 The information described in this subsection must be provided at no
 26 cost to the department or the contractor of the department. A failure to
 27 provide information requested under this subsection constitutes a
 28 failure to perform a duty related to an assessment or a general
 29 reassessment under section 4 of this chapter or under a county's
 30 reassessment plan prepared under section 4.2 of this chapter and is
 31 subject to IC 6-1.1-37-2.

32 (f) The department may enter into a contract with a professional
 33 appraising firm to conduct an assessment or reassessment under this
 34 section. If a county entered into a contract with a professional
 35 appraising firm to conduct the county's assessment or reassessment
 36 before the department orders a state conducted assessment or
 37 reassessment in the county under this section, the contract:

- 38 (1) is as valid as if it had been entered into by the department; and
- 39 (2) shall be treated as the contract of the department.

40 (g) After receiving the report of assessed values from the appraisal
 41 firm acting under a contract described in subsection (f), the department
 42 shall give notice to the taxpayer and the county assessor, by mail, of the



1 amount of the assessment or reassessment. The notice of assessment or
2 reassessment:

3 (1) is subject to appeal by the taxpayer under section 31.7 of this
4 chapter; and

5 (2) must include a statement of the taxpayer's rights under section
6 31.7 of this chapter.

7 (h) The department shall forward a bill for services provided under
8 a contract described in subsection (f) to the auditor of the county in
9 which the state conducted reassessment occurs. The county shall pay
10 the bill under the procedures prescribed by subsection (i).

11 (i) A county subject to an order issued under this section shall pay
12 the cost of a contract described in subsection (f), ~~without~~ **upon**
13 **appropriation by the county fiscal body**, from the county property
14 reassessment fund. A contractor may periodically submit bills for
15 partial payment of work performed under the contract. Notwithstanding
16 any other law, a contractor is entitled to payment under this subsection
17 for work performed under a contract if the contractor:

18 (1) submits to the department a fully itemized, certified bill in the
19 form required by IC 5-11-10-1 for the costs of the work performed
20 under the contract;

21 (2) obtains from the department:

22 (A) approval of the form and amount of the bill; and

23 (B) a certification that the billed goods and services have been
24 received and comply with the contract; and

25 (3) files with the county auditor:

26 (A) a duplicate copy of the bill submitted to the department;

27 (B) proof of the department's approval of the form and amount
28 of the bill; and

29 (C) the department's certification that the billed goods and
30 services have been received and comply with the contract.

31 The department's approval and certification of a bill under subdivision
32 (2) shall be treated as conclusively resolving the merits of a contractor's
33 claim. Upon receipt of the documentation described in subdivision (3),
34 the county auditor shall immediately certify that the bill is true and
35 correct without further audit and submit the claim to the county
36 executive. The county executive shall allow the claim, in full, as
37 approved by the department, without further examination of the merits
38 of the claim in a regular or special session that is held not less than
39 three (3) days and not more than seven (7) days after the date the claim
40 is certified by the county fiscal officer if the procedures in IC 5-11-10-2
41 are used to approve the claim or the date the claim is placed on the
42 claim docket under IC 36-2-6-4 if the procedures in IC 36-2-6-4 are



1 used to approve the claim. Upon allowance of the claim by the county
 2 executive, the county auditor shall immediately issue a warrant or
 3 check for the full amount of the claim approved by the department.
 4 Compliance with this subsection constitutes compliance with
 5 IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and
 6 payment of a claim in compliance with this subsection is not subject to
 7 remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply
 8 to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies
 9 to a fiscal officer who pays a claim in compliance with this subsection.

10 (j) Notwithstanding IC 4-13-2, a period of seven (7) days is
 11 permitted for each of the following to review and act under IC 4-13-2
 12 on a contract of the department entered into under this section:

13 (1) The commissioner of the Indiana department of
 14 administration.

15 (2) The director of the budget agency.

16 (3) The attorney general.

17 (k) If money in the county's property reassessment fund is
 18 insufficient to pay for an assessment or reassessment conducted under
 19 this section, the department may increase the tax rate and tax levy of
 20 the county's property reassessment fund to pay the cost and expenses
 21 related to the assessment or reassessment.

22 (l) The department or the contractor of the department shall use the
 23 land values determined under section 13.6 of this chapter for a county
 24 subject to an order issued under this section to the extent that the
 25 department or the contractor finds that the land values reflect the true
 26 tax value of land, as determined under this article and the rules of the
 27 department. If the department or the contractor finds that the land
 28 values determined for the county under section 13.6 of this chapter do
 29 not reflect the true tax value of land, the department or the contractor
 30 shall determine land values for the county that reflect the true tax value
 31 of land, as determined under this article and the rules of the
 32 department. Land values determined under this subsection shall be
 33 used to the same extent as if the land values had been determined under
 34 section 13.6 of this chapter. The department or the contractor of the
 35 department shall notify the county's assessing officials of the land
 36 values determined under this subsection.

37 (m) A contractor of the department may notify the department if:

38 (1) a county auditor fails to:

39 (A) certify the contractor's bill;

40 (B) publish the contractor's claim;

41 (C) submit the contractor's claim to the county executive; or

42 (D) issue a warrant or check for payment of the contractor's



- 1 bill;
- 2 as required by subsection (i) at the county auditor's first legal
- 3 opportunity to do so;
- 4 (2) a county executive fails to allow the contractor's claim as
- 5 legally required by subsection (i) at the county executive's first
- 6 legal opportunity to do so; or
- 7 (3) a person or an entity authorized to act on behalf of the county
- 8 takes or fails to take an action, including failure to request an
- 9 appropriation, and that action or failure to act delays or halts
- 10 progress under this section for payment of the contractor's bill.
- 11 (n) The department, upon receiving notice under subsection (m)
- 12 from a contractor of the department, shall:
- 13 (1) verify the accuracy of the contractor's assertion in the notice
- 14 that:
- 15 (A) a failure occurred as described in subsection (m)(1) or
- 16 (m)(2); or
- 17 (B) a person or an entity acted or failed to act as described in
- 18 subsection (m)(3); and
- 19 (2) provide to the treasurer of state the department's approval
- 20 under subsection (i)(2)(A) of the contractor's bill with respect to
- 21 which the contractor gave notice under subsection (m).
- 22 (o) Upon receipt of the department's approval of a contractor's bill
- 23 under subsection (n), the treasurer of state shall pay the contractor the
- 24 amount of the bill approved by the department from money in the
- 25 possession of the state that would otherwise be available for
- 26 distribution to the county, including distributions of admissions taxes
- 27 or wagering taxes.
- 28 (p) The treasurer of state shall withhold from the money that would
- 29 be distributed under IC 4-33-12-6, IC 4-33-13-5, or any other law to a
- 30 county described in a notice provided under subsection (m) the amount
- 31 of a payment made by the treasurer of state to the contractor of the
- 32 department under subsection (o). Money shall be withheld from any
- 33 source payable to the county.
- 34 (q) Compliance with subsections (m) through (p) constitutes
- 35 compliance with IC 5-11-10.
- 36 (r) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to
- 37 the payment made in compliance with subsections (m) through (p).
- 38 This subsection and subsections (m) through (p) must be interpreted
- 39 liberally so that the state shall, to the extent legally valid, ensure that
- 40 the contractual obligations of a county subject to this section are paid.
- 41 Nothing in this section shall be construed to create a debt of the state.
- 42 (s) The provisions of this section are severable as provided in



1 IC 1-1-1-8(b).
 2 SECTION 2. IC 12-19-1-22, AS AMENDED BY P.L.146-2008,
 3 SECTION 407, IS AMENDED TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2015]: Sec. 22. Each official and body
 5 responsible for the levying of taxes for the county must ensure that
 6 sufficient levies are made to meet the principal and interest on all
 7 bonds issued and loans made under this article before January 1, 2009,
 8 at the time fixed for the payment of the principal and interest, without
 9 regard to any other statute. If an official or a body fails or refuses to
 10 make or allow a sufficient levy required by this section, the bonds and
 11 loans and the interest on the bonds and loans shall be payable out of the
 12 county general fund ~~without~~ **upon** appropriation **by the county fiscal**
 13 **body.**
 14 SECTION 3. IC 14-9-9-8, AS AMENDED BY P.L.219-2014,
 15 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]: Sec. 8. (a) If a county is awarded a grant under this
 17 chapter, the county must establish a special account within the county's
 18 general fund. The grant must be deposited in the special account for the
 19 county sheriff's or fiscal body's exclusive use in providing law
 20 enforcement services on lakes or boundary waters located within the
 21 county.
 22 (b) The county sheriff or fiscal body may use grant money as
 23 authorized under this chapter ~~without~~ **upon** appropriation ~~However, by~~
 24 **the county fiscal body.** Itemized receipts for expenditures of money
 25 granted from the fund must be submitted for inspection and review
 26 upon request of the department. At the request of the department, the
 27 county auditor of the participating county shall conduct an audit of the
 28 account.
 29 (c) The receipt of a grant under this chapter may not be used as a
 30 basis for lowering the county's maximum permissible ad valorem
 31 property tax levy.
 32 (d) All individuals providing law enforcement services using a grant
 33 under this chapter, whether under the authority of the county sheriff or
 34 under a contract with the fiscal body, must meet the minimum training
 35 requirement set forth in IC 5-2-1-9.
 36 SECTION 4. IC 36-2-7-10, AS AMENDED BY P.L.125-2014,
 37 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2015]: Sec. 10. (a) The county recorder shall tax and collect
 39 the fees prescribed by this section for recording, filing, copying, and
 40 other services the recorder renders, and shall pay them into the county
 41 treasury at the end of each calendar month. The fees prescribed and
 42 collected under this section supersede all other recording fees required



1 by law to be charged for services rendered by the county recorder.

2 (b) The county recorder shall charge the following:

3 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each
4 additional page of any document the recorder records if the pages
5 are not larger than eight and one-half (8 1/2) inches by fourteen
6 (14) inches.

7 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for
8 each additional page of any document the recorder records, if the
9 pages are larger than eight and one-half (8 1/2) inches by fourteen
10 (14) inches.

11 (3) For attesting to the release, partial release, or assignment of
12 any mortgage, judgment, lien, or oil and gas lease contained on a
13 multiple transaction document, the fee for each transaction after
14 the first is the amount provided in subdivision (1) plus the amount
15 provided in subdivision (4) and one dollar (\$1) for marginal
16 mortgage assignments or marginal mortgage releases.

17 (4) One dollar (\$1) for each cross-reference of a recorded
18 document.

19 (5) One dollar (\$1) per page not larger than eight and one-half (8
20 1/2) inches by fourteen (14) inches for furnishing copies of
21 records and two dollars (\$2) per page that is larger than eight and
22 one-half (8 1/2) inches by fourteen (14) inches.

23 (6) Five dollars (\$5) for acknowledging or certifying to a
24 document.

25 (7) Five dollars (\$5) for each deed the recorder records, in
26 addition to other fees for deeds, for the county surveyor's corner
27 perpetuation fund for use as provided in IC 21-47-3-3 or
28 IC 36-2-12-11(e).

29 (8) A fee in an amount authorized under IC 5-14-3-8 for
30 transmitting a copy of a document by facsimile machine.

31 (9) A fee in an amount authorized by an ordinance adopted by the
32 county legislative body for duplicating a computer tape, a
33 computer disk, an optical disk, microfilm, or similar media. This
34 fee may not cover making a handwritten copy or a photocopy or
35 using xerography or a duplicating machine.

36 (10) A supplemental fee of three dollars (\$3) for recording a
37 document that is paid at the time of recording. The fee under this
38 subdivision is in addition to other fees provided by law for
39 recording a document.

40 (11) Three dollars (\$3) for each mortgage on real estate recorded,
41 in addition to other fees required by this section, distributed as
42 follows:



- 1 (A) Fifty cents (\$0.50) is to be deposited in the recorder's
 2 record perpetuation fund.
- 3 (B) Two dollars and fifty cents (\$2.50) is to be distributed to
 4 the auditor of state on or before June 20 and December 20 of
 5 each year as provided in IC 24-9-9-3.
- 6 (12) This subdivision applies in a county only if at least one (1)
 7 unit in the county has established an affordable housing fund
 8 under IC 5-20-5-15.5 and the county fiscal body adopts an
 9 ordinance authorizing the fee described in this subdivision. An
 10 ordinance adopted under this subdivision may authorize the
 11 county recorder to charge a fee of:
- 12 (A) two dollars and fifty cents (\$2.50) for the first page; and
 13 (B) one dollar (\$1) for each additional page;
 14 of each document the recorder records.
- 15 (13) This subdivision applies in a county containing a
 16 consolidated city that has established a housing trust fund under
 17 IC 36-7-15.1-35.5(e). The county fiscal body may adopt an
 18 ordinance authorizing the fee described in this subdivision. An
 19 ordinance adopted under this subdivision may authorize the
 20 county recorder to charge a fee of:
- 21 (A) two dollars and fifty cents (\$2.50) for the first page; and
 22 (B) one dollar (\$1) for each additional page;
 23 of each document the recorder records.
- 24 (c) The county recorder shall charge a two dollar (\$2) county
 25 identification security protection fee for recording or filing a document.
 26 This fee shall be deposited under IC 36-2-7.5-6.
- 27 (d) The county treasurer shall establish a recorder's records
 28 perpetuation fund. All revenue received under section 10.1 of this
 29 chapter, subsection (b)(5), (b)(8), (b)(9), and (b)(10), and
 30 IC 36-2-7.5-6(b)(1), and fifty cents (\$0.50) from revenue received
 31 under subsection (b)(11), shall be deposited in this fund. Except as
 32 provided in section 10.2 of this chapter, the county recorder may use
 33 any money in this fund ~~without~~ **upon appropriation by the county**
 34 **fiscal body** for:
- 35 (1) the preservation of records; and
 36 (2) the improvement of record keeping systems and equipment;
 37 within the control of the county recorder. Money from the fund may not
 38 be deposited or transferred into the county general fund and does not
 39 revert to the county general fund at the end of a fiscal year.
- 40 (e) As used in this section, "record" or "recording" includes the
 41 functions of recording, filing, and filing for record.
- 42 (f) The county recorder shall post the fees set forth in subsection (b)



1 in a prominent place within the county recorder's office where the fee
2 schedule will be readily accessible to the public.

3 (g) The county recorder may not tax or collect any fee for:

4 (1) recording an official bond of a public officer, a deputy, an
5 appointee, or an employee; or

6 (2) performing any service under any of the following:

7 (A) IC 6-1.1-22-2(c).

8 (B) IC 8-23-7.

9 (C) IC 8-23-23.

10 (D) IC 10-17-2-3.

11 (E) IC 10-17-3-2.

12 (F) IC 12-14-13.

13 (G) IC 12-14-16.

14 (h) The state and its agencies and instrumentalities are required to
15 pay the recording fees and charges that this section prescribes.

16 (i) This subsection applies to a county other than a county
17 containing a consolidated city. The county treasurer shall distribute
18 money collected by the county recorder under subsection (b)(12) as
19 follows:

20 (1) Sixty percent (60%) of the money collected by the county
21 recorder under subsection (b)(12) shall be distributed to the units
22 in the county that have established an affordable housing fund
23 under IC 5-20-5-15.5 for deposit in the fund. The amount to be
24 distributed to a unit is the amount available for distribution
25 multiplied by a fraction. The numerator of the fraction is the
26 population of the unit. The denominator of the fraction is the
27 population of all units in the county that have established an
28 affordable housing fund. The population to be used for a county
29 that establishes an affordable housing fund is the population of
30 the county outside any city or town that has established an
31 affordable housing fund.

32 (2) Forty percent (40%) of the money collected by the county
33 recorder under subsection (b)(12) shall be distributed to the
34 treasurer of state for deposit in the affordable housing and
35 community development fund established under IC 5-20-4-7 for
36 the purposes of the fund.

37 Money shall be distributed under this subsection before the sixteenth
38 day of the month following the month in which the money is collected
39 from the county recorder.

40 (j) This subsection applies to a county described in subsection
41 (b)(13). The county treasurer shall distribute money collected by the
42 county recorder under subsection (b)(13) as follows:



1 (1) Sixty percent (60%) of the money collected by the county
2 recorder under subsection (b)(13) shall be deposited in the
3 housing trust fund established under IC 36-7-15.1-35.5(e) for the
4 purposes of the fund.
5 (2) Forty percent (40%) of the money collected by the county
6 recorder under subsection (b)(13) shall be distributed to the
7 treasurer of state for deposit in the affordable housing and
8 community development fund established under IC 5-20-4-7 for
9 the purposes of the fund.
10 Money shall be distributed under this subsection before the sixteenth
11 day of the month following the month in which the money is collected
12 from the county recorder.

