

SENATE BILL No. 332

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-36-17; IC 6-3.6-11.

Synopsis: Lake County local income tax distributions. Adds an expiration date for certain special provisions in current law that allow the Lake County council to adopt an ordinance to use local income tax revenue to provide property tax replacement credits against: (1) property tax levies imposed by the county; or (2) property taxes imposed by municipalities and by the county in unincorporated areas. Provides a schedule for distribution of the tax revenue until the expiration of the special provisions in current law. Provides that if Lake County has an ordinance in effect under the special provisions that reduces all property tax levies imposed by the county by the granting of property tax replacement credits against those property tax levies, the tax rate imposed under that ordinance continues in effect and shall be imposed under the provisions in the local income tax statute that apply to all counties.

Effective: Upon passage.

Holdman

January 7, 2019, read first time and referred to Committee on Tax and Fiscal Policy.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 332

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 6-1.1-36-17, AS AMENDED BY P.L.85-2017,
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) As used in this section, "nonreverting
4 fund" refers to a nonreverting fund established under subsection (d).
5 (b) If a county auditor makes a determination that property was not
6 eligible for a standard deduction under IC 6-1.1-12-37 in a particular
7 year within three (3) years after the date on which taxes for the
8 particular year are first due, the county auditor may issue a notice of
9 taxes, interest, and penalties due to the owner that improperly received
10 the standard deduction and include a statement that the payment is to
11 be made payable to the county auditor. The additional taxes and civil
12 penalties that result from the removal of the deduction, if any, are
13 imposed for property taxes first due and payable for an assessment date
14 occurring before the earlier of the date of the notation made under
15 subsection (c)(2)(A) or the date a notice of an ineligible homestead lien
16 is recorded under subsection (e)(2) in the office of the county recorder.
17 The notice must require full payment of the amount owed within:



- 1 (1) one (1) year with no penalties and interest, if:
 2 (A) the taxpayer did not comply with the requirement to return
 3 the homestead verification form under IC 6-1.1-22-8.1(b)(9)
 4 (expired January 1, 2015); and
 5 (B) the county auditor allowed the taxpayer to receive the
 6 standard deduction in error; or
 7 (2) thirty (30) days, if subdivision (1) does not apply.

8 With respect to property subject to a determination made under this
 9 subsection that is owned by a bona fide purchaser without knowledge
 10 of the determination, no lien attaches for any additional taxes and civil
 11 penalties that result from the removal of the deduction.

12 (c) If a county auditor issues a notice of taxes, interest, and penalties
 13 due to an owner under subsection (b), the county auditor shall:

- 14 (1) notify the county treasurer of the determination; and
 15 (2) do one (1) or more of the following:
 16 (A) Make a notation on the tax duplicate that the property is
 17 ineligible for the standard deduction and indicate the date the
 18 notation is made.
 19 (B) Record a notice of an ineligible homestead lien under
 20 subsection (e)(2).

21 (d) Each county auditor shall establish a nonreverting fund. Upon
 22 collection of the adjustment in tax due (and any interest and penalties
 23 on that amount) after the termination of a deduction or credit as
 24 specified in subsection (b), the county treasurer shall deposit that
 25 amount:

- 26 (1) in the nonreverting fund, if the county contains a consolidated
 27 city; or
 28 (2) if the county does not contain a consolidated city:
 29 (A) in the nonreverting fund, to the extent that the amount
 30 collected, after deducting the direct cost of any contract,
 31 including contract related expenses, under which the
 32 contractor is required to identify homestead deduction
 33 eligibility, does not cause the total amount deposited in the
 34 nonreverting fund under this subsection for the year during
 35 which the amount is collected to exceed one hundred thousand
 36 dollars (\$100,000); or
 37 (B) in the county general fund, to the extent that the amount
 38 collected exceeds the amount that may be deposited in the
 39 nonreverting fund under clause (A).

40 (e) Any part of the amount due under subsection (b) that is not
 41 collected by the due date is subject to collection under one (1) or more
 42 of the following:



1 (1) After being placed on the tax duplicate for the affected
2 property and collected in the same manner as other property taxes.

3 (2) Through a notice of an ineligible homestead lien recorded in
4 the county recorder's office without charge.

5 The adjustment in tax due (and any interest and penalties on that
6 amount) after the termination of a deduction or credit as specified in
7 subsection (b) shall be deposited as specified in subsection (d) only in
8 the first year in which that amount is collected. Upon the collection of
9 the amount due under subsection (b) or the release of a lien recorded
10 under subdivision (2), the county auditor shall submit the appropriate
11 documentation to the county recorder, who shall amend the information
12 recorded under subdivision (2) without charge to indicate that the lien
13 has been released or the amount has been paid in full.

14 (f) The amount to be deposited in the nonreverting fund or the
15 county general fund under subsection (d) includes adjustments in the
16 tax due as a result of the termination of deductions or credits available
17 only for property that satisfies the eligibility for a standard deduction
18 under IC 6-1.1-12-37, including the following:

19 (1) Supplemental deductions under IC 6-1.1-12-37.5.

20 (2) Homestead credits under IC 6-1.1-20.4, IC 6-3.6-5,
21 IC 6-3.6-11-3 (**before its expiration January 1, 2025**), or any
22 other law.

23 (3) Credit for excessive property taxes under IC 6-1.1-20.6-7.5 or
24 IC 6-1.1-20.6-8.5.

25 Any amount paid that exceeds the amount required to be deposited
26 under subsection (d)(1) or (d)(2) shall be distributed as property taxes.

27 (g) Money deposited under subsection (d)(1) or (d)(2) shall be
28 treated as miscellaneous revenue. Distributions shall be made from the
29 nonreverting fund established under this section upon appropriation by
30 the county fiscal body and shall be made only for the following
31 purposes:

32 (1) Fees and other costs incurred by the county auditor to discover
33 property that is eligible for a standard deduction under
34 IC 6-1.1-12-37.

35 (2) Other expenses of the office of the county auditor.

36 The amount of deposits in a reverting fund, the balance of a
37 nonreverting fund, and expenditures from a reverting fund may not be
38 considered in establishing the budget of the office of the county auditor
39 or in setting property tax levies that will be used in any part to fund the
40 office of the county auditor.

41 SECTION 2. IC 6-3.6-11-3, AS AMENDED BY P.L.197-2016,
42 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 3. (a) **Subject to section 3.5 of this chapter,**
 2 this section applies to Lake County's categorizations, allocations, and
 3 distributions under IC 6-3.6-5.

4 (b) The rate under the former tax in Lake County that was used for
 5 any of the following shall be categorized under IC 6-3.6-5, and, **subject**
 6 **to section 3.5 of this chapter,** the Lake County council may adopt an
 7 ordinance providing that the revenue from the tax rate under this
 8 section may be used for any of the following:

9 (1) To reduce all property tax levies imposed by the county by the
 10 granting of property tax replacement credits against those
 11 property tax levies.

12 (2) To provide local property tax replacement credits in Lake
 13 County in the following manner:

14 (A) The tax revenue under this section that is collected from
 15 taxpayers within a particular municipality in Lake County (as
 16 determined by the department of state revenue based on the
 17 department's best estimate) shall be used only to provide a
 18 local property tax credit against property taxes imposed by that
 19 municipality.

20 (B) The tax revenue under this section that is collected from
 21 taxpayers within the unincorporated area of Lake County (as
 22 determined by the department of state revenue) shall be used
 23 only to provide a local property tax credit against property
 24 taxes imposed by the county. The local property tax credit for
 25 the unincorporated area of Lake County shall be available only
 26 to those taxpayers within the unincorporated area of the
 27 county.

28 (3) To provide property tax credits in the following manner:

29 (A) Sixty percent (60%) of the tax revenue shall be used as
 30 provided in subdivision (2).

31 (B) Forty percent (40%) of the tax revenue shall be used to
 32 provide property tax replacement credits against property tax
 33 levies of the county and each township and municipality in the
 34 county. The percentage of the tax revenue distributed under
 35 this item that shall be used as credits against the county's
 36 levies or against a particular township's or municipality's levies
 37 is equal to the percentage determined by dividing the
 38 population of the county, township, or municipality by the sum
 39 of the total population of the county, each township in the
 40 county, and each municipality in the county.

41 The Lake County council shall determine whether the credits under
 42 subdivision (1), (2), or (3) shall be provided to homesteads, to all



1 qualified residential property, or to all taxpayers. The department of
 2 local government finance, with the assistance of the budget agency,
 3 shall certify to the county auditor and the fiscal body of the county and
 4 each township and municipality in the county the amount of property
 5 tax credits under this section. The tax revenue under this section that
 6 is used to provide credits under this section shall be treated for all
 7 purposes as property tax levies but shall not be considered for purposes
 8 of computing the maximum permissible property tax levy under
 9 IC 6-1.1-18.5-3 or the credit under IC 6-1.1-20.6.

10 **(c) This section expires January 1, 2025.**

11 SECTION 3. IC 6-3.6-11-3.5 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) This section applies if**
 14 **Lake County has adopted an ordinance that reduces all property**
 15 **tax levies imposed by the county by the granting of property tax**
 16 **replacement credits against those property tax levies under**
 17 **IC 6-3.6-11-3(b)(1) or IC 6-3.5-1.1-26(f)(4)(A) (before its repeal).**

18 **(b) Notwithstanding the ordinance described in subsection (a),**
 19 **beginning January 1, 2020, the county auditor shall distribute**
 20 **revenues received from a tax imposed under IC 6-3.6-5-6 as**
 21 **follows:**

22 **(1) For the year beginning January 1, 2020, and ending**
 23 **December 31, 2020, the county auditor shall distribute:**

24 **(A) twenty percent (20%) of the total revenue as described**
 25 **in IC 6-3.6-5-6(f); and**

26 **(B) eighty percent (80%) of the total revenue as described**
 27 **in IC 6-3.6-11-3(b)(1).**

28 **(2) For the year beginning January 1, 2021, and ending**
 29 **December 31, 2021, the county auditor shall distribute:**

30 **(A) forty percent (40%) of the total revenue as described**
 31 **in IC 6-3.6-5-6(f); and**

32 **(B) sixty percent (60%) of the total revenue as described in**
 33 **IC 6-3.6-11-3(b)(1).**

34 **(3) For the year beginning January 1, 2022, and ending**
 35 **December 31, 2022, the county auditor shall distribute:**

36 **(A) sixty percent (60%) of the total revenue as described in**
 37 **IC 6-3.6-5-6(f); and**

38 **(B) forty percent (40%) of the total revenue as described**
 39 **in IC 6-3.6-11-3(b)(1).**

40 **(4) For the year beginning January 1, 2023, and ending**
 41 **December 31, 2023, the county auditor shall distribute:**

42 **(A) eighty percent (80%) of the total revenue as described**



- 1 in IC 6-3.6-5-6(f); and
2 (B) twenty percent (20%) of the total revenue as described
3 in IC 6-3.6-11-3(b)(1).
4 (5) For the year beginning January 1, 2024, and each
5 subsequent year thereafter, the county auditor shall distribute
6 one hundred percent (100%) of the total revenue as described
7 in IC 6-3.6-5-6(f).
8 (c) After December 31, 2024, the total tax rate in effect in Lake
9 County under the ordinance described in subsection (a) continues
10 in effect until reduced or rescinded, and that tax rate shall be
11 treated as a tax rate imposed under IC 6-3.6-5-6 for the purpose of
12 funding a property tax credit applied on a percentage basis to
13 reduce the property tax liability of taxpayers.
14 (d) After December 31, 2024, the revenue from the tax rate shall
15 continue to be applied under IC 6-3.6-5-6 without further action
16 being required by the county.
17 (e) Those rights, duties, obligations, proceedings, or liabilities
18 created by the ordinance described in subsection (a) continue and
19 shall be imposed and enforced under this article without further
20 action being required by the county.
21 (f) Except as provided in subsection (g), this section may not be
22 construed to prevent Lake County from amending or repealing the
23 ordinance described in subsection (a).
24 (g) The Lake County council may not reduce or rescind a local
25 income tax rate after May 15, 2019, and before January 1, 2025. If
26 a local income tax rate is reduced or rescinded after December 31,
27 2018, and on or before May 15, 2019, the local income tax rate is
28 restored on May 15, 2019, to the rate that was in effect December
29 31, 2018, without any action by the county council.
30 SECTION 4. An emergency is declared for this act.

