

SENATE BILL No. 349

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-8-3; IC 36-2-13; IC 36-8-10-7.

Synopsis: Sheriff compensation. Requires a county to enter into a salary contract for the sheriff for compensation from the county general fund or any other public source, but that does not include compensation from the sheriff's retention of tax warrant collection fees. Repeals provisions that allow a sheriff to retain tax warrant collection fees and instead requires the sheriff to deposit any tax warrant collection fees in the county general fund.

Effective: July 1, 2022.

Mishler

January 11, 2022, read first time and referred to Committee on Appropriations.



Introduced

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. 349

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 6-8.1-8-3, AS AMENDED BY P.L.234-2019,
2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 3. (a) The county sheriff of a county shall attempt
4 to levy on and collect a judgment arising from a tax warrant in that
5 county for a period of one hundred twenty (120) days from the date the
6 judgment lien is entered, unless the sheriff is relieved of that duty at an
7 earlier time by the department. The sheriff shall also have authority to
8 attempt to levy on and collect the outstanding tax liability if the
9 taxpayer does not pay the amount demanded under section 2(b) of this
10 chapter and the taxpayer has taken an action under section 2(n) of this
11 chapter to foreclose the lien. The sheriff's authority to collect the
12 warrant exists only while the sheriff holds the tax warrant, and if the
13 sheriff surrenders the warrant to the department for any reason the
14 sheriff's authority to collect that tax warrant ceases. During the period
15 that the sheriff has the duty to collect a tax warrant, the sheriff shall
16 collect from the person owing the tax, an amount equal to the amount
17 of the judgment lien plus the accrued interest to the date of the

2022

IN 349—LS 7136/DI 120



1 payment. Subject to subsection (b), the sheriff shall make the collection
 2 by garnisheeing the person's wages and by levying on and selling any
 3 interest in property or rights in any chose in action that the person has
 4 in the county. The Indiana laws which provide relief for debtors by
 5 exempting certain property from levy by creditors do not apply to levy
 6 and sale proceedings for judgments arising from tax warrants.

7 (b) A sheriff shall sell property to satisfy a tax warrant in a manner
 8 that is reasonably likely to bring the highest net proceeds from the sale
 9 after deducting the expenses of the offer to sell and sale. A sheriff may
 10 engage an auctioneer to advertise a sale and to conduct a public
 11 auction, unless the person being levied files an objection with the clerk
 12 of the circuit or superior court having the tax warrant within five (5)
 13 days of the day that the sheriff informs the person of the person's right
 14 to object. The advertising conducted by the auctioneer is in addition to
 15 any other notice required by law, and shall include a detailed
 16 description of the property to be sold. When an auctioneer is engaged
 17 under this subsection and the auctioneer files a verified claim with the
 18 clerk of the circuit or superior court with whom the tax warrant is filed,
 19 the sheriff may pay the reasonable fee and reasonable expenses of the
 20 auctioneer from the gross proceeds of the sale before other expenses
 21 and the judgment arising from the tax warrant are paid. As used in this
 22 section, "auctioneer" means an auctioneer licensed under IC 25-6.1.

23 (c) The sheriff shall deposit all amounts that the sheriff collects
 24 under this section, including partial payments, into a special trust
 25 account for judgments collected that arose from tax warrants. The
 26 sheriff shall notify the department, in a manner specified by the
 27 department, of the name of the taxpayer and the amount of the payment
 28 within seven (7) days of receipt. In the event of an emergency, a
 29 taxpayer may direct the sheriff to make a payment on the taxpayer's
 30 behalf using the department's electronic payment portal when certified
 31 funds have been received by the sheriff. On or before the fifth day of
 32 each month, the sheriff shall disburse the money in the tax warrant
 33 judgment lien trust account in the following order:

34 (1) The sheriff shall pay the department the part of the collections
 35 that represents taxes, interest, and penalties.

36 (2) The sheriff shall pay the county treasurer and the clerk of the
 37 circuit or superior court the part of the collections that represents
 38 their assessed costs.

39 ~~(3) Except as provided in subdivisions (4) and (5), the sheriff~~
 40 ~~shall keep the part of the collections that represents the ten~~
 41 ~~percent (10%) collection fee added under section 2(b) of this~~
 42 ~~chapter.~~



1 (4) (3) If the sheriff has entered a salary contract under
2 IC 36-2-13-2.5, The sheriff shall deposit in the county general
3 fund the part of the collections that represents the ten percent
4 (10%) collection fee added under section 2(b) of this chapter.

5 (5) If the sheriff has not entered into a salary contract under
6 IC 36-2-13-2.5, the sheriff shall deposit in the county general fund
7 the part of the collections that:

8 (A) represents the ten percent (10%) collection fee added
9 under section 2(b) of this chapter; and

10 (B) would, if kept by the sheriff, result in the total amount of
11 the sheriff's annual compensation exceeding the maximum
12 amount allowed under IC 36-2-13-17.

13 The department shall establish the procedure for the disbursement of
14 partial payments so that the intent of this section is carried out.

15 (d) After the period described in subsection (a) has passed, the
16 sheriff shall return the tax warrant to the department. However, if the
17 department determines that:

18 (1) at the end of this period the sheriff is in the process of
19 collecting the judgment arising from a tax warrant in periodic
20 payments of sufficient size that the judgment will be fully paid
21 within one (1) year after the date the judgment was filed; and

22 (2) the sheriff's electronic data base regarding tax warrants is
23 compatible with the department's data base;

24 the sheriff may keep the tax warrant and continue collections.

25 (e) Notwithstanding any other provision of this chapter, the
26 department may order a sheriff to return a tax warrant at any time, if the
27 department feels that action is necessary to protect the interests of the
28 state.

29 (f) This subsection applies only to the sheriff of a county having a
30 consolidated city or a second class city. In such a county, the ten
31 percent (10%) collection fee added under section 2(b) of this chapter
32 shall be divided as follows:

33 (1) Subject to subsection (g), the sheriff may retain forty thousand
34 dollars (\$40,000), plus one-fifth (1/5) of any fees exceeding that
35 forty thousand dollar (\$40,000) amount.

36 (2) Two-fifths (2/5) of any fees exceeding that forty thousand
37 dollar (\$40,000) amount shall be deposited in the sheriff's
38 department's pension trust fund.

39 (3) Two-fifths (2/5) of any fees exceeding that forty thousand
40 dollar (\$40,000) amount shall be deposited in the county general
41 fund.

42 (g) If an amount of the collection fee added under section 2(b) of



1 this chapter would, if retained by the sheriff under subsection (f)(1),
 2 cause the total amount of the sheriff's annual compensation to exceed
 3 the maximum amount allowed under IC 36-2-13-17, the sheriff shall
 4 instead deposit the amount in the county general fund.

5 (h) Money deposited into a county general fund under subsections
 6 (c)(5) and (g) must be used as follows:

7 (1) To reduce any unfunded liability of a sheriff's pension trust
 8 plan established for the county's sheriff's department.

9 (2) Any amounts remaining after complying with subdivision (1)
 10 must be applied to the costs incurred to operate the county's
 11 sheriff's department.

12 SECTION 2. IC 36-2-13-2.5, AS AMENDED BY P.L.220-2011,
 13 SECTION 644, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2022]: Sec. 2.5. (a) The sheriff, the executive,
 15 and the fiscal body ~~may~~ **shall** enter into a salary contract for the sheriff.

16 (b) A sheriff's salary contract must contain the following provisions:

17 (1) A fixed amount of compensation for the sheriff in place of fee
 18 compensation.

19 (2) Payment of the full amount of the sheriff's compensation from
 20 the county general fund in the manner that salaries of other county
 21 officials are paid.

22 (3) Deposit by the sheriff of the sheriff's tax warrant collection
 23 fees (as described in IC 6-8.1-8-3) in the county general fund for
 24 use for any general fund purpose.

25 (4) A procedure for financing prisoners' meals that uses one (1)
 26 of the following methods:

27 (A) The county fiscal body shall make an appropriation in the
 28 usual manner from the county general fund to the sheriff for
 29 feeding prisoners. The sheriff or the sheriff's officers, deputies,
 30 or employees may not make a profit from the appropriation.
 31 The sheriff shall deposit all meal allowances received under
 32 IC 36-8-10-7 in the county general fund for use for any general
 33 fund purpose.

34 (B) The sheriff shall pay for feeding prisoners from meal
 35 allowances received under IC 36-8-10-7. The sheriff or the
 36 sheriff's officers, deputies, or employees may not make a profit
 37 from the meal allowances. After the expenses of feeding
 38 prisoners are paid, the sheriff shall deposit any unspent meal
 39 allowance money in the county general fund for use for any
 40 general fund purpose.

41 (5) A requirement that the sheriff shall file an accounting of
 42 expenditures for feeding prisoners with the county auditor on the



1 first Monday of January and the first Monday of July of each year.

2 (6) An expiration date that is not later than the date that the term
3 of the sheriff expires.

4 (7) Other provisions concerning the sheriff's compensation to
5 which the sheriff, the county executive, and the fiscal body agree.
6 A contract entered before January 1, 1993, by a county sheriff and a
7 county executive or county fiscal body that substantially complies with
8 this subsection is legalized.

9 (c) A salary contract is entered under this section when a written
10 document containing the provisions of the contract is:

11 (1) approved by resolution of both the executive and the fiscal
12 body; and

13 (2) signed by the sheriff.

14 (d) A salary contract entered into under this section before
15 November 1, 2010, with a sheriff who is reelected to office in 2010 is
16 subject to section 17 of this chapter.

17 SECTION 3. IC 36-2-13-2.8 IS REPEALED [EFFECTIVE JULY
18 1, 2022]. See: 2-8. (a) In place of any other form of compensation,
19 including a salary contract entered into under section 2-5 of this
20 chapter, a county may pay a sheriff's compensation as provided in this
21 section from the county general fund in the manner that salaries of
22 other county officials are paid. Subject to section 17 of this chapter, the
23 sheriff may retain the sheriff's tax warrant collection fees (as described
24 in IC 6-8.1-8-3):

25 (b) If a county pays a sheriff's compensation under this section, the
26 county fiscal body shall make an appropriation in the usual manner
27 from the county general fund for feeding prisoners. The sheriff or the
28 sheriff's officers, deputies, or employees may not make a profit from
29 the appropriation.

30 (c) Subject to section 17 of this chapter, a county that pays a
31 sheriff's compensation under this section shall pay the sheriff as
32 follows:

33 (1) In a county having a population of not more than twenty
34 thousand (20,000), the county must pay the sheriff an annual
35 salary that is equal to at least fifty percent (50%) of the annual
36 minimum salary that would be paid by the state to a full-time
37 prosecuting attorney in the county.

38 (2) In a county having a population of:

39 (A) more than twenty thousand (20,000); and

40 (B) not more than forty thousand (40,000);

41 the county must pay the sheriff an annual salary that is equal to at
42 least sixty percent (60%) of the annual minimum salary that



1 would be paid by the state to a full-time prosecuting attorney in
2 the county:

3 (3) In a county having a population of:

4 (A) more than forty thousand (40,000); and

5 (B) not more than sixty-five thousand five hundred (65,500);
6 the county must pay the sheriff an annual salary that is equal to at
7 least seventy percent (70%) of the annual minimum salary that
8 would be paid by the state to a full-time prosecuting attorney in
9 the county:

10 (4) In a county having a population of:

11 (A) more than sixty-five thousand five hundred (65,500); and

12 (B) not more than one hundred thousand (100,000);

13 the county must pay the sheriff an annual salary that is equal to at
14 least eighty percent (80%) of the annual minimum salary that
15 would be paid by the state to a full-time prosecuting attorney in
16 the county:

17 (5) In a county having a population of:

18 (A) more than one hundred thousand (100,000); and

19 (B) not more than two hundred thousand (200,000);

20 the county must pay the sheriff an annual salary that is equal to at
21 least ninety percent (90%) of the annual minimum salary that
22 would be paid by the state to a full-time prosecuting attorney in
23 the county:

24 (6) In a county having a population of more than two hundred
25 thousand (200,000); the county must pay the sheriff an annual
26 salary that is equal to at least one hundred percent (100%) of the
27 annual minimum salary that would be paid by the state to a
28 full-time prosecuting attorney in the county:

29 SECTION 4. IC 36-2-13-17, AS ADDED BY P.L.40-2008,
30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2022]: Sec. 17. (a) This section applies to the following:

32 (1) A contract entered into under section 2.5 of this chapter with
33 a sheriff who is elected or reelected to office after November 1,
34 2010.

35 (2) Any other form of annual compensation provided to a sheriff
36 who is elected or reelected to office after November 1, 2010.

37 (b) The total amount of a sheriff's annual compensation from:

38 (1) the county general fund; **and**

39 (2) any tax warrant collection fees retained by the sheriff under
40 IC 6-8.1-8-3; **and**

41 (3) (2) any other public source;

42 may not exceed the amount determined under subsection (c). For



1 purposes of this subsection, "any other public source" does not include
 2 retirement or disability benefits from a federal, a state, or another state's
 3 local governmental retirement or disability program, whether the
 4 retirement or disability benefit is based on prior employment by the
 5 sheriff or another individual, nor does it include worker's compensation
 6 benefits paid to the sheriff.

7 (c) To determine the maximum amount of a sheriff's annual
 8 compensation, a county fiscal body shall determine the sum of the
 9 following:

10 (1) The annual minimum salary that would be paid by the state to
 11 a full-time prosecuting attorney in the county.

12 (2) The amount of any additional annual salary paid by the county
 13 from county sources to a full-time prosecuting attorney in the
 14 county.

15 SECTION 5. IC 36-8-10-7, AS AMENDED BY P.L.119-2012,
 16 SECTION 220, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) The state examiner of the
 18 state board of accounts shall fix the exact amount per meal that the
 19 sheriff of each county receives for feeding the prisoners in the sheriff's
 20 custody. Subject to the maximum meal allowance provided in this
 21 section, the state examiner shall increase the amount per meal that a
 22 sheriff receives as follows:

23 (1) Increase the amount per meal by a percentage that does not
 24 exceed the percent of increase in the United States Department of
 25 Labor Consumer Price Index during the year preceding the year
 26 in which an increase is established.

27 (2) Increase the amount per meal above the amount determined
 28 under subdivision (1) if the sheriff furnishes to the state examiner
 29 sufficient documentation to prove that the sheriff cannot provide
 30 meals at the amount per meal that is determined under
 31 subdivision (1).

32 The amount must be fixed by April 15 each year and takes effect
 33 immediately upon approval. The allowance may not exceed two dollars
 34 (\$2) per person per meal. The allowance shall be paid out of the
 35 general fund of the county after the sheriff submits to the county
 36 executive an itemized statement, under oath, showing the names of the
 37 prisoners, the date that each was imprisoned in the county jail, and the
 38 number of meals served to each prisoner.

39 (b) Notwithstanding subsection (a) **and** IC 36-2-13-2.5(b)(4)
 40 through IC 36-2-13-2.5(b)(5), ~~and IC 36-2-13-2.8(b)~~, this subsection
 41 applies to a county having a population of:

42 (1) more than one hundred seventy-five thousand (175,000) but



1 less than one hundred eighty-five thousand (185,000); or
2 (2) more than three hundred thousand (300,000).
3 A county shall feed the county prisoners through an appropriation in
4 the usual manner by the county fiscal body. The appropriation shall be
5 expended by the sheriff under the direction of the county executive. If
6 a county has a population of less than four hundred thousand
7 (400,000), an accounting of the expenditures must be filed monthly
8 with the county auditor by the fifth day of the month following the
9 expenditure. If a county has a population of four hundred thousand
10 (400,000) or more, an accounting of the expenditures must be filed
11 with the county auditor on the first Monday of January and the first
12 Monday of July of each year. Neither the sheriff nor the sheriff's
13 officers, deputies, and employees may make a profit as a result of the
14 appropriation.

