

SENATE BILL No. 359

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-26-5-37; IC 20-40-8-19.

Synopsis: School corporation tax matters. Provides that if a school corporation or a charter school does not pay taxes due under the Federal Insurance Contributions Act within 30 days after the due date (and any known accrued penalties and interest on those taxes) or does not pay withheld state income taxes (and any known accrued penalties and interest on those taxes) within 30 days after the due date: (1) the school business official or financial officer shall report the failure to pay the taxes and the penalties and interest to the governing body of the school corporation or charter school; and (2) the governing body shall report at a public meeting on the failure to pay the taxes and the penalties and interest. Specifies that if during the following 365 days the school corporation or charter school has a subsequent failure to pay such taxes and known accrued penalties and interest within 30 days after the due date, the school corporation or charter school shall provide notice of its subsequent delinquency to the department of education, the budget agency, and the distressed unit appeal board. Removes the deadline for the use of school capital project funds for utility services and property and casualty insurance.

Effective: July 1, 2016.

Raatz

January 11, 2016, read first time and referred to Committee on Education & Career Development.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 359

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 20-26-5-37 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 37. (a) This section applies to school corporations and**
4 **charter schools that are required to do any of the following:**
5 (1) **Pay to the Internal Revenue Service employer and**
6 **employee taxes imposed after June 30, 2016, under the**
7 **Federal Insurance Contributions Act (FICA).**
8 (2) **Pay to the department of state revenue amounts that are**
9 **deducted and withheld as taxes after June 30, 2016, under**
10 **IC 6-3-4-8.**
11 (b) **As used in this section, "delinquency" or "delinquent" refers**
12 **to either of the following:**
13 (1) **Failing to pay FICA taxes within thirty (30) days after the**
14 **taxes are due.**
15 (2) **Failing to pay to the department of state revenue amounts**
16 **that are deducted and withheld as taxes under IC 6-3-4-8 after**
17 **June 30, 2016, (including any known accrued interest and**



1 penalties on those taxes) within thirty (30) days after the
 2 payment of those withheld taxes is due.

3 (c) As used in this section, "due date" refers to:

4 (1) the date by which employer and employee taxes owed by
 5 a school corporation or a charter school under FICA must be
 6 paid to the Internal Revenue Service; or

7 (2) the date by which amounts that are deducted and withheld
 8 as taxes under IC 6-3-4-8 must be paid to the department of
 9 state revenue;

10 as applicable.

11 (d) As used in this section, "FICA" refers to the Federal
 12 Insurance Contributions Act.

13 (e) As used in this section, "FICA taxes" refers to employer and
 14 employee taxes imposed after June 30, 2016, under the Federal
 15 Insurance Contributions Act (FICA). The term includes any known
 16 accrued interest and penalties.

17 (f) If a school corporation or a charter school:

18 (1) fails to pay FICA taxes in full to the Internal Revenue
 19 Service within thirty (30) days after the due date; or

20 (2) fails to pay amounts that are deducted and withheld as
 21 taxes under IC 6-3-4-8 after June 30, 2016, (including any
 22 known accrued interest and penalties on those taxes) within
 23 thirty (30) days after the due date;

24 the school business official or school financial officer responsible
 25 for ensuring that a school corporation's or charter school's tax
 26 payments are made shall report the school corporation's or charter
 27 school's delinquency to the governing body of the school
 28 corporation or charter school not later than forty-five (45) days
 29 after the due date. The school official or school financial officer
 30 shall make a report under this subsection each time the school
 31 corporation or charter school fails to pay FICA taxes within thirty
 32 (30) days after the due date or fails to pay amounts that are
 33 deducted and withheld as taxes under IC 6-3-4-8 (including any
 34 known accrued interest and penalties on those taxes) within thirty
 35 (30) days after the due date.

36 (g) Not later than thirty (30) days after receiving a report under
 37 subsection (f), the governing body of the school corporation or
 38 charter school shall hold a public meeting at which:

39 (1) the governing body shall provide a report on the school
 40 corporation's or charter school's failure to pay:

41 (A) FICA taxes; or

42 (B) amounts that are deducted and withheld as taxes under



1 **IC 6-3-4-8;**
 2 **as applicable; and**
 3 **(2) interested parties are permitted to testify regarding the**
 4 **school corporation's or charter school's failure to pay FICA**
 5 **taxes or amounts that are deducted and withheld as taxes**
 6 **under IC 6-3-4-8 (as applicable).**
 7 **(h) This subsection applies if, within a three hundred sixty-five**
 8 **(365) day period, a school corporation or charter school is:**
 9 **(1) delinquent in paying FICA taxes two (2) or more times; or**
 10 **(2) delinquent in paying amounts that are deducted and**
 11 **withheld as taxes under IC 6-3-4-8 after June 30, 2016, two (2)**
 12 **or more times.**
 13 **Not later than forty-five (45) days after a school corporation or**
 14 **charter school is delinquent for the second or subsequent time, the**
 15 **school corporation or charter school shall notify the department,**
 16 **the budget agency, and the distressed unit appeal board of the**
 17 **delinquency.**
 18 SECTION 2. IC 20-40-8-19, AS AMENDED BY P.L.213-2015,
 19 SECTION 202, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2016]: Sec. 19. Money in the fund may be used
 21 ~~before July 1, 2017~~, to pay for up to one hundred percent (100%) of the
 22 following costs of a school corporation:
 23 (1) Utility services.
 24 (2) Property or casualty insurance.
 25 (3) Both utility services and property or casualty insurance.
 26 A school corporation's expenditures under this section may not in a
 27 calendar year exceed three and five-tenths percent (3.5%) of the school
 28 corporation's 2005 calendar year distribution.

