



Reprinted
February 28, 2017

SENATE BILL No. 429

DIGEST OF SB 429 (Updated February 27, 2017 4:52 pm - DI 73)

Citations Affected: IC 4-23; IC 6-3.6.

Synopsis: Cultural district development. Provides that an arts and cultural district (district) certified by the Indiana arts commission (commission) is subject to annual review by the commission and must be recertified every four years. Specifies certain requirements for certification (or recertification) of a district. Permits a city, town, or county that has a certified district to establish a tax area within the district to capture incremental income tax to be transferred to the Indiana arts commission trust fund and used only for the benefit of the tax area. Provides that a city, town, or county that wishes to establish a tax area must adopt an ordinance to do so. Provides that the state income taxes captured in all districts in a state fiscal year in the aggregate may not exceed \$500,000. Reduces the local income tax supplemental distribution of a unit that establishes a tax area in a district by the amount of local income tax captured by the district. Authorizes the commission to revoke the city's, town's, or county's right to distributions of incremental tax revenue from a tax area under certain circumstances.

Effective: July 1, 2017.

**Ford, Koch, Niemeyer, Grooms,
Tallian, Randolph Lonnie M,
Hershman**

January 12, 2017, read first time and referred to Committee on Local Government.
February 16, 2017, reported favorably — Do Pass; reassigned to Committee on Tax and Fiscal Policy.
February 23, 2017, amended, reported favorably — Do Pass.
February 27, 2017, read second time, amended, ordered engrossed.

SB 429—LS 7304/DI 120



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First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 429

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 4-23-2-7, AS ADDED BY P.L.10-2008, SECTION
2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2017]: Sec. 7. (a) As used in this section, "district" means an area
4 certified as an arts and cultural district under this section.
5 (b) As used in this section, "unit" means a city, town, or county.
6 (c) The commission shall establish an arts and cultural district
7 certification program.
8 (d) To have an area certified as a district, a unit must:
9 (1) apply to the commission on a form prescribed by the
10 commission; and
11 (2) provide any proof the commission determines is necessary to
12 certify a district.
13 Two (2) or more units may apply jointly for certification of a district
14 that extends across a common boundary.
15 (e) The commission, after reviewing an application filed by a unit
16 under subsection (d)(1), may certify an area as a district.
17 (f) The commission shall adopt rules under IC 4-22-2:

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- 1 (1) to establish criteria for a unit wishing to have an area certified
 2 **or recertified** as a district; and
 3 (2) that are necessary to carry out this section.

4 **(g) After June 30, 2017, a district certified under this section is**
 5 **subject to annual review by the commission and must be recertified**
 6 **every four (4) years.**

7 **(h) After June 30, 2017, the criteria established by the**
 8 **commission under subsection (f) for certification of a district must**
 9 **include at least the following requirements:**

10 (1) **Submission of a viable and current arts and economic**
 11 **development plan that establishes a clear strategy for long**
 12 **term growth.**

13 (2) **Demonstration that the designation of the district creates**
 14 **an opportunity to attract both additional arts and cultural**
 15 **activity and economic investment.**

16 (3) **Execution of an agreement between the commission and**
 17 **the unit that:**

18 (A) **requires that grants awarded from the Indiana arts**
 19 **commission trust fund established by IC 4-23-2.5-4 shall be**
 20 **expended in the manner set forth in the district's**
 21 **agreement and guidelines for the grant; and**

22 (B) **stipulates that the commission may revoke a unit's**
 23 **right to distributions from the unit's cultural district**
 24 **development area account established under**
 25 **IC 4-23-2.5-4(c) if the unit fails to comply with any**
 26 **agreement regarding the district or any agreement or**
 27 **guideline regarding a grant from the Indiana arts**
 28 **commission trust fund established by IC 4-23-2.5-4.**

29 (4) **In the case of a recertification of a district, evidence of the**
 30 **unit's ongoing:**

31 (A) **participation in the district; and**

32 (B) **compliance with the district's community, economic,**
 33 **and cultural goals;**

34 **as demonstrated by annual reviews under subsection (g) or**
 35 **other similar documentation.**

36 (i) **The commission may revoke a unit's right to distributions**
 37 **from the unit's cultural district development area account**
 38 **established under IC 4-23-2.5-4(c) if the unit fails to comply with**
 39 **the requirements under subsection (h)(3)(A) and (h)(3)(B). If the**
 40 **commission revokes a unit's right to distributions under this**
 41 **subsection, the commission shall immediately notify the**
 42 **department of state revenue, the treasurer of state, and the unit of**



- 1 **the revocation by certified mail.**
 2 SECTION 2. IC 4-23-2.2 IS ADDED TO THE INDIANA CODE
 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2017]:
 5 **Chapter 2.2. Cultural District Development Areas**
 6 **Sec. 1. This chapter applies only to a unit that contains a**
 7 **district.**
 8 **Sec. 2. As used in this chapter, "department" refers to the**
 9 **department of state revenue.**
 10 **Sec. 3. As used in this chapter, "district" refers to a certified**
 11 **arts and cultural district established under IC 4-23-2-7.**
 12 **Sec. 4. As used in this chapter, "income tax base period**
 13 **amount" means the aggregate amount of state and local income**
 14 **taxes paid by employees employed in the tax area with respect to**
 15 **wages and salary earned for work in the tax area for the state fiscal**
 16 **year that precedes the date on which the unit adopts an ordinance**
 17 **under section 9 of this chapter.**
 18 **Sec. 5. As used in this chapter, "income tax incremental**
 19 **amount" means the remainder of:**
 20 (1) the aggregate amount of state and local income taxes paid
 21 by employees employed in the tax area with respect to wages
 22 earned for work in the tax area for a particular state fiscal
 23 year; minus
 24 (2) the sum of the:
 25 (A) income tax base period amount; and
 26 (B) tax credits awarded by the Indiana economic
 27 development corporation under IC 6-3.1-13 to businesses
 28 operating in the tax area as the result of wages earned for
 29 work in the tax area for the state fiscal year;
 30 as determined by the department.
 31 **Sec. 6. As used in this chapter, "state and local income taxes"**
 32 **means taxes imposed under any of the following:**
 33 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
 34 (2) IC 6-3.6 (local income tax).
 35 **Sec. 7. As used in this chapter, "tax area" means the geographic**
 36 **boundaries of a district that is established by a fiscal body of a unit**
 37 **as a tax area under section 9 of this chapter.**
 38 **Sec. 8. As used in this chapter, "unit" means a city, town, or**
 39 **county.**
 40 **Sec. 9. (a) The fiscal body of a unit that contains a district may**
 41 **adopt an ordinance to establish a tax area for the purpose of**
 42 **allocating the income tax incremental amount collected in the tax**



1 area to the Indiana arts commission trust fund established by
2 IC 4-23-2.5-4 as set forth in section 11 of this chapter.

3 (b) The ordinance establishing a tax area must designate the
4 specific geographic boundaries of the tax area. The geographic
5 boundaries of the tax area must be the same as the geographic
6 boundaries of the district on the date of the ordinance.

7 (c) The ordinance establishing a tax area must specify that the
8 allocation of the amounts from the tax area shall terminate on the
9 date on which:

10 (1) the district fails to be recertified under IC 4-23-2-7(g);

11 (2) the Indiana arts commission revokes the unit's right to
12 receive distributions from the unit's cultural district
13 development area account established under IC 4-23-2.5-4(c)
14 as authorized in IC 4-23-2-7(i); or

15 (3) the unit repeals the ordinance that established the tax
16 area.

17 **Sec. 10.** A unit shall notify the state department of revenue by
18 certified mail of the adoption of an ordinance under section 9 of
19 this chapter and shall include with the notification a boundary map
20 of the tax area and a complete list of the street names and the
21 range of street numbers of each street in the tax area.

22 **Sec. 11. (a)** Subject to subsection (b), if a unit adopts an
23 ordinance under section 9 of this chapter, the amounts allocated
24 from the income tax incremental amount collected in the tax area
25 shall be paid monthly by the treasurer of state to the Indiana arts
26 commission trust fund established under IC 4-23-2.5-4 for deposit
27 in the unit's cultural district development area account established
28 under IC 4-23-2.5-4(c).

29 (b) The amounts of state income tax (as defined in section 6(1)
30 of this chapter) allocated from the income tax incremental amount
31 collected in all tax areas in a state fiscal year in the aggregate shall
32 not exceed five hundred thousand dollars (\$500,000).

33 SECTION 3. IC 4-23-2.5-4, AS AMENDED BY P.L.198-2016,
34 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2017]: Sec. 4. (a) The Indiana arts commission trust fund is
36 established to support the programs and the administrative budget of
37 the commission.

38 (b) The fund consists of the following:

39 (1) Appropriations of the general assembly from revenue sources
40 determined by the general assembly and in an amount determined
41 by the general assembly.

42 (2) Donations to the fund from public or private sources.



1 (3) Interest and dividends on assets of the fund.

2 (4) Money transferred to the fund from other funds.

3 (5) Fees from the Indiana arts trust license plate issued under
4 IC 9-18-41 (before its expiration) or IC 9-18.5-20.

5 **(6) Money transferred to the fund under IC 4-23-2.2-11 for**
6 **deposit in a cultural district development account under**
7 **subsection (c).**

8 ~~(6)~~ (7) Money from other sources that the commission may
9 acquire.

10 (c) **A cultural district development area account shall be**
11 **established within the fund for each unit that has a tax area under**
12 **IC 4-23-2.2. Amounts held in the account shall be distributed only**
13 **for the purposes of this chapter and only for the benefit of the tax**
14 **area established by the unit from which the money is transferred**
15 **to the fund under subsection (b)(6). No amounts may be distributed**
16 **from the account if the unit's right to receive distributions from its**
17 **account is revoked by the Indiana arts commission under**
18 **IC 4-23-2-7(i). Any amounts that remain in an account after a**
19 **unit's right to receive distributions is revoked or the tax area is**
20 **repealed shall revert to the fund.**

21 SECTION 4. IC 6-3.6-9-15, AS AMENDED BY P.L.126-2016,
22 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2017]: Sec. 15. (a) If the budget agency determines that the
24 balance in a county trust account exceeds fifteen percent (15%) of the
25 certified distributions to be made to the county in the determination
26 year, the budget agency shall make a supplemental distribution to the
27 county from the county's trust account. The budget agency shall use the
28 trust account balance as of December 31 of the year that precedes the
29 determination year by two (2) years (referred to as the "trust account
30 balance year" in this section).

31 (b) A supplemental distribution described in subsection (a) must be:

32 (1) made at the same time as the determinations are provided to
33 the county auditor under subsection (d)(2); and

34 (2) allocated in the same manner as certified distributions for the
35 purposes described in this article.

36 (c) The amount of a supplemental distribution described in
37 subsection (a) is equal to the amount by which:

38 (1) the balance in the county trust account; minus

39 (2) the amount of any supplemental or special distribution that has
40 not yet been accounted for in the last known balance of the
41 county's trust account;

42 exceeds fifteen percent (15%) of the certified distributions to be made



1 to the county in the determination year.

2 (d) **Subject to section 15.2 of this chapter**, for a county that
3 qualifies for a supplemental distribution under this section in a year,
4 the following apply:

5 (1) Before May 2, the budget agency shall provide the amount of
6 the supplemental distribution for the county to the department of
7 local government finance and to the county auditor.

8 (2) The department of local government finance shall determine
9 for the county and each taxing unit within the county:

10 (A) the amount and allocation of the supplemental distribution
11 attributable to the taxes that were imposed as of December 31
12 of the trust account balance year, including any specific
13 distributions for that year; and

14 (B) the amount of the allocation for each of the purposes set
15 forth in this article, using the allocation percentages in effect
16 in the trust account balance year.

17 The department of local government finance shall provide these
18 determinations to the county auditor before May 16 of the
19 determination year.

20 (3) Before June 1, the county auditor shall distribute to each
21 taxing unit the amount of the supplemental distribution that is
22 allocated to the taxing unit under subdivision (2).

23 For determinations before 2019, the tax rates in effect under and the
24 allocation methods specified in the former income tax laws shall be
25 used for the determinations under subdivision (2).

26 (e) For any part of a supplemental distribution attributable to
27 property tax credits under a former income tax or IC 6-3.6-5, the
28 adopting body for the county may allocate the supplemental
29 distribution to property tax credits for not more than the three (3) years
30 after the year the supplemental distribution is received.

31 (f) Any income earned on money held in a trust account established
32 for a county under this chapter shall be deposited in that trust account.

33 SECTION 5. IC 6-3.6-9-15.2 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2017]: **Sec. 15.2. The following apply to the**
36 **determination of a supplemental distribution under section 15 of**
37 **this chapter for a county containing a tax area established under**
38 **IC 4-23-2.2:**

39 (1) **The amount and allocation of the supplemental**
40 **distribution determined under section 15(d)(2) of this chapter**
41 **shall be calculated as if the supplemental distribution that will**
42 **be made is equal to the sum of:**



- 1 **(A) the amount of the supplemental distribution specified**
2 **in section 15(c) of this chapter; plus**
3 **(B) any local income taxes that have been included as part**
4 **of the incremental income tax amount paid, after the date**
5 **of the county's most recent supplemental distribution, to**
6 **the cultural district development area account established**
7 **for the tax area under IC 4-23-2.5-4(c).**
8 **(2) The amount of the supplemental distribution that shall be**
9 **distributed to each taxing unit in the county, other than the**
10 **taxing that established the tax area under IC 4-23-2.2, is equal**
11 **to the amount calculated for the taxing unit under subdivision**
12 **(1).**
13 **(3) The amount of the supplemental distribution that shall be**
14 **distributed to the taxing unit that established the tax area**
15 **under IC 4-23-2.2 is equal to the result of:**
16 **(A) the amount calculated for the taxing unit under**
17 **subdivision (1); minus**
18 **(B) the amount described in subdivision (1)(B).**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 429, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Tax and Fiscal Policy.

(Reference is to SB 429 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 8, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 429, 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 3, delete lines 12 through 24.

Page 3, line 25, delete "6." and insert "4."

Page 3, line 30, delete "10" and insert "9".

Page 3, line 31, delete "7." and insert "5."

Page 3, line 39, delete "economic development for" and insert "**Indiana economic development corporation**".

Page 3, line 40, delete "a growing economy board".

Page 4, between lines 1 and 2, begin a new paragraph and insert:

"Sec. 6. As used in this chapter, "state and local income taxes" means taxes imposed under any of the following:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).

(2) IC 6-3.6 (local income tax)."

Page 4, line 2, delete "8." and insert "7."

Page 4, line 4, delete "cultural district development" and insert "**tax**".

Page 4, line 4, delete "10" and insert "9".

Page 4, line 6, delete "9." and insert "8."

Page 4, line 8, delete "10." and insert "9."

Page 4, line 8, after "unit" insert "**that contains a district**".

Page 4, line 9, delete "a cultural district development area as".

Page 4, line 10, delete "and the".

Page 4, line 11, delete "gross retail incremental amount".

Page 4, line 13, delete "12" and insert "11".

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Page 4, line 26, delete "cultural".
 Page 4, line 27, delete "district development" and insert "**tax**".
 Page 4, line 28, delete "11." and insert "**10.**".
 Page 4, line 29, delete "10" and insert "**9**".
 Page 4, line 33, delete "12." and insert "**11.**".
 Page 4, line 34, delete "10" and insert "**9**".
 Page 4, line 35, delete "and the gross retail".
 Page 4, line 36, delete "incremental amount".
 Page 4, line 41, after "amounts" insert "**of state income tax (as defined in section 6(1) of this chapter)**".
 Page 4, line 42, delete "and the gross retail incremental amount".
 Page 4, line 42, delete "a" and insert "**all**".
 Page 5, line 1, delete "area" and insert "**areas**".

and when so amended that said bill do pass.

(Reference is to SB 429 as printed February 17, 2017.)

HERSHMAN, Chairperson

Committee Vote: Yeas 13, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 429 be amended to read as follows:

Page 3, line 28, after "in" insert "**the**".

Page 5, line 5, delete "IC 4-23-2.2-12" and insert "**IC 4-23-2.2-11**".

Page 5, after line 20, begin a new paragraph and insert:

"SECTION 4. IC 6-3.6-9-15, AS AMENDED BY P.L.126-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 15. (a) If the budget agency determines that the balance in a county trust account exceeds fifteen percent (15%) of the certified distributions to be made to the county in the determination year, the budget agency shall make a supplemental distribution to the county from the county's trust account. The budget agency shall use the trust account balance as of December 31 of the year that precedes the determination year by two (2) years (referred to as the "trust account balance year" in this section).

(b) A supplemental distribution described in subsection (a) must be:

- (1) made at the same time as the determinations are provided to the county auditor under subsection (d)(2); and

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(2) allocated in the same manner as certified distributions for the purposes described in this article.

(c) The amount of a supplemental distribution described in subsection (a) is equal to the amount by which:

- (1) the balance in the county trust account; minus
- (2) the amount of any supplemental or special distribution that has not yet been accounted for in the last known balance of the county's trust account;

exceeds fifteen percent (15%) of the certified distributions to be made to the county in the determination year.

(d) **Subject to section 15.2 of this chapter**, for a county that qualifies for a supplemental distribution under this section in a year, the following apply:

- (1) Before May 2, the budget agency shall provide the amount of the supplemental distribution for the county to the department of local government finance and to the county auditor.
- (2) The department of local government finance shall determine for the county and each taxing unit within the county:
 - (A) the amount and allocation of the supplemental distribution attributable to the taxes that were imposed as of December 31 of the trust account balance year, including any specific distributions for that year; and
 - (B) the amount of the allocation for each of the purposes set forth in this article, using the allocation percentages in effect in the trust account balance year.

The department of local government finance shall provide these determinations to the county auditor before May 16 of the determination year.

- (3) Before June 1, the county auditor shall distribute to each taxing unit the amount of the supplemental distribution that is allocated to the taxing unit under subdivision (2).

For determinations before 2019, the tax rates in effect under and the allocation methods specified in the former income tax laws shall be used for the determinations under subdivision (2).

(e) For any part of a supplemental distribution attributable to property tax credits under a former income tax or IC 6-3.6-5, the adopting body for the county may allocate the supplemental distribution to property tax credits for not more than the three (3) years after the year the supplemental distribution is received.

(f) Any income earned on money held in a trust account established for a county under this chapter shall be deposited in that trust account.

SECTION 5. IC 6-3.6-9-15.2 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2017]: **Sec. 15.2.** The following apply to the
 determination of a supplemental distribution under section 15 of
 this chapter for a county containing a tax area established under
 IC 4-23-2.2:

(1) The amount and allocation of the supplemental
 distribution determined under section 15(d)(2) of this chapter
 shall be calculated as if the supplemental distribution that will
 be made is equal to the sum of:

(A) the amount of the supplemental distribution specified
 in section 15(c) of this chapter; plus

(B) any local income taxes that have been included as part
 of the incremental income tax amount paid, after the date
 of the county's most recent supplemental distribution, to
 the cultural district development area account established
 for the tax area under IC 4-23-2.5-4(c).

(2) The amount of the supplemental distribution that shall be
 distributed to each taxing unit in the county, other than the
 taxing that established the tax area under IC 4-23-2.2, is equal
 to the amount calculated for the taxing unit under subdivision
 (1).

(3) The amount of the supplemental distribution that shall be
 distributed to the taxing unit that established the tax area
 under IC 4-23-2.2 is equal to the result of:

(A) the amount calculated for the taxing unit under
 subdivision (1); minus

(B) the amount described in subdivision (1)(B)."

Renumber all SECTIONS consecutively.

(Reference is to SB 429 as printed February 24, 2017.)

HERSHMAN

